



Supporting Vermonters to lead healthy and satisfying lives community by community



## LEGISLATIVE UPDATE FOR MAY 15, 2023

The legislative session came to a close on Friday, May 12<sup>th</sup>. This Update will summarize the work that happened during the last week. There will be a veto session in June after an expected veto of the budget bill, so it's not over until it's over! Next month when it is truly over, we will issue the legislative wrap up which will summarize all legislation which was followed by Vermont Care Partners and include summaries of the bills that passed into law.

### *PROGRESS and TESTIMONY*

#### **Fiscal Year 2024 Budget Includes a 5% Rate Increase for DA/SSAs**

The fiscal year 2024 (FY24) budget as passed by the Legislature has \$8.45 billion in spending, \$193.9 million below the adjusted FY23 budget. Over \$230 million of the funding is one-time general funds (GF), including \$20 million for expansion of the Blueprint for Health for two years. As noted above, the Governor plans to veto the budget bill and a special session is scheduled for the Legislature to try to override the veto with two-thirds majorities in the House and Senate. A group of lawmakers have threatened to vote against an override because they are concerned about the end of funding for rooms used by hundreds of people who are currently housed in hotels and have no alternative housing available.

The Budget Conference Committee agreed to a 5% base increase for developmental services and substance use services effective July 1, 2023, and a 3% base increase for mental health services effective July 1, 2023, plus a 2% base increase for mental health to be distributed as determined by the Agency of Human Services in the annual agreements or appropriate valuation model allocations for providers. Here's the language in the Bill:

**Sec. E.300.1 DESIGNATED AND SPECIALIZED SERVICE AGENCIES; INCREASE** (a) In fiscal year 2024, the Agency of Human Services shall increase funding to the designated and specialized service agencies in the following manner: (1) A five percent base increase for developmental disability services effective July 1, 2023; and (2) A three percent base increase for mental health services effective July 1, 2023. (A) The remaining mental health service fund increase shall be used to provide payment equity across the provider agencies. These funds shall be distributed as determined by the Agency of Human Services in the annual agreements or appropriate valuation model allocations for providers. The Agency shall report to the General Assembly in the fiscal year 2024 budget adjustment process on the status of these payment changes.

The Legislature passed \$3 million for workforce development for DA/SSAs which could increase if Global Commitment funds can be accessed as match. Vermont Care Partners requested this funding to

continue our tuition assistance and loan repayment program and expand it to all employees. This language will require us to work with state government to develop a plan and then receive approval by the legislature or the Joint Fiscal Committee to proceed with the program.

(4) In fiscal year 2024, the amount of \$3,000,000 is appropriated from the General Fund to the Department of Mental Health to address workforce needs at the designated and specialized service agencies. These funds shall not be released until a plan to meet training and retention is mutually agreed upon by the Department of Disabilities, Aging, and Independent Living and the designated and specialized service agencies and approved by the General Assembly or the Joint Fiscal Committee if the legislature is not in session. All or a portion of these funds may be used as matching funds to the Agency of Human Services Global Commitment program to provide State match if any part of the plan is eligible to draw federal funds. It is the intent of the General Assembly to maximize the value of this one-time funding through eligible Global Commitment investment.

The budget bill adds five quality reviewers at DAIL, one at DMH and one at AHS. Rep Theresa Wood was clear that the intent is to have on-site quality reviews at every developmental disability program annually.

Sec. E.333 DEPARTMENT OF DISABILITIES, AGING, AND INDEPENDENT LIVING; QUALITY AND PROGRAM PARTICIPANT SPECIALIST POSITIONS (a) The five Department of Disabilities, Aging, and Independent Living Quality and Program Participant Specialist positions created in Sec. E.100 of this act shall be dedicated exclusively to the Developmental Disabilities Services division of the Department to ensure that quality oversight on-site visits for designated and specialized service agencies are performed at least annually and that Home and Community Based Services quality standards are implemented.

### **DMH Commissioner and Deputy Commissioner Present Updates to House Health Care Committee**

House Health Care Committee Chair Houghton stated that the purpose of this testimony was to receive updates from DMH so that the Committee can know where things stand at the end of the session and talk to constituents. Here is the [PowerPoint](#).

### ***Urgent Care***

Deputy Commissioner Alison Krompf spoke about urgent care as part of best practice. She defined the Living Room Model at CSAC and WCMHS as more client centered, and psychiatric urgent cares as more focused on clinical, peer, and sensory supports. Chair Houghton remembered the great presentation on this at House Health Care in prior sessions. Krompf said each proposal has a different timeline, but funds have to be spent by 2025. Rep Houghton wondered about state funding and criteria for tracking success. Rep Black noted how much we rely on grant funding and the disparities between the different DAs. She wondered if there is a plan for having these things statewide and having them funded with state dollars and not grants. Krompf said the state wanted to build up good crisis components and understands they are putting things in motion that don't have sustainable funding. Medicaid can't pay for all services for everyone. CAHOOTS has been renamed to Burlington CARES Team. It will have an EMT essentially working with a mental health clinician. This two-person team will do welfare checks in lieu of police intervention when someone is in crisis. The EMT role will address substance use/overdose. The funding awardees were the Burlington Police Department and the City of Burlington.

### **Mobile Crisis**

The State had moved forward with doing mobile response prior to this opportunity at Rutland Mental Health and now there is an opportunity to leverage additional Medicaid dollars. Right now, the DAs all have crisis teams available 24/7. At nighttime and weekends they are paged and mobile dispatch isn't required. She noted that substance use capacity will be new. A lot of folks think current Emergency Services are there just to determine if hospitalization is needed. The new mobile crisis will be where the family defines the crisis.

DMH leadership said they were encouraged to see the DAs come together to develop this program. HCRS will be subcontracting with others and will be responsible to assure that there is statewide coverage, training, and standardized response protocols so that people know what to expect. The purpose is to meet the person where they are and take stress off different systems. The State has been really impressed with HCRS's ability to come to the table and work toward operationalizing. They are going through the contracting process now with a go-live date set for September 2023.

Rep Peterson asked if the contractor would find enough folks, knowing that for Rutland mobile crisis that was an issue. Deputy Commissioner Krompf responded that the staffing crisis is 100% an issue. "What gives us hope—mobile crisis response is something that people have been interested in for a long time. We are hopeful that this is something that people will want to do." Staffing can be drawn from the peer and recovery community. Mobile crisis draws down additional funding. This shift is already "causing a culture shift in how we are operating programs within our agencies." Are there opportunities for more efficiency? "We are relooking at staffing models...in the new system we will be able to track that the appointment actually happened."

Rep Berbeco is excited to see the building out of the crisis continuum but asked why use this grant to stand it up when all the DAs are pursuing CCBHC planning grants vs general funds? DMH responded that HCBS FMAP dollars can be used now and it's not clear that the CCBHC planning dollars can be used toward the actual service.

### **CCBHCs**

Commissioner Hawes provided an overview of CCBHCs. Each facility is required to provide access to integrated care, including 24/7 response and medication-assisted treatment. Currently, 8 agencies are preferred providers. CCBHC has cost-related reimbursement funding. There is more transparency and accountability built in. Four agencies have planning grants; all remaining six are currently in the process of applying for grants in the next round. Given that they are implementing mobile crisis, when agencies get to the point of certification for CCBHC, they would already have it set up.

Nicole DiStasio, DMH Policy Director, said that recent changes to the rules mean that as long as there is a statewide provider of mobile crisis, that counts. FQHCs were not considering becoming CCBHCs, now it opens the door to other provider types. Commissioner Hawes said DMH works in close collaboration with VCP and the agencies. DMH has also received a planning grant which will assist from an administrative perspective. DiStasio said there will be a long and broad stakeholder engagement process. Vermont is one of fifteen states that were selected and is hoping to become one of 10 demonstration states.

DMH stated that the system doesn't currently have statewide data collection and reporting capacity. Rep Berbeco expressed excitement about sufficient back data systems, the investment, same day access, and reduced wait times. She is excited to have Vermont's own certification standards, with

federal standardization as the base level. Hawes sees this as an opportunity to assist us in having excellent, meaningful and consistent data collection. Krompf said they are going to research best practices and mentioned that Oregon has a model that requires some hours of primary care on site, which could be beneficial.

Rep McFaun asked about major changes in the DA model. Commissioner Hawes said the populations that agencies are serving are likely the same, it is “how we are delivering the services: more streamlined, efficient, potentially better drawdown of funds.” “It speaks to more transparency on how those rates are developed.” DiStasio will provide updates to House Health Care in August and November.

### **Southwestern Vermont Medical Center Feasibility Study**

Commissioner Hawes provided an update on the Southwestern Vermont Medical Center child and youth psychiatric inpatient unit. It will have access to onsite medical care. They are anticipating a \$2,000 reimbursement rate from Vermont Medicaid. The first patients will be admitted in the winter of 2024. The 12-bed unit should have an average daily census of 11. Inpatient units don’t typically run at 100%. Chair Houghton said this is all really exciting and should help alleviate the hospital pressures. She noted that peer respite is still missing. Commissioner Hawes said DMH is looking at that.

### **Senate Judiciary and Health and Welfare Committees Review House Version of Forensic Bill**

Legislative Counsel Katie McLinn reviewed the current version of the H.89 the Forensic bill as revised by the House of Representatives. Senator Sears expressed concern about the admission criteria and process for commitment to a forensic facility. Katie McLinn explained that it will need to be addressed in legislation rather than through the rule making process. DMH had worked through language with the State’s Attorney, but there was concern related to the criteria for people in the custody of DAIL. Karen Barber is satisfied that they now have authority to begin planning for the facility and to start rule making. Still Senator Sears expressed concern that the plan to open in July 2024 could be delayed unless statutory language is agreed to early during the next session. Senator Sears also wanted adjustments to the working group to include the Executive Director of Crime Victim Services or their designee, Chief Superior Judge or their designee, a representative of the Vermont State Employees Association (VSEA), and members of the Judiciary and Health and Welfare Committee. The two committees agreed to concur with the House version of the bill with an amendment on the membership of the working group, which was approved by the full Senate and then the House.

Here is the updated membership for the Working Group on Policies Pertaining to Individuals with Intellectual Disabilities Who Are Criminal-Justice Involved:

- (A) a representative, appointed by the Disability Law Project of Vermont Legal Aid;
- (B) a representative, appointed by the Developmental Disabilities Council;
- (C) a representative, appointed by the Green Mountain Self Advocates;
- (D) a representative, appointed by Vermont Care Partners;
- (E) a representative, appointed by the Vermont Crisis Intervention Network;
- (F) the Commissioner of Disabilities, Aging, and Independent Living or designee;
- (G) the Commissioner of Mental Health or designee;
- (H) a representative, appointed by the Center for Crime Victim Services;
- (I) the President of the Vermont State Employees’ Association or designee;
- (J) the Executive Director of the Office of Racial Equity or designee;
- (K) the Chief Superior Judge or designee;

(L) two members of the House of Representatives, one of whom is from the House Committee on Human Services and one of whom is from the House Committee on Judiciary, appointed by the Speaker; and

(M) two members of the Senate, one of whom is from the Senate Committee on Health and Welfare and one of whom is from the Senate Committee on Judiciary, appointed by the Committee on Committees. (2) In completing its duties pursuant to this section, the Working Group, to the extent feasible, shall consult with the following individuals:

(A) a psychiatrist or psychologist with experience conducting competency evaluations under 1987 Acts and Resolves No. 248;

(B) individuals with lived experience of an intellectual disability who have previous experience in the criminal justice system or civil commitment system, or both;

(C) family members of individuals with an intellectual disability who have experience in the criminal justice system or with competency evaluations under 1987 Acts and Resolves No. 248;

(D) the Executive Director of the Department of State's Attorneys and Sheriffs;

(E) the Defender General; (F) the Commissioner of Corrections; and

(G) the State Program Standing Committee for Developmental Services.

Rachel Seeling, speaking on behalf of the Disability Law project, said they hadn't had the opportunity to testify in the Senate and expressed concerns about the institutional nature of the facility given that Vermont had previously decided to go in a different direction from institutionalization. She said people lose rights for a longer period of time when they go into a civil commitment than if they go through the criminal justice system.

### **House Health Care Receives Update on Mental Health Parity**

Mental Health Parity Analysis and Non-Quantitative Treatment Limitations was presented by Sebastian Arduengo, Assistant General Counsel for Department of Financial Regulation (DFR), and Anna Van Fleet, Director of Rates and Forms. They are reviewing recently submitted insurance policy forms to assess federal and state parity regulatory compliance, including compliance for non-quantitative treatment limitation requirements. Vermont parity law prohibits insurers from imposing a non-quantitative treatment limitation (NQTL) on MH/SUD benefits or apply more stringent limitations with respect to benefits in the same classification. Factors being reviewed include:

- Prior Authorization
- Concurrent Review
- Standards for provider accreditation including reimbursement rates
- Formulary design
- Step therapy protocols

Vermont Mental Health Parity Statute requires health insurers to cover MH/SUD benefits, and prohibits, among other things, the establishment of: "any rate, term, or condition that places a greater burden on an insured for access to treatment for a mental condition than for access to treatment for other health conditions." Companies are currently doing self-reporting and analysis, but DFR is hoping to get further funding to go deeper into the companies' information.

## **LEGISLATIVE RESOURCES**

### **Vermont Care Partners Advocacy Fact Sheet**

Here is a link to our updated [Advocacy Fact Sheet](#). The critical points are the rising demand, the impact of the ongoing workforce crisis and the need for improved funding.

### **YouTube link for Mental Health Advocacy Day:**

<https://www.youtube.com/watch?v=S3ml6skUE4A>

### **NAMI-VT Fact Sheet on Mental Health**

Here is the [NAMI-VT fact sheet on mental health](#).

### **Vermont Care Partners Legislative Advocacy Webinar**

In case you missed it, here's a link to the [recording](#) of our Legislative Advocacy Webinar to help guide you through the process of working with legislators. In just 40 minutes you can learn the basics for effective advocacy.

### **Key Committees in relation to Network Agencies**

Here are the key Committees in relation to our network services with the Agencies in each legislator's region noted. We encourage everyone to reach out to your local legislators to introduce yourself and share the issues most important to you: [Legislative Committees by DA and SSA Region](#).

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 and specialized developmental and mental health service agencies.