

# **Report of Adult Mental Health and Developmental Disabilities Service System Workgroup to Adult MH/DD Stakeholder Task Force January 2010**

## **I. Background**

The legislation, (2009 Iowa Acts, H.F. 811, Sec. 56) required the chairpersons (Senator Jack Hatch and Representative Lisa Heddens) to consult with the ranking members (Senator David Johnson and Representative Dave Heaton) of the Joint Appropriations Subcommittee on Health and Human Services in appointing a task force of stakeholders for the 2009 Legislative Interim to address both funding and services issues associated with the service system administered by counties for adult mental health and developmental disabilities services and report recommendations to the Governor and the General Assembly for action during the 2010 Legislative Session. Due to the current budget situation and funding limitations, the chairpersons and ranking members asked the members of the Joint Subcommittee, particularly those who served on the two related subcommittees during the 2009 Legislative Session, to serve as the task force and hold one meeting during the late fall to receive recommendations from a stakeholder workgroup, formed and facilitated by legislative staff, to develop materials and options.

Legislative leadership scheduled time for the workgroup to meet with legislators on Wednesday, January 13, 2010, from 3-4:30 p.m. at the Statehouse in Committee Room 116.

## **II. Members**

Legislative staff from the four caucuses and the Legislative Services Agency planned and facilitated the meetings but did not vote. The 11 voting members were appointed by the chairpersons and ranking members and represented the following:

- Department of Human Services - Medicaid, MH/DD, Other (3)
- Iowa State Association of Counties - association staff and county central point of coordination administrators (CPCs) (3)
- Service Providers - Association of Community Providers and other (2)
- Consumers and Advocates (3)

A membership and staff list is attached.

## **III. Charge**

The workgroup was charged by the legislators to develop short-term and long-term options for reforming the adult MH/DD services system and funding, including the following:

- A.** The current funding environment and temporary availability of federal stimulus package moneys may affect the county MH/DD service fund ending balances used for the distribution of allowed growth and risk pool funding. Provide options to address funding eligibility requirements, including ending balances, distribution requirements, and other elements.
- B.** The prospects for significant new state funding in the next few years are limited, federal funding availability is unknown, and local funding options are capped. Provide options for pilot projects that will use existing funding more efficiently and allow testing of new funding options.

## **IV. MH/DD Workgroup System Reform Options**

Approved following workgroup meeting on 11/18/09.

**Overview.** This listing describes the options discussed by the workgroup during the six meetings held on August 26, September 23, October 7 and 21, and November 4 and 18, 2009. Unless indicated otherwise, the numbering of the items under each part does not indicate a priority order but instead is for reference purposes only.

### **A. System Transformation Values and Principles**

On September 23, 2009, the workgroup accepted the following system values and principles outlined in the strategic plan undertaken by the Department of Human Services (DHS):

1. Public awareness and support for inclusion:
  - a. Foster welcoming communities that recognize and respect the potential of all lowans, and are receptive to their participation in and contributions to society.
  - b. Ensure that the public is well informed about mental health and disability, and ready to take responsibility for prevention and early intervention.
2. Access to services and supports: Promote policies and practices that facilitate timely access to appropriate services and supports.
3. Empowerment: Emphasize the ability of people to do the following:
  - a. Make informed choices about their personal goals, about the activities that will make their lives meaningful, and about the amounts and types of services to be received.
  - b. Understand the consequences and accept responsibility for those choices.
4. Collaboration and partnership in building community capacity: Align state and local policies and programs to support the legislative vision of resiliency and recovery for lowans with mental illness, and the ability of lowans with disabilities to live, learn, work, and recreate in communities of their choice.
5. Quality: Improve quality by measuring results and fund services that achieve results.
6. Individualized and person-centered: Provide a comprehensive, integrated, and consistent array of supports, and services that are individualized and flexible.
7. Consumer and family driven: Persons and their families are active participants in developing policies and in evaluating effectiveness of providers, supports, and services.
8. Provider accountability: Ensure high-quality mental health and disability supports and services by focusing on client goals and outcomes.

9. Government responsibility and accountability: Adequately fund and manage supports and services that promote the ability of lowans to live, learn, work, and recreate in communities of their choice.

## **B. Funding Distribution Formula Options**

1. During the period that federal stimulus funding is provided to counties through an enhanced Medicaid match rate, disregard the federal stimulus amount to be received by each county. (Accepted by workgroup on October 7 – See part VI for full list of options considered by the workgroup)
2. These funding formula-related options were accepted by the workgroup on November 18, 2009:
  - a. Allow counties the option of returning all or a portion of allowed growth funding that would otherwise cause the county to carry an excess ending balance. The funding would have to be returned before the end of the fiscal year and would be credited to the risk pool for distribution in the succeeding fiscal year. (offered on November 4)
  - b. Allow unused FY 2009-2010 risk pool funding to be used to reduce waiting lists in that same fiscal year for State Payment Program Services. (offered on November 4)

## **C. Near-term System Change Options (for enactment during the 2010 Legislative Session)**

1. Highest Priorities. On October 7 and November 18, 2009, the workgroup identified the following items as having the highest priority for further development:
  - a. Phase in a shift in funding responsibility from the counties to the state for each of the following:
    - (1) The costs of mental health commitments. Under mental health commitment costs, several related service areas were mentioned, including hospitalization, hearing costs, transportation, and mental health advocates.
    - (2) All institutional costs.
    - (3) The nonfederal share of Medicaid funded services. In return, the state would reduce allowed growth and property tax relief funding provided to counties under current law. The following phase-in order was suggested: State Resource Centers, State Mental Health Institutes, other intermediate care facilities for persons with mental retardation (ICFMRs), civil commitment costs, and Medicaid home and community-based waivers for persons with intellectual disabilities (formerly mental retardation).
  - b. Shifting from a county dollar cap on MH/DD services levies to a rate cap.
  - c. Working on state investments in community capacity building.

- d. Developing the case rate approach for funding distribution and other measures for distributing funding based upon persons' county of residence rather than legal settlement.
2. Lower Priority Options. The following options were discussed on October 7 and November 18, 2009, and determined by the workgroup to have a lower priority:
- a. Regularly evaluate service arrays and address in funding formulas.
  - b. Combine mental health, substance abuse, and suicide prevention programs.
  - c. Switch to a Medicaid-type of service arrangement with state-identified mandatory and optional services.
  - d. Create efficiencies and strive for changes in Medicaid documentation to be more cost effective; this may include a future workgroup to bring together representatives of the federal Centers for Medicare and Medicaid Services (CMS), providers, counties, and the Iowa Medicaid Enterprise (IME) for documentation redevelopment. (offered August 26 & revised following November 18 meeting)
  - e. Shift and revise current non-MH/DD funding streams for purposes of restoring or enhancing MH/DD services. Options offered include eliminating certain tax credits, reducing state employee salaries by 5 percent rather than laying off employees, requiring school districts to spend down fund balances, and using the roads budgets to pay for people services rather than roads. (offered on August 26 and October 21)
  - f. Address the disparity between the reimbursement rates paid for private intermediate care facility for persons with mental retardation (ICFMR) level of care versus the state resource center ICFMRs. (offered at September 23 meeting and discussed on November 4)
  - g. Citizens' Aide/Ombudsman general suggestions (offered on November 4):
    - (1) Mandate communication and collaboration for all parties involved with the civil commitment process.
    - (2) Either establish a pilot process or mandate use of community mental health centers to preevaluate persons with mental illness prior to a court-ordered commitment.
    - (3) Use the state mental health institutes (MHIs) for providing sub-acute care for those patients who no longer meet the criteria for commitment but are not appropriate for release.
    - (4) Mandate notification of law enforcement by provider prior to a patient's discharge if the patient was delivered to the provider by law enforcement for mental health-related concerns.
  - h. Citizens' Aide/Ombudsman suggestions regarding MH courts and jail diversion programs (offered on November 4):
    - (1) Implement MH court and jail diversion pilot projects using federal grants. Use the MH/MR/DD/BI Commission to administer.

- (2) Members of the General Assembly should study the Council of State Governments' guide entitled, "Mental Health Courts: A Guide to Research-Informed Policy and Practice," in order to better understand how mental health courts can address the issues related to people with mental illnesses in the criminal justice system.
- (3) The Legislature should study Code Chapter 230A (Community Mental Health Centers (CMHCs)) and consider the CHMC role in providing MH services to persons in jails.
  - i. Implement measures to increase the supply of qualified psychiatrists, Advanced Registered Nurse Practitioner (ARNP) specialists, and other types of service providers where there are shortages. (offered on November 4)
  - j. Use Medicaid savings realized from avoiding institutional care to reduce the waiting list for the BI waiver. (DHS analysis discussed on November 4)
  - k. Mental health parity laws should be amended to address insurance practices restricting mental health treatments to address behaviors resulting from traumatic brain injuries. (Suggested from audience on November 4)
  - l. Increase client participation in financing for higher income brackets and count parental income until the client is over age 25. (offered August 26)
  - m. Increase taxes or place a surtax on alcoholic beverage or nondiet soda and commit revenue to mental health and substance abuse treatment.
  - n. Regionalize certain community-based services to improve the system and avoid the use of more expensive services. (offered on October 21)

## **D. Pilot Projects**

- 1. Current Pilot Projects discussed by the workgroup:
  - a. The County Social Services project involving Black Hawk, Butler, Cerro Gordo, Floyd, and Mitchell counties was authorized by statute.<sup>1</sup> Among other authority, for purposes of allowed growth and community services funding, the participating counties were allowed to combine and average levy amounts and maintain the relative percentage of the funding, provided the minimum levy amounts were maintained. The pilot project's initial term ends June 30, 2010.
  - b. The workgroup heard a presentation from a group of representatives of Wright, Boone, and Franklin counties for a system-wide overhaul to develop and implement a statewide management plan for MH/DD adult services based on functional assessments and distribute funding through caseload-based budgets administered by the counties or county regions. The workgroup requested the group to revise the option to instead be a pilot project.

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<sup>1</sup> 2008 Iowa Acts chapter 1187, section 59, subsection 9, amending 2007 Iowa Acts chapter 215, section 1.

2. Potential Incentives and Funding Sources for Other Pilot Projects (this list was developed by the legislative staff group following the November 4 meeting and accepted by the workgroup at the November 18 meeting):
  - a. Hold Harmless. If a pilot project realizes savings, exempt the amount saved for use in expanding or investment in other services.
  - b. Set Aside. Set aside a certain amount of allowed growth funding that may be used for award for any of the policy options or pilot projects.
  - c. Federal and State Funding. Ask the Mental Health Planning Council, DHS, Magellan, and other bodies with some discretion over federal or state grant funding to invest such funding in the options or pilot projects identified.
  - d. Special Authority. Authorize counties to have limited use of fund transfer or supplemental levy authority to provide start-up investment of moneys in services that would realize cost savings by avoiding usage of higher cost services.

**E. Complete Set of Options to Address County Eligibility for Allowed Growth and Risk Pool Funding Streams for FY 2010-2011 and FY 2011-2012**

(discussed by workgroup on 10/7/09, 10/21/09, or 11/18/09)

1. Use the county ending balance for FY 2007-2008 instead of updating. (Craig Wood)
2. Increase the ending balance percentages used for determining eligibility and amount of funding. Amount of the increase would be equal to the federal Medicaid stimulus amount to be received by the county. (Craig Wood and legislative staff)
3. Disregard the federal Medicaid stimulus amount to be received by each county. (full workgroup discussion on August 26)
4. Eliminate the 3 percent inflation adjustment for counties with ending balance percentages of less than 5 percent and the 2 percent inflation adjustment for counties with ending balance percentages of 5 percent or more but less than 10 percent; maintain the "ledge" factor for ending balance percentages of 10 percent or more but less than 15 percent. (legislative staff work)
5. Distribute the same amounts to qualifying counties for FY 2010-2011 as was distributed for FY 2009-2010. If new funding is appropriated, distribute the new funding under a different funding formula. (legislative staff)
6. Eliminate the adjustment provisions used in the current formula and distribute according to a sliding scale based upon ending balance percentages from 0 through 15 percent. (legislative staff – this option was originally identified as a high priority on October 7 but was discarded on October 21 after further discussion)
7. Average the ending balances from the two latest known fiscal years instead of the current one fiscal year. (offered on November 4 and rejected on November 18)

## **F. Data and Information and Options Offered**

A number of data and information items and options offered along with meeting briefings are posted on the webpage for the workgroup:

[http://www.legis.state.ia.us/scripts/docmgr/docmgr\\_comdocs.dll/showtypeinterim?idt=true&type=ih&com=502](http://www.legis.state.ia.us/scripts/docmgr/docmgr_comdocs.dll/showtypeinterim?idt=true&type=ih&com=502)

A listing of the items is attached to this report.

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## Data Items and Other Materials Distributed to the Workgroup

1. **Distributed on September 22, 2009**
  - a. [County Services Fund Levy Rate Comparison](#)
  - b. [Out-of-State Placement Information \(DHS\)](#)
  
2. **Distributed on September 30, 2009**
  - a. [Number of People Served in County System by Disability Type \(DHS – based on county plans\)](#)
  
3. **Distributed on October 7, 2009**
  - a. [DHS table showing the number of persons served by child and adult status plus disability diagnosis in each county – FY 2006-2007](#)
  - b. [DHS table showing the number of persons served by child and adult status plus disability diagnosis in each county – FY 2007-2008](#)
  - c. [DHS table showing recipients of services by county of residence, first with columns showing Medicaid program services and county service](#)
  - d. [DHS map showing county general population, number of residents of the county served, and percentage of the general population served](#)
  - e. [DHS map showing county general population, number of persons served with legal settlement in that county](#)
  - f. [DHS map showing county general population, number of persons served under the State Payment Program in that county, and percentage of the county population served in the program](#)
  - g. [DHS table with each county's expenditure, county population, number of county residents served, number of persons with legal settlement served, and amount expended FY 2006-2007](#)
  - h. [DHS table with each county's expenditure, county population, number of county residents served, number of persons with legal settlement served, and amount expended FY 2007-2008](#)
  
4. **Distributed on November 4, 2009**
  - a. [Mandated Services from County Chart of Accounts](#)
  - b. [FY 2007 Mandated and Nonmandated Services Pie Chart](#)
  - c. [County Behavioral Health Expenditures 2001-2008 Pie Charts](#)
  - d. [County Behavioral Health Expenditures 2001-2008 Bar Charts](#)

- e. [Number of Persons Served by Medicaid Behavioral Health & Disability Services in Each County](#)
- f. [Total Behavioral Health Population Served by county FY 2008; and October 7 items 4B, 4C, and 4D redistributed](#)
- g. [Analysis of cost of care while on waiting list for BI waiver slot](#)
- h. [Analysis comparing private ICFMR costs with state resource center ICFMR costs](#)

## **Materials Distributed**

- [Background information for first meeting \(8/23/09\)](#)
- [Allowed Growth Funding Distribution Flow Chart \(ISAC\) \(9/23/09\)](#)
- [County Social Services Pilot Project Business Plan \(9/23/09\)](#)
- [County Social Services Pilot Project Presentation Slides \(9/23/09\)](#)
- [DHS Mental Health and Disability Services Transformation Plan Presentation Slides \(9/23/09\)](#)
- [Association of Community Providers Reform Proposal and Attachments \(9/23/09\)](#)
- [Estimate of effect of federal ARRA Medicaid funding for counties \(DHS RFI distributed by Jess Benson\) \(9/23/09\)](#)
- [List of data and information requests \(as of 8/27/09\) \(9/23/09\)](#)
- [List of funding formula change options \(as of 9/2/09\) \(9/23/09\)](#)
- [Updated compilation of service system reform options proposed \(as of 9/23/09\) \(10/1/09\)](#)
- [Evaluate Service Arrays and Address in Funding Formulas, Presentation by Carl Smith \(10/7/09\)](#)
- [Change to levy rate freeze option – Presentation by Karen Walters-Crammond \(10/7/09\)](#)
- [Switch to a Medicaid-like approach for services – supporting material distributed by Craig Wood \(10/7/09\)](#)
- [Investment in Community Capacity Presentation by Bob Bacon, Center for Disabilities and Development \(10/7/09\)](#)
- [Implement a case rate approach – Presentation by Craig Wood \(10/7/09\)](#)
- [Legal settlement issues – presentation by Karen Walters-Crammond \(10/7/09\)](#)
- [Citizens' Aide/Ombudsman Office – County Civil Commitment and Placement Survey Results \(10/21/09\)](#)
- [Citizens' Aide/Ombudsman Office – County Civil Commitment and Placement Survey Summary \(10/21/09\)](#)

- [Investment in community capacity – Part II – distributed by Bob Bacon, Center for Disabilities and Development](#) (10/21/09)
- [Needs-based Approach to Restructuring – Presentation Slides](#) (10/21/09)
- [Needs-based Approach to Restructuring – Proposal by three north Iowa-based CPCs \(Leckrone, Grush, and Wood\)](#) (10/21/09)
- [Options for cost savings by regionalizing community services and data needs discussion – Dr. Michael Flaum presentation overview](#) (10/21/09)
- [Citizens' Aide/Ombudsman Suggestions](#) (11/04/09)
- [Suggestion to authorize counties to exercise options for accepting allowed growth funding](#) (11/04/09)
- [Option for revising certain current state and county responsibilities for service costs and funding – DHS](#) (11/12/09)
- [MH/DD Workgroup System Reform Options – Draft List for Discussion on November 18](#) (11/17/09)