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2009 End of Session Wrap-Up

The 426th Session of the Maryland General Assembly came to a close at midnight on April 13, 2009. Balancing the budget was the legislature's primary focus. Advocates knew that from the start and knew that it would be a challenge to pass any bills with a "fiscal note" or high costs associated. Despite the financial challenges, the Mental Health Association of Maryland (MHAMD) was successful in advancing its public policy goals and having a positive impact on several proposed initiatives.

This report provides a summary of a number of bills MHAMD either supported or opposed. A more detailed legislative report will be prepared in the coming weeks.

BUDGET INITIATIVES

The Public Mental Health System was facing a projected deficit for community services in the current fiscal year resulting primarily from an increase in Medicaid enrollment. The Governor's first Supplemental Budget included $20 million for the 2009 fiscal year for mental health services ($10 million in state funds and $10 million in federal Medicaid match) and another $20 million is also appropriated for fiscal year 2010.

The budget committees cut $2 million in the Mental Hygiene Administration's (MHA) budget, due to the Veteran's Behavioral Health Initiative's current and projected underspending because the VA is reimbursing for most of the service needs identified through the program. However, budget language allows MHA to use up to another $2.8 million for services (from its total FY 2010 appropriation) if necessary.

The budget committees cut $3.5 million for the Rehabilitation Option in the Children's Cabinet Interagency Fund. These funds are managed by the Governor's Office for Children (GOC) and used to provide community services for youth with intensive needs. The status of applications from families seeking services for over 40 children is unclear, as inadequate funds now remain to provide needed care.

The 0.9% COLA (Cost of Living Adjustment) for community providers was preserved and the proposal to close one of two remaining RICAs (Regional Institute for Children and Adolescents) was rejected.

Finally, closure of the Walter P. Carter Center will be completed in the upcoming fiscal year, as proposed in the Governor's Budget.

LEGISLATION ENACTED

Children and Youth

MHAMD supported legislation (HB 660/SB 241) that prohibits a principal from suspending or expelling a student from school solely for attendance-related offense. The bill was amended to exclude in-school suspensions.

HB 713/SB 690 amends the definition of "out of home placement" to include residential programs operated by or under contract with the Department of Juvenile Services and foster care homes approved by a local Department of Social Services. Expanding that definition means current staff standards and systems for outcome evaluation will apply to these additional types of placements.

The Child in Need of Supervision Pilot Program in Baltimore City and Baltimore County pilot will continue to receive funding through Fiscal year 2013 thanks to HB 788. Under this program, service providers meet with a child's parents or guardian to discuss and assess the child's needs in the areas of school performance, family interactions, peer relationships, and emotional and physical health including drug and alcohol use. Service providers will then be responsible for developing, with a child's family, a case plan for services.

Criminal Justice

For the second year, MHAMD supported legislation (SB 186) requiring the Division of Corrections to provide an identification card (ID) to inmates prior to release from a State correctional facility. The Motor Vehicle Administration will accept that ID as a secondary proof of identification and issue a State ID card at no cost to eligible individuals. Facilitating issuance of State ID cards to formerly incarcerated individuals continues to be a priority of MHAMD and the Mental Health & Criminal Justice Partnership.

Emergency legislation passed to create a Task Force on Prisoner Reentry (HB 637/SB 908). MHAMD supported creation of this task force to look at many reentry issues including funding and best practices for juveniles and adults. While not originally introduced as emergency legislation, both bills adopted the emergency effective date because funding is available under the federal Second Chance Act only to States that have such a task force.

Limitations were placed on possession or use of an electronic control device (such as a Taser gun). HB 539 prohibits possession or use unless an individual is18 years old and has never been convicted of a crime of violence. Such device cannot be sold and activated unless 1) instructions are provided to the purchaser 2) the manufacturer maintains a record of original owner 3) the manufacturer or seller obtained a State and federal criminal history check of the original owner. Police cadets and officers who are issued a device must have annual training in proper use.

Cultural Competency

MHAMD supported legislation (HB 756) establishing a Cultural and Linguistic Health Care Provider Program. When the bill was introduced each professional association was required to develop a training program. The bill was amended to encourage health care providers' voluntary participation in educational classes to increase cultural and linguistic competency. DHMH must work with licensing boards to offer continuing education credits or otherwise recognize such classes.

Medicaid

MHAMD supported the Foster Kids Coverage Act (HB 580). Introduced in 2008 as well, this legislation was enacted to require the Maryland Medical Assistance Program, subject to the limitations of the State budget, to provide coverage for "independent foster care adolescents." Those are individuals who are under the age of 21, were in foster care on their 18th birthday, are not otherwise eligible for Medicaid benefits and whose annual household income is at or below 300% of the federal poverty guidelines.

Effective January 1, 2010, substance abuse services will be provided to individuals in the Primary Adult Care (PAC) Program. HB 739/SB 952 requires those additional services with funding provided by transferring $3,343,418 in Fiscal Year 2010 from ADAA to the Medicaid program. MHAMD supported this legislation to improve coordinated treatment of co-occurring disorders.

In an effort to increase transparency and opportunity for pubic comment, HB 462 requires DHMH to provide notice of an amendment to the State Medicaid Plan by publication in the *Maryland Register* (for public comment) and submission to the Medicaid Advisory Committee (MAC) for discussion. DHMH must also provide a copy of any Medicaid Waiver application to the MAC.

Mental Health and Disability

Legislation passed to increase the Rights of Individuals with Mental Disorders in Facilities (HB 415/SB 874). The bills clarify the rights of individuals in psychiatric facilities including the right to an advocate of their choice, the right to receive treatment in accordance with a mental health advanced directive and the right to be free from prone restraint. MHAMD strongly supported this legislation, which finally passed after two years of collaboration among advocates, consumers, providers, private facilities and the Mental Hygiene Administration.

DHMH will convene a workgroup of affected stakeholders to evaluate the Community Services Trust Fund and the Mental Hygiene Community–Based Services Fund (HB 957/SB 796). MHAMD was successful in protecting current and future monies in those Funds through an amendment that explicitly states that monies shall not revert to the General Fund or be used for any other purpose until the workgroup reports its findings and recommendations.

All licensed community mental health services programs must submit annual financial statements and salary information to the Mental Hygiene Administration (MHA) in accordance with regulations. Although MHA regulations already existed, this CBH-initiated legislation (HB 411/SB 492) permits a penalty of up to $500 per day for failure to comply.

MHAMD supported another CBH-initiated bill to reduce administrative burden for outpatient and other community programs. HB 412/SB 493 changes the required death reporting requirements so that Mental Hygiene Administration facilities and programs that operate more than one treatment program are only required to submit one death report even if the deceased participates in several programs. The bill also limits the programs and facilities that are subject to death reporting requirements to inpatient or residential treatment settings, residential crisis services, group homes, and residential rehabilitation programs (eliminating outpatient programs).

Legislation was enacted (HB 393, SB 670) to change the definition of disability relating to employment discrimination. The definition was expanded so that "disability" includes a record of having a physical or mental impairment or being regarded as having a physical or mental impairment.

Older Adult

The Administration introduced bills to create a "Silver Alert" system similar to the current "Amber Alert" system. HB 317/SB 303, requires the Department of State Police to establish a system for rapid dissemination of information to assist in locating an individual 1) whose whereabouts are unknown; 2) who suffers a cognitive impairment including a diagnosis of Alzheimer's disease or dementia to the extent that the individual requires assistance from a caregiver; and 3) whose disappearance poses a credible threat to the health and safety of the individual due to age, health, mental or physical disability, environment, or weather conditions, as determined by a law enforcement agency.

Although not originally cross-filed, HB 113 and SB 761 were amended to contain the same language requiring DHMH to submit a report on the feasibility of creating a coordinated care program to reform the provision of long–term care services under the Medical Assistance program and other State programs in a manner that improves and integrates the care of individuals. A top priority for MHAMD, we supported the bills with amendments that require a stakeholder process to develop recommendations for a coordinated care program and to ensure the mental health services carve-out is preserved in any long-term care reform initiatives resulting from this planning process

Veterans

In addition to the budget initiative mentioned above, legislation (HB 1475) passed to expand the Veterans Behavioral Health Initiative to any Maryland resident who served on active duty (instead of just those who served in Iraq or Afghanistan) and provide services in any area of the State where existing State and federal services are inadequate or inaccessible (instead of just rural areas).

LEGISLATION THAT WAS NOT ENACTED

MHAMD strongly supported legislation (HB 1099) to require a local correctional facility (jail) to provide an inmate with access to a 30-day supply of medication if the inmate has been diagnosed with a mental illness and has been incarcerated in a local correctional facility for at least 120 days. Similar legislation passed in 2007 requiring a 30-day supply of mediation for inmates in Baltimore City jail and State prisons. This year's legislation expands that mandate to local jails. Amendments made the provision of medication optional rather than mandatory. Although the bill passed four subcommittees, stall tactics prevented a vote on the Senate floor.

HB 1558, put forward by the Maryland Coalition of Families for Children's Mental Health, would have changed the term "emotional disturbance" in the Education Article to "emotional or behavioral disability" to dispel the stigma of the current terminology used in school settings. In the House, an amendment passed changing the reference to "emotional disability." The bill did not pass as amended in the Senate.

In spite of support from MHAMD and other advocates, legislation to study barriers to voting rights failed but the issue was sent to interim study. Maryland law currently states that a person is not qualified to be a registered voter if the individual "is under guardianship for mental disability." SB 984 would have established a task force to consider whether to change the law, how determinations should be made and under what standards. A federal court in Maine found a similar provision in that state violated the Equal Protection clause of the Constitution and in Maryland the Governor's Transition Election Work Group also recommended a correction to Maryland law in 2006.

HB 1096 would have required ADAA to establish a new delivery system for substance abuse services, reimbursing providers on a fee-for-service basis at a uniform rate as MHA currently does for community mental health providers. ADAA would have been required to contract with the same administrative services organization (ASO) as MHA uses to provide eligibility verification, claims payment, prior authorization and coordinated information exchange between MCOs and local health departments. Although the bill did not pass from its originating House committee, discussions will continue during the interim.