

Legislation & Policy Committee Meeting, June 23, 2021, 9:30am

Legislative Update

FY22 Budget Update

Alan reported on the current budget and where the legislature is at in their process. The July 1 date for when the budget must be presented to the Governor will likely not be met. Discussions among the House and Senate are not going well on reaching a budget proposal. The Senate passed SB537 last week which will give a little more time by changing the July 1 deadline. The budget looks to be completed by early fall. Alan gave details of the current budget proposal versions from both the House and the Senate. Of most importance to be kept in the budget are DCW funding, CCBHC Implementation funding, KB vs. Lyon Lawsuit funding, and Local Match Drawdown funding. Alan gave details on multiple boilerplate sections as well as which sections the Association supported and which they opposed. He spoke about the \$500,000 proposed for an actuarial study on a Specialty Medicaid Managed Care Health Plan for Foster Children, stating this was of big concern. Group discussed whether reimbursement would be allowed for telehealth phone contacts for case management, checking in on clients, etc. Alan did not know, but he will try to find out. He suggested that the Department may be the deciding factor on that issue. Jim Johnson stated that 6 months after the State of Emergency ends is when the extension for that reimbursement will end.

FY21 COVID Supplementals

Alan stated that the Governor will be signing a supplemental today for the remaining December COVID relief dollars. No BH topics are included in this particular supplemental. He stated another COVID Supplemental will likely be passed by this fall, with around \$18 Billion in funding to distribute. SUD Block Grant, Crisis Intervention, MH Block Grant, CCBHC Implementation and MH facility spending will all likely be included in that next supplemental.

House Bills 4925-4929 – Behavioral Health Redesign

Alan stated that late last week the Association received drafts of a Mental Health Code bill and Social Welfare Reform bill pertaining to the Senate redesign proposal from Senator Shirkey's office. These have not been introduced yet but may be by the end of this summer. This proposal is still very much a carve-in approach and the Association continues to oppose this package. Alan then spoke about the House proposal from Representative Whiteford's office. He gave details of the proposed single ASO (Administrative Services Organization), which would replace the 10 PIHPs. He stated that the House Health Policy Committee heard testimony last week on this proposal, as well as accepting written testimony. This version is very different from what the Senate has proposed. In this proposal, no money is transferred to the Health Plans, an Advisory Council would be created, moves financing from a capitated system back to a fee for service system, adds additional responsibilities to the Department, and moves 100% of the risk back to the Department. Group discussed that 2 advisory councils have already been formed and wondered how this could affect the outcome moving forward. Alan stated that he felt Representative Whiteford seems more likely to take the Association's input and incorporate it into the House proposal than Senator Shirkey does. Alan went on to report that the Association has discussed the federal guidelines, rules and regulations that are involved with this public mental health system with Representative Whiteford. Group discussed whether Representative Whiteford was being totally honest in her comments and remarks. Some felt that she was not. Some also felt that input and suggestions being made to her for altering the proposal was falling on "deaf ears". Group also discussed that the advocates have been lost in this process, and that this can be fixed. With former CMH Directors now in Leading advocate positions, and having the ear of Representative Whiteford, this may be fueling the House proposal. Group then discussed the condescending, stigmatizing language that Representative Whiteford uses when speaking about the people we serve, wondering if pointing this out may lessen the efforts of trying to fight this proposal. Alan continued to review details of the House proposal. The role of the CMH would change and the ASO would delegate management functions. The system would shift from a county-run system to a state-run system. Positive parts of the proposal include, retaining the carve-out, allowing the mild/moderate population to be managed by the ASO, and not separating populations – maintaining management of SMI, SED, SUD and I/DD all together. Alan stated that there will likely be more opportunity for testimony by this fall. The Association continues to try to encourage feedback and input from the Department on this issue, but none has been offered.

House Bill 4657 – autism treatment

Alan stated this bill would add a parent implemented intervention (PII) model listing it as an evidence-based practice. Alan stated that there was not a lot of detail on what this was. Bob stated it would allow financing for the parents to be involved through an ABA provider to train the parents how to provide autism services 24/7. Group discussed and decided to send this topic to the Children's Issues Committee and/or Children's Administrative Forum. Group also discussed the problem of legislature putting clinical practice into law.

SB 412 – open access medications

Alan stated this bill would retain the carve-out for behavioral health drugs, so they are not subject to prior authorization. Health Plans oppose this bill. He stated that tardive dyskinesia will be removed from the bill. The Association supports this bill.

Policy Updates – Bob Sheehan

KB Lawsuit – Children's Mental Health

Bob reported that settlement talks are still taking place between the plaintiffs and the Department. He reported that this is now being referred to as MI Kids Now. Rumors of a combined single managed care system are being heard, but the Association would oppose this. No deadline has been established for a final decision/plan to be released.

CCBHC Status

Bob shared the infographics that were created recently to show the CCBHC sites and described the process and successes. Bob reported that CCBHCs will receive the full PPS rate for any eligible service encounter by an eligible individual on a given day, regardless of if they are a Medicaid beneficiary or not. Director's of CCBHC sites gave details of how the process was going in their areas. Numbers are trending well. General overall feeling was that timeframes were tight, but very good feedback.

Provider-driven recommendations to MDHHS

Bob reported that the Provider Alliance has made recommendations to the Department on operational improvements for training reciprocity, provider contracts and standardization of contract compliance audit and reviews. Many other recommendations were listed in the document sent to MDHHS. Indemnification is needed from the Department to approve and accept reciprocity. Discussions on this topic are ongoing with the Department, PIHP/CMHs, and the Providers to reach an agreement on these recommendations. Group discussed competency certification of certain curricula and suggestions for funding to make this happen. Contract negotiations around MDHHS proposed financial reporting overhaul

Bob reported that over the last year, work has been done to try to refine the cost allocation and unit encounter rate development process used in Michigan Medicaid behavioral health system. Some of the changes requested have been troubling. The Association insisted that the work being done was in a discussion format and needed to go through the contract negotiations process to be binding. Many reports were coming due that had NOT been negotiated through this process. The Association provided legal opinion to the Department on managed care functions as well as contracted provider functions. CMH Contract Negotiations, PIHP Contract Negotiations and CFI Committee went on record with the State letting them know that this MUST go through the negotiations process and the system was told not to submit these reports. Lisa Morse reported that this topic has been added to the grid for contract negotiations to be discussed at future meetings.

Advocacy around H2015 code changes

Bob gave details of the code changes being implemented by the department for the H2015 per diem code. He stated that workers must now report in 15-minute increments, using 96 units per day with 89 different codes (with modifiers and progress notes) in place of the one H2015 code. The association has pointed out that a time study could be done to accomplish the needs of the State. Meetings to discuss the burden of these changes have taken place, but to no avail. The Association continues to oppose these coding changes and will keep the group updated on this issue. Annette Downey reported that she was not a CLS provider, so was not directly involved in these changes, but since she felt so strongly about the impact to self-supported arrangements, she became involved in the fight to not implement these code changes. She stated that a lot of regions are experiencing administrative burnout, and the I/DD population is not experiencing the least restrictive lifestyle they should be able to. The workgroup has proposed an "8-hour or more support per day" method in place of these 96 units per day changes. Annette went on to state that Department of Justice would likely be interested in the restrictive set up of these changes from the Department. The State has indicated that they would get back to the workgroup on their suggested alternative. The State has indicated that they would like to do a study to see if services are being impacted. Annette asked if everyone felt that these changes were disincentivizing providers from providing services to these populations. Bob stated that this is potentially an Olmstead violation and litigation is possible in the future. Group asked if Annette had spoken with the Olmstead Group on this. Annette stated that if this cannot be worked out with the Department, that may be the next step.

Other

Annette Downey reported that T1016 is going away as of 10/01/21. She wanted to make sure this was on everyone's radar, asking to have this added to the Agenda item to discuss. Group agreed to discuss at the next meeting.

Next Meeting

The next meeting of the Legislation & Policy Committee is scheduled for Wednesday, September 15, 2021 at 9:30am. This meeting will likely be held in-person AND via Zoom. More details will be sent closer to the meeting date.

Meeting adjourned at 11:36am.