



Supporting Vermonters to lead healthy and satisfying lives community by community



Legislative Update for March 30, 2022

WHAT'S HAPPENING IN THE LEGISLATURE

Fiscal Year 2023 Budget

On March 25th the House of Representatives approved the FY23 budget with a 7% Medicaid rate increase for designated and specialized service agencies (DA/SSAs) which is significantly higher than the 3% proposed in the Governor's recommended budget. Now the budget bill officially moves to the Senate where the Appropriations Committee is already taking testimony. Several committee members, including the Chair, have expressed concern about the 3% increase for DA/SSAs recommended by the Governor because they know the need is much higher. Next month, legislators will receive updated and improved information on revenue projections which may impact the budget.

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

House Passes the FY23 Budget with 7% Rate Increase for Designated & Specialized Service Agencies

On Friday, March 25th the House of Representatives passed their FY23 Budget Bill, H.740. It includes a 7% rate increase for designated and specialized service agencies and for Choices for Care, which totals \$38 million. In speaking to members of the House, Appropriations Chair Mary Hooper said the Committee wanted to go to 10% but the Medicaid cap prevented them from doing so. H.703, the workforce development bill also passed the House, but the \$6 million for tuition assistance and loan repayment was dropped after the Agency of Human Services (AHS) told legislators that additional funds were not needed given the late start up and remaining balance of over \$1 million. Vermont Care Partners was hoping to expand and extend the funding to all staff, including those working in developmental disabilities. The budget also includes one-time and base budget increases for substance used disorder services totaling \$7.35 million, including \$200,000 for Howard Center syringe services, \$880,000 for rate increases for residential programs, \$540,000 for recovery centers, and nearly \$1.3 million for sobering beds and recovery housing.

Here is the big picture of the House budget by the Joint Fiscal Office:

FISCAL YEAR 2023 BUDGET - HOUSE APPROPRIATIONS COMMITTEE As Vermont emerges from the pandemic there continue to be challenges that are addressed in this budget. This budget fills all the statutorily required reserves and sets aside \$7.2M as future match for the federal Infrastructure Investment and Jobs Act (IIJA). The GF totals \$2.01B, and all funds total \$8.14B compared to FY 2022 as adjusted. The GF is down 2.2% and all funds are up all 5.6%. This total includes \$120M one-time GF appropriations, and \$428M ARPA appropriations in FY23, but excludes \$200M FY 2022 one-time transfers related to pensions.

Here is the budget bill language related to the Department of Mental Health

Sec. E.314 DEPARTMENT OF MENTAL HEALTH; MOBILE CRISIS OUTREACH SERVICES

(a) The Department of Mental Health shall build an urgent care model for mental health by expanding mobile outreach services based on the Department's analysis of statewide mobile crisis services and gaps pursuant to its State Planning Grant from the Centers for Medicare and Medicaid Services. The urgent care model shall address geographic gaps and the regions of the State in which the lack of mobile outreach is most directly driving unnecessary emergency department visits or unnecessary law enforcement responses.

(b) The new mobile outreach services shall:

- (1) be based on evidence-based and trauma-informed practices, including using peer support staff;
- (2) be developed in conjunction with the continuum of urgent care response related to the new 9-8-8 suicide prevention line; and
- (3) comply with federal requirements as needed to qualify for three years of federal financial participation at an enhanced 85 percent federal match rate.

(c) The Department shall develop a sustainability plan to ensure that the services will continue to be available after expiration of the enhanced federal match rate.

Sec. E.314.1 DEPARTMENT OF MENTAL HEALTH; EMERGENCY DEPARTMENTS; PATIENT EXPERIENCE OF CARE;

REPORT (a) On or before January 15, 2023, the Department of Mental Health shall report to the House Committee on Health Care and the Senate Committee on Health and Welfare regarding the progress of the health care system in improving the patient experience of care for individuals encountering lengthy emergency department waits for admission for inpatient psychiatric treatment. The report shall include an assessment of the services offered to these patients in emergency departments and the extent to which stakeholder input is included in decisions about services and patient care.

Senate Health and Welfare Hears Testimony on Medicaid Rates for Community-based Providers

Molly Dugan of Cathedral Square, which provides housing, support services and home modifications, said they have 1,000 people waiting for apartments and assisted living. They fully support a path to set reasonable rates that reflect the true cost of care. Their analysis of funding for assisted living is that it's funded by Medicaid at 50% of costs. They also appreciate the potential for predictability in rates.

Jill Olson of VNAs of Vermont said the payment for long-term services through Medicaid for Choices for Care is for people who are nursing home eligible and within certain income limits. The program has not kept up with costs. They need reasonable predictable rates.

Angela Smith Dieng, Director of Adult Services for DAIL, said that payment rates do not necessarily address quality and access or how these services fit into the All-Payer Model. She noted the diverse array of services and providers participating in Choices for Care. DAIL would like to request additional time to

achieve the financial review, and possibly, the ability to do it in stages. She said it cannot be done in one year.

Wendy Trafton, Deputy Director of Health Reform for AHS, testified on the Home and Community Based Services (HCBS) spending plan for the 10% FMAP bump. The spending plan has an emphasis on one-time investments in HCBS, such as improving care coordination and increasing value-based payment methodology of services. AHS received many comments related to the need for increased wages, and in response they requested funding to conduct rate studies. This funding was approved by the state and federal governments.

Alicia Cooper, Director of Managed Care Operations, Department of Vermont Health Access (DVHA) and Pat Jones, Deputy Director of Health Reform for DVHA said they have staff dedicated to rate setting and payment reform who work with other departments to set rates. Each project requires extensive time and resources. Provider input is critical, and the process takes significant time. Given the large number of programs covered in H.153, it isn't going to be possible to complete the processes in one year or less. They will need additional DVHA staff and contractor resources. An updated fiscal note is in order.

Julie Tessler testified on behalf of Vermont Care Partners. See her testimony at this link: <https://legislature.vermont.gov/Documents/2022/WorkGroups/Senate%20Health%20and%20Welfare/Bills/H.153/Witness%20Documents/H.153~Julie%20Tessler~Vermont%20Care%20Partners-%20VT%20Council%20Written%20Testimony~3-23-2022.pdf>

She said this is a critical time to for AHS to set rates based on the cost of providing care and H.153 will lay a foundation for this work. She spoke about the rising demand and acuity of the people served by DA/SSAs and the impact of the workforce crisis, leaving hundreds of Vermonters unable to access needed services and supports. She noted that without an annual comprehensive analytical process to determine the true cost of services and set rates, the budgeting process will never have the appropriate foundation to set priorities. This year private mental health providers received more than a 17% Medicaid rate increase, the Brattleboro Retreat also received rate increases to maintain its critical inpatient infrastructure, but DA/SSAs were recommended only for the remainder of available Medicaid funds after these decisions were made. This has led to cracks in the community-based system of care, which is not the way we should be determining how limited resources are utilized. She said underfunding mental health won't just be detrimental to the people whose mental health needs are unmet and growing in acuity, but it also impacts the whole health care system. Unmet mental health needs increase physical health care needs and costs. H.153 will ensure timely and appropriate rate setting and enable budget decision making based on comprehensive data to more effectively support the health and wellbeing of Vermonters.

Senate Committee on Health and Welfare Hears Testimony on Developmental Disabilities Bill H.720

Kirsten Murphy of the Vermont Developmental Disabilities Council (VDDC) reviewed three areas of the bill for clarification. First, the original intent of the rule-making process for sections of the System of Care Plan (SOCP) was to add oversight, but it proved to be very cumbersome. VDDC is in support of this part of the bill. Second, a minor change in wording in the supported housing section, to “quantify and describe the service-supported housing needs of Vermonters receiving Home and Community Based Services through the Developmental Disabilities Services Division”. Third, regarding system oversight around payment reform, which will require Department of Aging and Independent Living (DAIL) to obtain legislative approval. VDDC is not in support of this section because it might “sink” important pieces of payment reform.

Ellen McKay Jewett, parent of a developmentally disabled adult testified to feeling stranded by the system due to lack of residential options, intensive caregiving during the past two years of the pandemic, and lack of staffing. She described the limitations presented by an inherently unstable and transient system, and the scarcity of deaf services, which resulted in inappropriate or risky living situations. She asked for an improved system that accounts for when family caregivers age and die. On behalf of the family-led Developmental Disabilities Housing Initiative (DDHI), she requested support for the two overarching goals safety and stability of place.

Andrea Murray and Elise Haydon from Yellow House in Middlebury testified in support of the residential section of the bill. The new residential program position is of particular importance, perhaps beyond three years, and will require a visionary, forward-thinking candidate who is willing to harness the creativity and drive of families to streamline a circuitous and degrading system of care.

Monica White, Commissioner of DAIL, testified that while the department is in support of most of the bill, and work has begun on payment reform and system improvements, there are two significant areas of concern. First, the Department supports five additional quality reviewer positions in concept, however, it is unclear within the Governor's budget, out of the 10 additional DAIL positions, which would have to be reallocated to accommodate the new team of five. All position requests were based on health and safety needs, across various DAIL divisions serving other populations. Shayla Livingston, Policy Advisor for Department of Vermont Health Access (DVHA) addressed the second area of concern around the legislative approval requirement for payment reform and Conflict-of-Interest-free case management (COI). While the Department agrees to report-outs and check-ins to the legislature, they respectfully request that the "seek approval" language be removed from both the payment reform and Conflict of Interest sections. These two areas will undergo a public feedback process, and AHS oversees all payment reform efforts under their purview, as does the Center of Medicaid and Medicare Services (CMS).

Committee member Ruth Hardy noted that housing organizations such as Champlain Housing Trust and Vermont Housing and Conservation Board are well-funded due to COVID-relief assistance, and DAIL could be coordinating with them. Shayla Livingston also commented that AHS is contemplating FMAP funds for the same purpose. Ms. Jewett shared that there is a family-led housing sub-group of DDHI who is researching community partnerships and would be happy to coordinate with DAIL. The committee has reached out to VHCBC for other housing initiatives and could do the same in this case.

Prior Authorization for Buprenorphine in House Human Services

House Human Services initially drafted legislation that would remove prior authorization from certain types and quantities of buprenorphine, but the potential Medicaid costs were higher than expected. Over two days, the committee took testimony from providers as well as DVHA Commissioner Andrea De La Breure.

- Dr. Chris Lukonis, MD, a provider at Gifford Addiction Medicine, acknowledged the overdose crisis. He shared that there is typically naloxone in buprenorphine. This combination makes the medicine less prone to misuse, but there are some people who can't tolerate the side effects and do better with "monobuprenorphine." Private insurers have more flexibility to authorize this than Medicaid. He noted most new patients have buprenorphine in their system already, indicating that they have taken a diverted prescription.
- Dr. Fred Lord, CEO and Medical Director at Connecticut Valley Addiction Recovery, has been prescribing for fifteen years. He said it feels like it takes an "act of Congress" to get a prior authorization for the monoprotect and supports the ability to prescribe up to 16mg without prior

authorization. Not being able to get the monoprodut unless the prescriber proves that they have tried addressing all side effects first can be a huge barrier. The barriers to opioid treatment are not wait times, but rather transportation, childcare, and insurance.

- Dr. Nils Kloster from Savita [testified](#) that Naloxone is added to buprenorphine to prevent diversion. One quarter of people misuse/divert their medication, and some studies show that 85% of users report that they have used diverted medication to get high. He does not feel that prior authorization is an onerous process and does not support a change.
- Beach Conger, MD, from the Community Health Centers [testified](#) against the annual renewal of the prior authorization.
- Jacqueline Bray, DNP, FNP-C, Nurse Practitioner at Howard Center's Safe Recovery Program, [testified](#) in favor of removing prior authorization for dosages over 16mg and for the buprenorphine monoprodut. She shared that for some people, any delay in accessing the right medication can exponentially increase their chances of not engaging in treatment, specifically people who access syringe services, as well as those who are released from corrections.

On March 24, Rep Whitman proposed a [revised amendment](#) that tasks DVHA with researching this topic and sharing that research with the Drug Utilization Review Board and the Clinical Utilization Review Board. Together, they would provide recommendations in the following areas to House Human Services next fall:

- (1) the quantity limits and preferred medications for buprenorphine products;
- (2) the feasibility and costs for adding mono-buprenorphine products as preferred medications and the current process for verifying adverse effects;
- (3) how other states' Medicaid programs address prior authorization for medication-assisted treatment, including the 60-day deferral of prior 15 authorization implemented by Oregon's Medicaid program;
- (4) the appropriateness and feasibility of removing annual renewal of prior authorization;
- (5) the appropriateness of creating parity between hub-and-spoke providers regarding medication-assisted treatment quality limits; and
- (6) creating an automatic emergency 72-hour pharmacy override default

The bill also requires AHS to cover at least one medically necessary medication in each class of methadone, naloxone, and buprenorphine without prior authorization. After approving the amendment in committee, Rep Theresa Wood reported that the Joint Justice Oversight Committee will take a look at the medication needs of people transitioning out of corrections.

Overview of Blueprint at House Health Care Committee

John Saroyan, the new Executive Director for the Vermont Blueprint for Health, as well as Deputies Julie Parker and Laura Weschling, provided an [overview](#) of the Blueprint for House Health Care. They were joined by AHS Director of Health Reform Ena Backus. The Blueprint is currently in 125 patient-centered medical homes, with 147 staff, reaching over 300,000 Vermonters. Primary care practices receive "per member per month" base payments as well as additional incentive payments for meeting performance standards. The role of community health teams includes screening and referral for mental health and other social determinants of health needs. Parker acknowledged the broader "whole health teams" in each community, represented by designated agencies, home health, food shelves, transportation providers, and others. She explained that practices have flexibility on how they hire community health team staff and gave the example from Franklin County of contracting with DAs.

Parker also provided information about Blueprint's role with the Spokes and their Women's Health Initiative, which has a goal of reducing the rate of unintended pregnancies from 45% to 35% in Vermont by providing screening, counseling, and access to contraception. She noted that payment for both Spoke services and the Women's Health Initiative are based on Medicaid attributed lives, but the treatment is "payer agnostic." Ena Backus shared that upcoming key priority areas include access to primary care and "strengthening activities that drive toward integration of mental health and substance use disorder care."

Rep Page asked about Blueprint interactions with mental health care. Parker explained that most practices have some embedded mental health clinician time funded through the Blueprint. Staff are always working to strengthen relationships with private practitioners and DAs. She explained that she is a member of the State's suicide prevention workgroup and shared that DMH provided mini grants to primary care offices for training and coordination on suicide safe practices and pathways to care.

Rep Donahue noted that insurers, the ACO and the Blueprint all do care management. "How do those interact? Are we overlapping or missing people because there are so many different entities doing care coordination?" Backus responded that to do care coordination it is important to have a base of a strong primary care network. Blueprint being an established program provided certainty among federal partners that Vermont was well-positioned to take on the All-Payer Model. At the heart of the ACO is a mechanism for Medicare to join with other payers. Without Medicare's participation, the incentives are weakened. The All-Payer Model is how funding from Medicare continues through to the Blueprint. Care coordination activities and risk stratification models that the ACO has utilized build on the existing foundation and resources of the Blueprint for Health.

House Committee on General, Housing and Military Affairs Moves H.96 through the Final Stages

Representative Anne Donahue visited the committee to rescind and explain the reasoning of her proposed amendment to cut the budget for H.96. At first glance, she thought the bill was "over-resourced" and that three commissioners for three years was "more than is what is needed". On further reflection she decided to rescind the amendment, as she did not intend to put mutual interests at odds with spirit of the bill. The fiscal note was reviewed and revised to add flexibility on fundraising. The Committee voted 8-2-1 in favor of the bill, which then passed the House on March 24th.

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.