



Supporting Vermonters to lead healthy and satisfying lives community by community

Legislative Update for September 2, 2020



The COVID 19 pandemic has changed the focus of Vermont Care Partners' advocacy efforts as our provider network has revamped our services to meet the needs Vermonters in new ways with careful precautions for health and safety of those we serve, our workforce and partners. Legislative work is now happening remotely.

Legislature Reconvenes with a Focus on Finalizing the Fiscal Year 2020 Budget

The Legislature will be in session for just over a month to consider and finalize the FY21 budget after approving a budget for only the first quarter of the fiscal year in June due to the uncertainties in state and federal revenues. There will also be decisions made on the \$200 million in remaining federal Coronavirus Relief Fund (CRF) which must be expended by the end of the calendar year. Policy committees are taking on limited agendas, including input on the budget. When the full legislature approves the budget, the special session will be ended.

Scott Administration Proposes FY21 Budget Restatement with Few Changes

The Governor is recommending level funding for most programs and services in the "restatement" of the FY21 Budget. This is possible because of: improved revenue estimates; carry forward from FY20; unspent CRF funds; an assumption that the 6.2% FMAP bump will go through December 31, 2020; and some reductions in grants and internal service expenditures. The State's reserve funds will not be used to balance the budget.

DS caseload will be fully covered and there is a proposal for a \$420,000 investment by the Department of Public safety for roll out of 7 mental health professionals to work with state troopers. This investment will be made from vacancy savings. No rate increases were proposed for our system of care.

The budget proposal includes the use of one-time funds which will not be available in FY22 including \$18 million in CRF. Revenue estimates for FY22 are still very concerning as well as difficult to predict.

Uncertainty and changing dynamics about the ongoing impact of the pandemic, whether CRF funds will be available beyond December 31, 2020, or if Congress will allow greater flexibility in the use of the funds may lead to reconsideration of some aspects of the FY21 budget in September.

House Health Care and Senate Health and Welfare Committees Take Testimony on the FY21 Budget

Agency of Human Services (AHS) Finance Director Sarah Clark gave the House Health Care Committee an overview of the \$500 million in Coronavirus Relief Funds (CRF) expended to date which includes: \$10.2 million for the Brattleboro Retreat; \$5 million for suicide prevention; \$12 million for remote learning for students; \$363 million for hazard pay and provider stabilization; \$17 million for broadband, homelessness and housing programs; \$10 million for Reach Up caseload and DOC staffing and some additional expenditures.

AHS has received \$30 million in applications for \$28 million for Hazard pay with applications still being accepted. Awards will begin over the next 2 weeks. Representative Lippert said he understood that there will be adjustments for eligibility.

A total of \$275 million health care stabilization program is being administered by AHS with the first round closed on August 15th. There will be a second round of applications. The first round had 343 applicants of which 78% had not received grants from AHS in the past and will be distributed within 2 weeks. There will be funds remaining for a second round, but it's too early to say how much.

The Joint Fiscal Committee approved \$500,000 for suicide prevention strategies including:

- Expanding zero suicide
- Expand funding for suicide lifeline with in-state response to calls
- Targeted resources that are culturally informed and targeted to at-risk groups: LGBTQ, domestic violence victims, racial and ethnic minorities, and individuals with disabilities
- Expanding mental health first aide training with Teen Mental Health First Aid
- Programs and supports for older Vermonters and outreach and Eldercare Clinicians expansion

Additionally, \$200,000 went to Pathways to make their warmline accessible 24/7 and to do outreach. DMH and VDH applied for a 5-year suicide prevention grant and should know about that in the next few weeks. Representative Donahue expressed concern about peer involvement in decision making and said mental health first aid is controversial.

Laura Pelosi testified to the House Health Care Committee on behalf of the health care provider coalition, of which Vermont Care Partners is a member. In thanking the Committee, she noted that health providers are expecting increased costs and reduced revenues which will continue through the fall and possibly into the winter.

Appropriations Committees Deliberates Budget and Takes Public Testimony

After receiving similar presentations from the Administration on the FY21 budget proposal the House and Senate Appropriations Committees took testimony on the FY21 Budget. Vermont Care Partners requested a 3% rate increase and was represented by Beth Sightler of CCS and Julie Tessler.

Additionally, Andrew Nuss of the Clara Martin Center, Susan Aronoff of the Developmental Disabilities

Council and Sarah Lunderville of the Center for Independent Living all supported a 3% rate increase for the Designated and Specialized Agencies.

The House Appropriations Committee is quickly working through the budget with the goal of completing their decisions on the budget by September 3rd. Given that they are moving quickly and have limited resources, it is clear that they have given limited consideration of our request for a rate increase that would require \$4.8 million in general fund. The Chair of House Health Care Bill Lippert was very clear in his statement to the Appropriations Committee that “level funding is not full funding”. Dave Yacavone acknowledged the acute workforce issues at DA/SSAs before COVID and how it has got to be worse now but said there is nowhere to harvest the money to pay for such an increase.

In the House there are also concerns about the proposal by the Department of Public Services to invest \$420,000 into embedded mental health workers at seven state police barracks because the plan was done without consulting with the consumer community. Written testimony was submitted to the House Appropriations Committee by two peers who would rather see peer models expanded. The House Health Care Committee will recommend language for the budget document which at a minimum will ask that consumers be consulted before it is implemented.

Department Budget Testimony

Department of Mental Health Overview

Mental Health Commissioner Sarah Squirrel, Deputy Commissioner Fox, Shannon Thompson, and Alison Knopft Director of quality and accountability presented their budget proposals to the two appropriations committees. There are savings from the 12 Brattleboro Retreat beds that have been delayed so they are now expected to open January 2021. Suicide prevention will be funded by CRF and will carry forward, so this funding is eliminated from the original budget proposal made in January. It will be used for zero suicide prevention expansion, expansion of the suicide hotline and targeting specific groups for outreach. Mental Health First Aid training will be expanded with a focus on teens. They will collaborate with DAIL to strengthen the eldercare clinician program for suicide prevention. DMH in collaboration with VDH has also applied for a 5 year “Comprehensive Suicide Prevention” Grant from the CDC.

Senator Sears said that mental health and corrections is not being dealt with. In the Justice Oversight Committee, they are discussing cases where people with mental illness are getting involved in the corrections system when they should be treated in the mental health System. He is also concerned that people are not getting adequate mental health services leading them to land in corrections and that people in corrections are not getting adequate mental health services. Sarah Squirrel is supportive of the justice reinvestment process and wants to continue to improve collaboration with law enforcement. She wants to be more proactive on the community level and to meet the needs of people in the correctional system with mental health needs.

Commissioner Squirrel testified that DMH worked quickly to stabilize DAs which involved setting up an emergency case rate for success beyond six. She said the DAs did a tremendous job working with students and families. She reported that DMH has had numerous meetings with LEAs, AOE, DA/SSAs and have made a lot of progress. The Health Care Stabilization funding was highlighted for helping with relief from loss revenues at DA/SSAs.

Some CRF funds will be used for COVID related expenditures at the VPCH and MTC, as well as for the Medical Director.

The Middlesex Therapeutic Community Residence will move back to Middlesex in the next month now that water quality issues are being addressed. Central Vermont Medical Center planning for psychiatric bed expansion is on hold, but Sarah will follow up with them about resuming the planning. The Commissioner noted that children's residential continues to be a growing pressure with significant trends in depression, anxiety, and suicidality. The goal is to reduce the need for residential care.

Representative Hooper expressed her concern about the ability of DA/SSAs to continue services if there is not any increase in funding in the coming year given that the pay levels are at 30% below state pay to equivalents and privates pay. She would like to increase capacity.

Commissioner Squirrell agreed that the capacity of DA/SSAs is critical and noted that CRF and flexibility in funding has been critical. She pointed out that the State has maintained full funding while service volume is down. She believes that the Success Beyond Six case rate development will support continued sustainability.

DAIL Budget Overview

Commissioner Monica Hutt presented the Budget restatement and explained that the \$1.6 million reduction in developmental services (DS) is a result of an accounting change, not a reduction in services or one-time funds that go to DA/SSAs. Representative McFaun asked about services to children with autism. Commissioner Hutt said that most of the children with autism are served through SB6. Supports to these children have been impacted by the closure of schools but are being ramped back up. McFaun said families are feeling anxious about the changes in school services and wondered if these children now need more services. Commissioner Hutt said she is concerned about whether students with disabilities are having the accommodations they need for remote services. She is beginning to work with the Agency of Education to address this, however DAIL cannot supplant what schools are providing; they need to work together to ensure the needs of these students are met.

Senate President Tim Ashe asked about increasing pay to the people on the ground who get paid next to nothing while PR staff at UVM earn \$750,000 who just sign off on press releases. Senator Kitchel said she didn't disagree with the imbalance of where public funds end up. Senator Ashe made the conjecture that eliminating one position at UVMC could lead to a buck an hour increase for hundreds of workers in DS. He asked the Chair to come up with how to increase wages at DS Agencies and wants to talk about the morality of what some people get for health care positions compared to others. He wondered if Medicaid can be limited from certain positions to free up money to where more is needed; if we can identify job types where we don't want to fund with Medicaid.

DVHA Budget Overview

"The Department of Vermont Health Access (DVHA) budget request includes a decrease in administration of \$1,533,974 and an increase in program of \$12,632,168 for a total of \$11,098,194 in new appropriations as compared to the FY21 Governor's Recommended spending authority. DVHA is meeting the general fund pressure increases with the 6.2% federally matching percentage increase due to the CARES Act. The growth in the caseload and utilization as a result of the pandemic is expected to require a \$15 million increase.

Department of Health Budget Overview

The Vermont Department of Health (VDH) proposed budget has a general fund reduction of \$1.1 million. Most of this reduction, about \$850,000, results from the delayed implementation of the expanded home visiting program. The balance of the savings come from slightly lower internal service charges, and a revised estimate of the federal share of department administration costs. For fiscal year '21 VDH has an allocation of Coronavirus Relief Fund (CRF) along with a supplemental CDC grant to fund COVID response work. If a vaccine is approved for use in early 2021 and is widely available, they would expect that additional federal funding for an immunization program. The \$800,000 COVID Response Telehealth Connectivity Program is intended to support equitable access to telehealth services by providing outreach, training and equipment needed to support telehealth needs. The legislation directed that the program be administered by the Vermont Program for Quality in Health Care (VPQHC), consistent with its Connectivity Care Packages proposal. Commissioner Levine said it has been a challenging time with spikes in Opioid overdoses, anxiety, depression and isolation.

Joint Fiscal Oversight Committee Considers Woodside

Vince Illuzzi of VSEA testified in favor of keeping Woodside open and investing in a more modern building to allow the professional staff to serve the needs of the juveniles placed there. He emphasized that many youth are sent out-of-state where the standards of care are less progressive. He said that because the program has been moved around the state, the staff were not fully able to access the training stipulated in the court order.

DCF Commissioner Brown plans to close the Woodside Juvenile Detention facility effective October 1st. They are working with a private provider, Beckett, to develop a community based secure treatment facility for no fewer than 5 youth (it could be as high as 8 – 10). The new site for youth will not be at Woodside. Once the transition is made the facility will be bulldozed to make room for a new mental health therapeutic facility on the site. Disability Rights Vermont may seek an injunction to close the current facility in response to recent events leading to 5 staff being put on leave. He hopes to have the new facility running in 9 – 12 months. The Beckett program will be a no-reject model.

Commissioner Brown acknowledged that there are youth sent out-of-state to meet specialized needs that can't be treated in Vermont. Most are in unlocked or staff secured facilities, with one exception. Representative Shaw asked if these out-of-state placements will be impacted by the proposal. Commissioner Brown said that they are increasing the focus on treatment needs instead of focusing on reducing the census at Woodside which has been a detention facility. However, there will still be youth sent out of state when our programs aren't able to fully meet treatment needs.

House Health Care Committee Considers Mental Health Funding

The House Health Care Committee is frustrated that improving funding for DA/SSAs is not looking like a viable option in the FY21 budget. Committee Chair Bill Lippert said the issue will be picked up again in January. The Committee is also strongly advocating that the MH scholarship dollars move forward. The Chair said that when DAs have high vacancies and are not able to compete on salaries with health care providers and state employees this is a critical issue. Representative Donahue added that crisis teams are not able to do the responses they are intended to do because they cannot fill positions leading people in crises to end up in emergency departments or in interactions with the police. The Committee will be taking testimony on the proposal for embedded mental health workers in state trooper barracks. Representative Donahue is concerned about the lack of stakeholder input into the proposal. The Committee will be taking testimony on September 3rd on the issue and recommending language about it in the House budget bill.

Senate Committees Supportive of Embedded Workers at State Police Barracks

Department of Public Safety Commissioner Shirling presented the proposal to place seven more mental health staff at the State Police Barracks and received a positive response from both the Senate Government Operations and Senate Appropriations Committees. The Senate Health and Welfare Committee plans to take testimony on this topic after the House budget is complete.

Senator Sears applauded the effort and sees mental health at the crux of a lot of public safety issues. Commissioner Shirling hopes that in the future the plan can be expanded to have full funding for all 10 state police barracks. The hope is that early intervention will reduce public safety and emergency department interventions. DMH will be a robust partner in expanding the program. The plan is for the staff to be employed by designated agencies, not the State. There will be a statewide team and large-scale MOU. Colonel Birmingham of the St. Albans barracks reported to the Senate Appropriations Committee that they experienced a 50% reduction in police intervention due to early intervention by their embedded mental health worker.

Commissioner Squirrel told the Senate Health and Welfare Committee that she wants to ensure that there is a stakeholder engagement process. Senator Lyons has some concerns that mental health issues might get lost and wants the mental health workers to be “in charge”. Senator Cummings spoke in favor of maintaining and supporting the collaborations between police and social services.

Senate Appropriations Considers Hazard Pay

Representing AHS, Wendy Trafton and Sarah Clark gave an update on the Hazard pay program. The \$28 million will be distributed on a first come first served basis with applications accepted until all funding is dispersed. Applications have been submitted for more funding than is available, but the applications are still be reviewed so it is unclear whether all applicants will be determined to be eligible. Jane Kitchel asked about hazard pay to DA/SSAs. Sarah Clark said AHS will work with Howard Center and think they can address the hazard pay for other DAs through other funding sources.

Education

Over the last week, the Agency of Education presented its budget restatement at House Education, House Appropriations, Senate Education, and Senate Appropriations.

Secretary Dan French and AOE CFO Bill Bates presented this budget restatement:

<https://legislature.vermont.gov/Documents/2020/WorkGroups/House%20Education/Governor's%20Recommended%20Restatement%20of%20the%20FY21%20State%20Budget/W~Dan%20French~Official%202021%20Budget%20Restatement%20Presentation~8-26-2020.pdf>

The overall request was a 3% cut, for an operating budget of approximately \$502,000. Educational Services cuts include:

- Governor’s Institute- \$5,780
- Teacher of the Year - \$2,500
- Outright Vermont - \$40,000
- Early Reading \$67,561 – funds haven’t been used in recent years

In House Appropriations and House Education, AOE received pointed questions around the cuts to Outright Vermont. Representative Kathleen James noted that LGBTQ teens were already at risk and vulnerable before COVID, and now may be more vulnerable. She and other committee members felt that this was a dramatic cut to a non-profit that otherwise could struggle with fundraising this year.

AOE justified the cut by saying that the annual appropriation had been \$20,000 for several years and the \$60,000 was an anomaly last year due to a pile up of federal funding.

In House Education on August 27, Vermont Council of Special Education Administrators' Executive Director Traci Sawyers raised concern about AOE's 7/28 guidance on special education. Sawyers said "we had a meeting with Secretary French last week asking him to retract that guidance." VCSEA believes that the concept of "COVID recovery services" is legally unsupported and will impact schools; also noted a big concern around the impact on resources/budgets. Stating that it was an "active conversation," she wanted to respect the process and see what happens. Testimony from a coalition of education stakeholders on a variety of topics is [here](#). Elsewhere in testimony there seemed to be consensus among all stakeholders, including the legislature, to support the concept of 170 required school days for students this year.

At Senate Appropriations, Secretary French fielded questions about the safety of re-opening schools. He said, "This is hard work. Nationally, there has been a period of politicization. Vermont has a .5% positivity rate versus Texas has a 24% positivity rate. We've been very cautious and protective of the safety of our students." He noted that there are teachers and parents who are passionate on both sides of these issues. He noted that there seems to be a mood shift in the last week which suggests people are "buckling down" to get back into schools. Noting a three-step approach based on community transmission rates, he said that our current rates are likely to be "as good as they are going to get," especially until flu season. "From the Health Department perspective, we are at Step Three. We are starting at Step Two, but we should go into Step Three within two weeks."

To take action or for more information, including the weekly committee schedules:

- Legislative home page: <https://legislature.vermont.gov/>
- Sergeant-at-Arms Office: (802) 828-2228 or (800) 322-5616
- Legislators' email addresses may be found on the Legislature home page at <https://legislature.vermont.gov/>
- Governor Phil Scott (802) 828-3333 or <http://governor.vermont.gov/>

The purpose of the legislative update is to inform individuals who are interested in developmental, mental health and substance abuse services about legislative advocacy, policy development and activities that occur in the State Legislature. The Vermont Council is a non-profit trade association which works in partnership with Vermont Care Network to form Vermont Care Partners. Together our mission is to provide statewide leadership for an integrated, high quality system of comprehensive services and supports. Our membership consists of 16 designated developmental and mental health agencies.