

## **2010 End of Session Wrap-Up**

The 427<sup>th</sup> Session of the Maryland General Assembly came to a close at midnight on April 12, 2010. Balancing the budget was the legislature's primary focus. Advocates 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 many bills MHAMD either supported or opposed. A more detailed legislative report will be prepared in the coming weeks.

### **BUDGET**

The public mental health system (PMHS) fared well this year in comparison to budget outcomes over the past two years, when service utilization increased by more than 15 percent while the budget was reduced by more than \$56 million. The sole cut to the PMHS for FY 2011 was a \$750,000 reduction in grant funds to Core Service Agencies (CSA). Concerted advocacy on the part of the Mental Health Coalition successfully fought back recommendations by the Department of Legislative Services to cut \$1.5 million from CSA grant budgets, eliminate use of rollover funds by the CSAs (would have resulted in a projected net loss of \$3-4 million) and downsize beds at RICA-Gildner and RICA-Baltimore, residential treatment centers serving children and adolescents.

The Department of Legislative Services reported that the Governor's FY 2011 allowance increased just over \$30.4 million, or 3.2%, from the FY 2010 working appropriation. The budget analyst noted that a 9% increase in enrollment between FY 2008 and 2009, largely a result of the Medicaid expansion to parents, has put severe strain on the system, and he projected deficits for both FY 2010 and FY 2011.

\$3.0 million (all general funds) of the \$38.2 million in increased funding for fee-for-service community mental health is for the expansion of community-based services on the Eastern Shore as part of the agreement to close the Upper Shore Hospital, which ceased operations on February 28. Other than enrollment growth, the remaining \$35.2 million is intended to support rate increases of 2.84% for HSCRC-regulated services, and 4.3% for Residential Treatment Centers (RTCs), with no rate adjustment included for other providers.

Summer study requirements include:

- Examination of existing grant funded services and services needs not currently funded, with recommendations prioritizing unmet service needs for out-year funding
- A report to the budget committees by MHA and stakeholders concerning the treatment of children and adolescents in residential treatment centers

## LEGISLATION

### Children and Youth

MHAMD again supported legislation (**HB 11/SB 204**) that eliminates stigmatizing language by changing the term “emotional disturbance” to “emotional disability. Although the bill was unsuccessful last year, it passed the 2010 session and the change will be effective on October 1, 2010.

School personnel must provide parents with an accessible copy of all relevant documents at least 5 business days prior to a scheduled meeting of the individualized education program (IEP) team or other multidisciplinary education team for a child with a disability. No later than 5 days after the meeting, school personnel must provide parents with a copy of the completed individualized education program (or a draft if the IEP is not complete). Language was added to the bill (**HB 269/SB 540**) saying the school does not have to comply if there are extenuating circumstances (which is not defined).

Each County Board of Education is now required to provide students in grades 6 through 12 with the phone number of the Youth Crisis Hotline printed in the school handbook and on a student’s school ID card. **HB 973** passed with significant amendments that struck language relating to a school assembly and distribution of the crisis number to parents and guardians.

**SB 330** ensures that each committed facility licensed by the Department of Juvenile Services serves no more than 48 children at one time, unless the secretary finds good cause for the facility to serve more. The “good cause” language was added to the original bill which would have limited the number to 48 without exception.

### Criminal Justice

Criminal justice concerns were high profile this year, as the General Assembly grappled with a package of Administration bills addressing sexual predators. Defeating **SB 405**, which would have created a procedure to commit sexual predators to state psychiatric hospitals upon release from incarceration, was a top priority for mental health advocates. Despite a successful effort to amend the hospital commitment provision of **SB 405** onto **SB 854**, one of several Administration-sponsored sex predator bills, we prevailed in stripping the hospital commitment amendment from the final version of **SB 854**.

The compromise was language included in **HB 931/SB 856** to require the Sexual Offender Advisory Board to review developments and make recommendations regarding civil commitment of sex offenders. Other provisions in **HB 931/SB 856** alter the composition of the existing Sexual Offender Advisory Board to include the Secretary (or designee) of DHMH and DJS and the Director of the Governor’s Office of Crime Control and Prevention. The Governor will appoint several additional members to the Board, including “a licensed mental health professional with recognized expertise in the treatment of sexual offenders.”

A significant victory was achieved to advance the Maryland Mental Health and Criminal Justice Partnership’s efforts to improve community reentry through the passage of **SB 761/HB**

**1335** which requires local detention centers (jails) to provide access to a 30-day supply of psychiatric medication upon release to inmates who were sentenced to a term of at least 60 days and have been diagnosed with a mental illness. State prisons and the Baltimore City jail are already required to do so. Part of the 30-day supply may be provided by prescription.

Failed bills included **HB 142/SB 183**, MHAMD supported legislation which would have required the Division of Corrections to operate a prerelease unit and develop comprehensive aftercare plans for inmates, and **HB 749/SB 581** known as the “Ban the Box” bill, which would have prohibited State government from inquiring into the criminal record or history of an applicant for employment until the applicant is selected for an interview, giving individuals with criminal histories a chance to get further in the job application process and possibly explain their circumstances during an interview. Also unsuccessful was **HB 1222/SB 499**, which sought to improve the exemption process for securing waiver from the current \$40 monthly supervision fee for individuals released on parole, in recognition of the inability of many released inmates to pay the monthly fee, the lack of awareness that a waiver process exists, and the burden posed by the accumulated debt for those who are unable to pay.

## **Mental Health and Disability**

Among the lowest in the nation, Maryland’s tax on distilled spirits has not changed since 1955, and the tax on beer and wine has not been raised since 1972. The Lorraine Sheehan Health & Community Services Act of 2010 (**HB 832/SB 717**) would have raised the tax on alcohol by a dime a drink, with increased revenues going to sustain services for mental health, substance abuse, developmental disabilities, and Medicaid expansion. It was estimated to generate \$214.4 million in new revenue, with approximately \$30 million of the total going to community mental health. Advocates knew the legislation was unlikely to pass, but took advantage of the opportunity to highlight the consistent underfunding and substantial need for these services.

Beginning in FY 2012, fees paid to community mental health and developmental disability providers by DHMH will be tied to the inflation built into state agency budgets. The inflationary adjustment cannot exceed 4%. The bill (**HB 1034/SB 633**) also requires DHMH to conduct a study with stakeholders to recommend a plan to develop a rate-setting methodology and study the future role of the Community Services Reimbursement Rate Commission and other entities involved in the rate-setting process. DHMH must submit a preliminary report by December 1, 2012, and final report with its findings and recommendations by January 1, 2013. Providers and advocates viewed the bill as an equity issue -- if the State can afford inflation for its own budget, community services should be treated equitably.

**SB 57** modifies Maryland law to comply with the federal mental health parity law passed in 2008. Adding this language to statute ensures the Maryland Insurance Administration has the necessary enforcement authority to ensure compliance with the federal law. Language was also added at the end of the legislative session to assure compliance with the recently enacted federal healthcare reform. Details of this provision will be fully discussed in the final legislative report.

Currently, individuals under guardianship for mental disability cannot register to vote. **HB 816/SB 28** changes that prohibition effective June 1, 2010, so such an individual will only be banned from voting IF a Court finds by clear and convincing evidence that the individual cannot

communicate, with or without accommodations, their desire to participate in the voting process. MHAMD supported this legislation for the second year, with MDLC as the lead advocacy group.

2-1-1 is a community information and referral line originally established as a pilot program. The Mental Health Association of Frederick County is one of only four self-funded call centers in the state. **HB 693/SB 527** changes 2-1-1 from a pilot to a Statewide system and establishes “2-1-1 Maryland” as a State information network. The bill also adds members to the existing Health and Human Services Referral Board which provides oversight, approves up to 5 agencies or organizations to be a 2-1-1 call center, supports 2-1-1 projects and activities, makes recommendations and provides annual reports to the Governor.

### **Older Adults**

**HB 1275/SB 231** establishes the Maryland Uniform Adult Guardianship and Protective Proceedings Jurisdiction Act. This bill facilitates guardianship proceedings and promotes uniformity by allowing a Maryland court to communicate with a court of another state (and vice-versa) regarding a guardianship proceeding. The goal is to facilitate interstate communication regarding guardianship and create a uniform process across states, so that for example, if someone moves to another state, the guardianship proceeding does not have to be done again.

In 2008 DHMH altered its standard for nursing facility level of care in response to a court ruling that Maryland’s medical eligibility standard was more restrictive than the federal definition, enabling services to be covered for a broader range of individuals who have cognitive, functional, and behavioral needs. This change is protected by **SB 429/HB 278**, which requires DHMH to provide a report to legislative committees and the Medicaid Advisory Committee at least 90 days prior to making any change to medical eligibility criteria for long-term care services.

**HB 536** strengthens the effectiveness of the Department of Aging’s Long-term Care Ombudsman program and aligns State law with the long-term care provisions of the federal Older Americans Act to increase opportunities to secure federal funding. The bill requires the Secretary to establish and maintain a statewide uniform reporting system for the program to collect and analyze data relating to complaints and conditions in long-term facilities for the purpose of identifying and resolving significant problems. The State Long-Term Care Ombudsman must submit an annual report to the Governor and the General Assembly on the activities of the program that includes recommendations for improving services for residents.

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