



VERMONT CARE PARTNERS

Supporting Vermonters to lead healthy and satisfying lives community by community



Legislative Update for March 23, 2022

WHAT'S HAPPENING IN THE LEGISLATURE

Fiscal Year 2022 Budget Adjustment

H.679, the FY22 Budget Adjustment Act including agreement on one-time funds to stabilize our workforce that will be both sufficient and flexible enough to effectively address workforce challenges in the short-term was signed into law on March 16th by Governor Scott. This clears the way for the Agency of Human Services to begin administering workforce investment to home and community-based services, including designated and specialized service agencies.

Fiscal Year 2023 Budget

On March 22nd the House Appropriations Committee finalized the FY23 budget for full House consideration later this week. It includes a 7% Medicaid rate increase for designated and specialized service agencies which is significantly higher than the 3% proposed in the Governor's recommended budget.

The Senate Appropriations Committee is already taking testimony on the budget and several members including the Chair have expressed concern about the 3% increase recommended by the Governor for DA/SSAs when the need is much higher. As the session proceeds legislators will receive updated and improved information on revenue projections.

Vermont Care Partners Legislative Agenda for 2022

The Vermont Care Partners legislative agenda is quite comprehensive and focuses on our need for adequate resources to meet our mission and mandates. See this link:

<https://vermontcarepartners.org/wp-content/uploads/2021/12/legislative-agenda-2022-working-draft-1-1.pdf>

This Week's Testimony and Legislative Action

Agency Staff Tell their Stories to the Legislative Workers' Caucus

Several brave and articulate staff from Northeast Kingdom Human Services, Counseling Services of Addison County and Howard Center spoke about their jobs and compensation to the Workers' Caucus -

a group of legislators who regularly work together on behalf of Vermont workers. The one-hour event was organized by Rep Brian Cina, a member of the House Health Care Committee, who also works part time for the Howard Center. The staff addressed: the value of their work; their education, training, skills and years of experience; as well as their compensation and its negative impact on their lives. Many said it felt demoralizing to be paid so little, let alone having to struggle supporting their families on such a limited income. Here is the link to the Zoom recording. https://legislature-vermont.gov.zoom.us/rec/share/frdewlHv5Jmzc52ApAVG5ss_XVOds2BCj1oYp2oi9QN0H-dM-5rxCAu35-v1eXrZ.2txW18o8YGqgCMFQ

Senate Health and Welfare Takes up H.153

Legislative Counsel Jen Carbee reviewed H.153, an act relating to Medicaid reimbursement rates for home- and community-based service providers for the Senate Health and Welfare Committee. It was passed by the House last year where Vermont Care Partners provided strong advocacy for its development and passage. The bill's sponsors, Rep Theresa Wood and Rep Dan Noyes explained the intent of the bill. Rep Noyes said the intent is to require the Agency of Human Services to determine the cost of providing home- and community-based services, but it does not obligate any specific funding levels. Rep Wood said we don't currently know if we are paying the actual cost of services, because currently the funding levels are a shot in the dark.

Senator Hardy asked about existing statutory language, about the Secretary of Human Services determining the cost of services and whether the Secretary has been doing this. Rep Wood said that former AHS Secretary Mike Smith testified that costing of services is not happening because the language was viewed as optional rather than a directive. However, she also noted that Wendy Trafton, the Deputy Director for Health Care Reform at AHS, recently testified that her office has budgeted funding from the FMAP bump to do the cost analysis as required in the statute.

The Committee is planning on accepting further testimony on the bill this coming week. Mary Moulton, Executive Director of Washington County Mental Health Services, has been requested to participate. Here is a link to the bill. <https://legislature.vermont.gov/Documents/2022/Docs/BILLS/H-0153/H-0153%20As%20Passed%20by%20the%20House%20Unofficial.pdf>

House Human Services Considers H.711 on Opioid Overdose Response Services

The House Human Services Committee returned to H.711, the Bill on Opioid Overdose Response Services, even though they already voted it out. The Department of Vermont Health Access (DVHA) Commissioner Andre De La Bruere explained that there is a broad class of drugs for opioid treatment. Nancy Hogue discussed the balance of access to medication with fiscal responsibilities. A significant aspect of the bill's language is the elimination of prior authorization, which would prevent DVHA from collecting rebates on the buprenorphine. DVHA presented that they have worked collaboratively with providers to minimize prior authorization burden for providers and remove barriers to medication-assisted treatment (MAT) for substance use disorders for Medicaid enrollees. Committee Chair Ann Pugh requested further discussion between committee members and DVHA. DVHA asked where the committee received information on barriers to medication access and expressed concern about increased use of more expensive medications if prior authorization is removed. One product cost \$20,000 per one year of doses for an individual. They noted a study that found "the hospitalization rate for unsupervised ingestion of buprenorphine products was significantly higher than rates for all other commonly implicated medications and 97-fold higher than

the rate for oxycodone products.” DVHAs estimated fiscal impact of limiting prior authorizations for medication-assisted treatment as proposed in the bill ranges from \$17 million - \$35 million.

House Human Services Returns to the DD bill

Rep Wood shared draft that appeared in the budget bill referencing the allocation of positions. Appropriations said no to the HHS recommendation for additional positions. Out of the 10 positions in the Budget Bill, 5 would be specified for quality review team staff as originally requested by DAIL. The Amendment to the Bill would clarify that the steering committee will have a sunset date.

Thursday the committee returned to prior authorization. Dr. Kimberly Blake, who worked at Safe Recovery for 3 years, spoke about Medication assisted treatment. She said it is difficult for people to transfer from fentanyl to buprenorphine due to withdrawal. The buprenorphine monotab works better and does not fit into any of the prior authorization requirements. The person must demonstrate an allergy to alternative buprenorphine medication and must stay in the office to have the clinician record their response. She said the requirement prevents people from getting the medication they need. She feels that this process is inhumane because many people suffer difficult allergic reactions and many clinicians are not willing to take on this med watch process due to the time it takes to go through the process. Rep Taylor wants to increase patient choice and reduce barriers to access to needed services. She would like to exempt some medications from prior authorization including the monotabs through medication. Rep Pugh said they will need to stay within the FDA dosage requirements. The prior authorization takes ½ hour, the med watch takes 2-3 hours and the patient has to go back and forth to the pharmacy. The committee was concerned that no other patients are treated like this. (8 am Fri call with Commissioner)

H 720 on the System of Care for Individuals with Developmental Disabilities Bill Presented to the House

On March 18 Rep Theresa Wood, Vice Chair of the House Human Services Committee, presented H.720 on the floor. She shared the history of Brandon Training School and its closure. It was open for 78 years. In 1993 when it was closed, a promise was made to the Vermonters with developmental disabilities and the families of the former residents that the services to enable them to fully participate in the community and citizenship would be there over time. Rep Wood explained that we have been inconsistent in keeping that promise through the services and supports provided by DA/SSAs who serve 4,600 individuals annually. She spoke about how the Covid pandemic has had a dramatic effect on the people served and the workforce. The need to continue to expand the diversity of services provided due to a wide-ranging diversity of needs was acknowledged. Rep Wood strongly stated that we must listen to the experts—people with developmental disabilities and their families. The bill proposed 4 actions.

1. Clarifying the process for System of Care Plan (SOCP) by eliminating the rule-making process and requiring that any extension of the plan receive written approval by the committees of jurisdiction.
2. Ensuring the health and safety of those served by requiring DAIL to conduct annual quality review site visits.
3. Creating a residential services developer position to develop three pilots that reflect a diversity of needs of people with developmental disabilities and funding for the position and pilots.
4. Requiring that payment reform and implementation of the new conflict-of-interest-free case management have prior approval by the general assemble before implementation.

Rep Topper McFaun spoke about his work with families who were having trouble accessing necessary services for children with developmental disabilities. He spoke about one family being denied services

because of limits on funding set for the in the SOCP ‘which is five years old and should have been updated.’ He believes that this bill will go a long way in solving the problems brought to our attention.

Rep Dave Yacavone speaking for the Appropriations Committee said they supported the bill strongly and the Committee appropriated funding for the limited position with the FMAP bump.

The Bill was amended as approved by the Appropriations Committee and the Government Operations Committees.

House Human Services Committee Receives Overview of Global Commitment 1115 Waiver Program

Ashley Berliner, Agency for Human Services (AHS) Director of Health Policy provided an overview of Global Commitment to Health 1115 Waiver program (GC), with an emphasis on its interaction with Department of Aging and Independent Living (DAIL) and the role of the Human Services Committee. Included in the overview was a [breakdown of programs and groups](#) under the GC 1115 Waiver program: Medicaid State Plan Eligibility Groups, home- and community-based services (HCBS) for Designated State Plan Populations, and Limited Benefit Waiver Groups.

Representative Wood opened the discussion with the acknowledgment that in previous years the committee did not take an active role in monitoring the Global Commitment (GC) waiver program, and the committee is seeking to dispel confusion about what it covers, including decision-making, HCBS, flexibilities and internal operations. All Developmental Services and Choices for C0.14 are programs that fall under the GC waiver. Mental Health services also fall under GC but are under the purview of a separate committee. As the managed care entity for Vermont, Department of Vermont Health Access (DVHA) is responsible for funding oversight of GC programs. Currently DVHA is in renewal negotiations with Center for Medicaid and Medicare Services (CMS), so the discussion will focus on policy only.

While the AHS Secretary has ultimate and final say on GC policy changes, DVHA is responsible for coordination with CMS. In current practice, DAIL and other responsible departments have autonomy regarding policy decision-making. AHS is working through a “clearer decision line” within the agency and making sure they have appropriate resources to manage the smaller subsets of DAIL programs that overlap with other divisions. Pertaining to DAIL intake, DVHA handles financial eligibility determination. Another major driver of program and policy decision-making within AHS is the best return on investment, such as the avoidance of institutionalization. For upcoming payment reform initiatives, DVHA has primary responsibility for Conflict-of-Interest-Free Case Management. Representative Wood noted that DAIL is responsible for representing people in service and their families regardless of which department is leading.

Representative Noyes asked if the Medicaid budget is close to the Medicaid cap. The 1115 waiver cap is very close but they couldn’t comment further, as AHS is in negotiations with CMS. However, AHS is working hard with CMS to make sure Vermont is held harmless for one-time HCBS funds as they factor into the cap. The cap accounts for 5 years of both state and federal funds spent on Medicaid programs in the waiver. Investments are tied to annual caseloads, so the budget should stay within a reasonable range so as not to go over the cap.

House Health Care Reviews S.285

Legislative Counsel Jen Carbee reviewed S.285 an Act Relating to Health Reform Initiatives, Data Collection and Home- and Community-based Services for the House Health Care Committee. She pointed out how

sections of the language in S.285 are not totally consistent with the language recommended for the appropriations bill by the Committee. The Chair noted that the Health Care Committee will need to coordinate with the House Human Services Committee. It was clarified that the recommendations developed in the proposed study will be used for future negotiations with CMMI and CMS, not the current negotiations.

Senate Appropriations Committee Reviews S.285

Senator Lyons, the Chair of the Senate Health and Welfare Committee, reviewed S.285 for the Senate Appropriations Committee and highlighted the appropriations required for the research and systems transformation processes proposed. Senator Kitchel noted that providers are struggling to survive financially while health care consumers are struggling to cover health care costs. Senator Lyons said the purpose of alternative payments that will be developed through the processes envisioned in the bill is that they will sustain providers and provide care in a cost-effective way. She highlighted that it is an opportunity to develop a plan for comprehensive transformation of the health care system. Senator Lyons feels it is important to develop common payment systems and an integrated system of data for better evaluation across the health care continuum.

Funding for Mental Health for Schools in Senate Education, March 16, 2022

Legislative Counsel Katie McLinn reviewed changes to S.197 with Senate Education. In this bill, the Agency of Education, in consultation with DMH, is to establish a two-year grant program to expand existing counseling services in schools for underserved districts, as well as Afterschool Programs. McLinn noted this bill now incorporates federal ESSER funds that were appropriated last year in Act 74 and not yet used: \$500,000 is earmarked for “statewide COVID-19 recovery supports for educators and school staff,” and \$2.5 million for children and youth. Sen Lyons noted that the money was divided this way based on Agency of Education recommendations. Sen Hooker commented that “in Rutland, they are excited to expand it to in-school and not just afterschool programs.” Sen Lyons said she is hearing that too. The committee was supportive of these changes.

Interstate Telehealth in Senate Health and Welfare, March 17, 2022

Senate Health and Welfare received an overview of [H655](#), which would enact the recommendations of the 2021 Interstate Telehealth Workgroup to establish a tiered structure for practicing in Vermont via telehealth. Legislative Counsel Jennifer Carbee explained the distinction between the time-limited registration option, which is intended to be for a small number of clients for a short time to support clients who need short-term consultation or support during a move to Vermont, versus telehealth and full licensure, both of which would apply when licensees provide ongoing telehealth treatment, with the difference being the number of clients served. Carbee noted that registration lasts 120 days and cannot be activated more than once every three years.

Lauren Hibbert, Director of the Office of Professional Regulation [OPR], responded to committee questions and shared a [presentation](#). She explained that this bill gives OPR rule-making authority so that they can develop profession-specific rules, requirements, and resources. One example is that clinicians engaged in prescribing would have to participate in Vermont’s prescription monitoring program. Another example was crisis support. “Vermont has a unique emergency mental health system,” she said. OPR’s rules will ensure “that the providers know how to connect Vermont clients with Emergency Services if that’s needed.”

Hibbert confirmed that the nurse licensure compact has passed in Vermont, with over one thousand nurses practicing under the compact. Based on input from the Interstate Telehealth Working Group, Hibbert believes that compacts are ideal for interstate telehealth care, but not always an option for every profession. Hibbert also provided insight into the fee proposal developed by the House Ways and Means committee. It is meant to incentivize providers to get a telehealth license or full license, by disallowing renewal of registration more than once every three years, but allowing registration costs to be put as a credit toward telehealth or full license.

Citing conversion therapy for adolescents, Hibbert shared that this structure is designed so that someone who is licensed out of state must follow Vermont standards and rules. She noted that right now OPR does report complaints into a database when the provider is licensed in multiple states. Hibbert noted that the provisional licensure component of this bill exists because it can take six months to get verification of licensure from some states, so this gives OPR power to grant a provisional license while they are waiting for verification, which they can revoke if needed.

Nolan Langweil of the Joint Fiscal Office testified to an estimated fee loss of \$195,000 over two years. Hibbert anticipates a new fee bill in front of the legislature next year. OPR is running at a deficit of almost \$2 million and is losing professionals through compacts. Some professions haven't had a fee increase since 2004. Senate Health and Welfare will be taking further testimony.

Senate Finance Approves Fee Structure Proposal for Peer Credentialing in S.195

Legislative Counsel Katie McLinn provided an overview to the Senate Finance on the elements of the Peer Credentialing and Peer Respite bill that had to do with establishing fees. S.195 sets up a process by which DMH contracts with entities to develop the certification program, provide training, determine eligibility, and run the certification program. The bill language says that any fees will be determined according to an established statutory process through the Executive Branch. The committee voted in favor of this language and passed it forward to Senate Appropriations.

Plan to Participate in these Advocacy Events

Save the Date! Vermont Disability Awareness Day

Join VCDR members and others from the disability community as we continue to present our legislative priorities and share our stories about important issues.

Vermont Disability Awareness Day is being observed as a three-part series. The first day is complete. Save these dates and watch for announcements coming soon:

- April 11 from 4:30 p.m. – 6:30 p.m. Home and housing is a high-priority topic at this moment in Vermont history. We will be hosting a virtual event to hear from those who have lived experience with barriers to stable housing, and community organizations and experts that specialize in accessible and affordable housing. Further details and registration link coming soon.
- May 2022 – Time and keynote speaker TBA

Information on Your Senators and Representatives

Follow this link to determine your legislators and access their contact information. Legislators are listed both by DA/SSA and by the Committee they serve on. Please note there are new legislators on committees that have purview over policy and funding for the Vermont Care Partners network.

[2021 Legislative Committees by DA-SSA.xlsx](#)

Action Circles Calendar

Action Circles maintains a calendar of Legislative breakfasts and events. This information can be found at: <https://www.action-circles.com/legislator-events/>

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.