

2011 PRELIMINARY END OF SESSION WRAP-UP

The 428th Session of the Maryland General Assembly came to a close at midnight on April 11, 2011. Balancing the budget in the face of an estimated \$1.6 billion deficit was the legislature's primary focus. Not surprisingly, preserving funding for mental health services was a chief concern for the Mental Health Association of Maryland (MHAMMD). Despite an all-encompassing budget battle, MHAMMD was successful in advancing its public policy goals and working in coalition with our partners to preserve and increase funding for community mental health services.

BUDGET AND THE ALCOHOL TAX

MHAMMD fought throughout the 90 day Session to preserve funding for public mental health services. Chronically underfunded already and facing a 40% increase in enrollment, the Public Mental Health System (PMHS) was targeted for millions in additional cuts. Concerted and tireless advocacy on the part of the Mental Health Coalition successfully reduced proposed budget cuts, increased community services funding and safeguarded services for vulnerable Marylanders.

The action began in the second week of the Session when the Governor introduced his FY 2012 budget which included a 2.5% community services rate and a \$0.5 million core service agency cut. The rate cut was larger than most other providers received because the Department of Budget and Management (DBM) believed the Mental Hygiene Administration (MHA) did not meet its budget reduction targets in 2009. The Coalition played an instrumental role in ensuring that data was provided to DBM documenting that the cuts were indeed taken. Subsequently, the Governor's supplemental budget was introduced including \$10 million (state general and federal funds) to enhance rates for community mental health providers and \$25 million for MHA as a deficiency appropriation to cover the FY 2010 carryover deficit caused by an explosion in enrollment.

Mental health advocates fought an uphill battle in the legislature as well. The House of Delegates and the State Senate voted originally to cut mental health services to the tune of \$6.7 million and \$4.2 million respectively, in state general and federal funds. The bulk of these cuts were aimed at residential treatment services for youth (\$6 million in the House, \$4 million in the Senate) but also impacted veterans' services, inpatient care and chaplains at state psychiatric hospitals. A strong and sustained grassroots lobbying effort in response to these cuts flooded legislative offices with calls and emails from consumers, family members, providers and advocates urging the cuts be restored. In the end, the budget conference committee reduced public mental health funding by just \$100,000.

In sum, the budget success achieved through the concerted advocacy of the Coalition resulted in the following:

- \$10 million in state general and federal funds for community mental health provider rates, which is expected to result in no reduction in provider rates, due to the 1.13 cost of living adjustment built into the FY 2012 budget.
- \$25 million in state general and federal funds to address the Mental Hygiene Administration's \$20 million rolling deficit which, without budgetary relief, was projected to rise to \$50 million by June 30, 2011.
- Reduction of \$6.7 million in proposed legislative cuts to \$100,000 as follows:
 - Proposed \$6 million cut to residential treatment reallocated to community services
 - Reduction of \$300,000 cut to the Veterans' Mental Health Initiative to \$100,000
 - Elimination of \$180,000 cut to chaplains at state psychiatric hospitalsNote: Reallocation of \$200,000 in inpatient service funds to finance a study of state psychiatric hospital needs remains unchanged.

Finally, summer study requirements include a report by the Department of Health and Mental Hygiene (DHMH) and stakeholders making recommendations to integrate care for individuals with co-occurring mental illness and addiction treatment needs.

Alcohol Tax

Disability and health care advocates realized a significant victory this year in achieving the first increase in the alcohol tax in 40 years. This historic public health measure will save numerous lives by reducing alcohol abuse and will also raise significant revenue for developmental disability services.

MHAMD worked again this year with a coalition of advocates in support of an increased alcohol tax as a way of funding disability services and public health initiatives. As introduced, the Lorraine Sheehan Health and Community Services Act of 2011 (**HB 121/SB 168**) would have raised the alcohol tax by a dime a drink, with the increased revenue going to sustain services for Medicaid expansion and mental health, addiction and developmental disabilities services. Of the estimated \$215 million in new revenue, approximately \$30 million was to be spent on mental health services. The measure was one of the most talked about all Session, but after a number of ups and downs, amendments and manifestations, the end result looked nothing like the original product. Instead, **SB 994** was introduced late and fast-tracked through the legislative process. The bill – which started as a 3% sales tax phase-in over three years with no specific revenue dedication – became intertwined with budget negotiations.

In the end, the bill was amended to implement the entire 3% sales tax immediately and dedicate \$15 million to the developmental disabilities waiting list and the remainder to education needs. Budget language contingent on the passage of **SB 994** apportioned \$8.8 million to Prince George's County and \$12.2 million to Baltimore City for education purposes. For elected officials, budget decisions were directly linked to the realization of new revenue through the alcohol tax. Although mental health services were not funded directly by the alcohol tax, passage of the alcohol tax indirectly influenced the availability of funds for mental health that were included in the Governor's supplemental budget. In future years, this coalition will work with the Governor and General Assembly to use alcohol tax revenue to help fund all the critical needs identified in the original Lorraine Sheehan legislation.

LEGISLATION

Children and Youth

MHAMD supported **HB 38/SB 489** requiring private schools that participate in state-funded education programs to adopt a policy prohibiting bullying, harassment, and intimidation. These bills are logical extensions of State policy requiring the same programs in public schools.

HB 387/SB 344 was introduced to address challenges related to residential child care certification requirements in therapeutic group homes. The current economic environment has already forced some to close homes that have successfully kept children and youth out of more expensive and restrictive care, and because implementation of certification standards were enacted in 2008 but never funded, the fear is that the implementation of the new requirements would lead to further cuts to services. Originally drafted to exempt individuals working in private therapeutic group homes from the certification requirement altogether, a deal was reached and the amended bill requires a workgroup to determine the feasibility of implementing certification requirements by 2015 and developing a plan for said implementation.

HB 145 prohibits the manufacture, sale or distribution of any children's jewelry containing cadmium at more than 0.0075% by weight. Cadmium is a metal used in paint pigments, batteries, metal coatings, and plastics. It has been found in a number of metal jewelry imports, and may be harmful to children that chew, suck on, or swallow a bracelet, charm or necklace containing the element. Like lead, it can cause neurological harm and hinder brain development in young children. Exposure to cadmium is associated with developmental deficiencies, including delayed sensory-motor development, hormonal effects and altered behavior.

HB 840 alters State policy relating to children and families by adding a provision specifying that access to necessary services and supports in the least restrictive, most appropriate, and most effective environment possible must be provided and clarifies the intent that interagency policy be family-driven, child-guided, home and community-based, and culturally competent. Additionally it modifies the duties of the State Coordinating Council for Children and changes its composition to include youth and family members. Finally, Local Coordinating Councils are eliminated and established in their place are local care teams, which include child and family member representation and are charged with providing a forum for interagency discussion and problem solving of individual and systemic needs.

Criminal Justice

HB 507/SB 652 requires law enforcement agencies to report annually on the use of electronic control devices, i.e. stun guns. MHAMD supported the legislation due to the rising number of deaths of people with mental illnesses who allegedly died as a result of the use of electronic weapons.

As chair of the Mental Health and Criminal Justice Partnership (MHCJP), MHAMD supports all efforts to prevent recidivism and promote the successful reentry of ex-offenders. **HB 749/SB 362** will assist in those goals by requiring the Department of Public Safety and Correctional Services (DPSCS) and the appropriate local detention center, on the release of an individual supervised by the Division of Parole and Probation (DPP), to provide the individual with oral and written notice relating to the criteria and application process for an exemption from the required monthly supervision fee. One of

the conditions for which an exemption is allowed is the inability to obtain employment due to a disability.

For the second straight year, MHAMD supported legislation to “Ban the Box.” **HB 920/SB 448** (failed) would have prohibited State government from inquiring into the criminal record or history of an applicant for employment until the applicant was selected for an interview. The bill would have reduced recidivism by giving individuals with criminal histories a chance to get further in the job application process and possibly explain their circumstances during an interview. Unfortunately, the legislature again failed to implement this important measure.

Mental Health and Disability

MHAMD supported **HB 793/SB 682** to continue funding for the coordination of behavioral health services to veterans in pockets of the State where these services are not available or accessible through the United States Department of Veterans Affairs. The bills passed unanimously in both chambers.

HB 58/SB 202 also received unanimous support. These bills extend the termination date of the Community Services Reimbursement Rate Commission from 2011 to 2016. Continuation of the Commission is essential for the rational assessment and calculation of appropriate rates for community based mental health providers. Without the structured review required by the Commission, cost of living adjustments for community mental health providers are subject to the whim of the budget, competing priorities, and anecdote.

It is not uncommon for people with mental illness, and the family members who help them, to experience problems with debt related to medical bills and other disease related problems. This debt can lead to hiring discrimination if an employer requires applicants submit to a credit history check. The Job Applicant Fairness Act (**HB 87/SB 132**) prohibits an employer from using an individual’s credit report or credit history as a basis to deny employment to an applicant for hire, discharge an employee, or determine compensation or the terms of employment.

MHAMD supported **HB 217**, which provides notice and an opportunity for a hearing at the Office of Administrative Hearings prior to transferring an individual from a public mental health facility to the Clifton T. Perkins Hospital Center. In recognizing that a patient has a right to due process, the bill prescribes a degree of fundamental fairness to the transfer procedure.

MHAMD opposed **HB 346/SB 348** as introduced and offered testimony voicing concern over bill language that would have lessened the standard of care by which patients at State facilities are treated. Originally, the bill exempted “appropriate actions taken by an employee...” from the definition of abuse for reporting purposes. Prior to passage, MHAMD concerns were addressed and the bill was amended to exempt only “action taken by an employee that complies with... State and federal laws...”

HB 1150/SB 556 requires MHA to develop and implement a plan to secure the sleeping quarters of male and female patients at all State mental health facilities. In doing so, MHA is required to utilize the Maryland Consumer Quality Team to develop and conduct a survey of female patients at each State facility. The bill also establishes training and reporting requirements related to sexual abuse and sexual harassment. Introduced in response to several documented examples of sexual assault, MHAMD supported this legislation to ensure a safer environment for individuals housed in State hospitals.

Individuals with mental illness may receive housing vouchers or Social Security payments due to their disability. Current law allows landlords and sellers to discriminate against prospective tenants based on the source of their income. MHAMD supported **HB 902/SB 643** (failed), which sought to prohibit such practices. Unfortunately, the bills died in their respective committees.

Healthcare/Insurance

Since the federal Affordable Care Act (ACA) was signed into law last year, the O'Malley/Brown administration has been working proactively to implement federal health care reform in Maryland. **HB 166/SB 182** establishes the governance, structure and funding of the Maryland Health Benefit Exchange and lists a number of Exchange functions that must be studied prior to full implementation. **HB 170/SB 183** alters State insurance law to conform to federal requirements under the ACA and allows the Maryland Insurance Commissioner to enforce such requirements.

MHAMD also supported **HB 450/SB 514** authorizing the Maryland Community Health Resources Commission (MCHRC) to assist community health resources in preparing to implement federal health care reform. The legislation requires preparation of a business plan by January 1, 2012 to provide ongoing assistance to community health resources in sustaining and enhancing service delivery.

Task Forces/Workgroups

In addition to the myriad other workgroups and task forces on which MHAMD participates, the 2011 Session saw the introduction of a number of bills on a variety of issues that either did not pass in lieu of an interim workgroup or were amended entirely into legislative Task Forces. MHAMD will be actively involved in the following efforts:

SB 587 (withdrawn) – As introduced, the bill required a court to order a person charged with a violation of a protective order to undergo a mental health evaluation. The legislation attempted to address the tragedies that occur when protective orders are not adhered to. Unfortunately, the bill left many question unanswered and concern was raised about the lack of dialogue among advocates and stakeholders prior to introduction. The sponsor withdrew the bill to study the issue further.

HB 654 (withdrawn) – This bill would have created a process by which an individual in a Department of Corrections (DOC) facility could be involuntarily medicated in nonemergency situations. In recognition of a need to study the issue further, the sponsor withdrew the legislation and will work with stakeholders over the interim.

HB 730 (failed) – As introduced, the bill established restrictions related to gun ownership on individuals who have been treated within the previous five years for a mental disorder described in the American Psychiatric Association's "Diagnostic and Statistical Manual – Mental Disorders" (DSM). The bill was amended to create the Task Force to Study Access of Individuals with Mental Illness to Regulated Firearms. HB 730 passed the House and was killed in the Senate Judicial Proceedings Committee. The Governor's office still plans to study the issue during the interim, with or without a bill, and will request input from those named to the HB 730 Task Force.

For more information on any bills listed above please contact Dan Martin at dmartin@mhamd.org