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2016 LEGISLATIVE WRAP-UP

The 436th legislative session of the Maryland General Assembly drew to a close at midnight on April 11. In the second year of Governor Larry Hogan's first term in office, it was clear that the new legislature had gotten its sea legs. With bill introductions up by over 25 percent, the 2016 session was high energy from the beginning. Through it all, MHAMD worked tirelessly to increase access to services for the one in four Marylanders living with a mental health or substance use disorder. The public policy team realized significant victories on a range of issues, advocating effectively to ensure the adequacy of health benefit plan provider networks and the accuracy of provider directories, and to require state action to improve school behavioral health services and Maryland's crisis response system.

KEEP THE DOOR OPEN MARYLAND

Hoping to build on momentum from its 2015 budget victory, the Maryland Behavioral Health Coalition renewed its Keep the Door Open campaign in 2016. The Coalition mobilized around an ambitious agenda, calling on Governor Hogan and the General Assembly to (1) properly resource Maryland's community behavioral health provider network, (2) develop a plan to guarantee that critical crisis services are available statewide, and (3) increase substance use disorder funding and treatment resources. Over 500 consumers, family members, providers, advocates, legislators and more joined the Coalition in support of these priorities at the Keep the Door Open Rally in Annapolis. The record turnout drew extensive coverage from traditional media outlets and generated widespread social media activity. MHAMD and its Coalition partners rounded out the effort with direct advocacy to legislators, sustained letter-writing drives, and a strong social media presence, resulting in a number of positive budgetary and policy outcomes.

Keep the Door Open Act

The session began on a high note with the introduction of Governor Hogan's Fiscal Year 2017 budget proposal, which included a two percent increase to the reimbursement rate for community behavioral health providers serving Medicaid patients and the uninsured. Prior to this increase, community mental health providers had seen just six rate adjustments in the previous twenty years, while substance use treatment providers had seen just one. This funding stagnation, in the face of rising healthcare costs and increased demand, has limited access to critical community-based treatment. As such, the number one legislative priority this session for MHAMD and the Behavioral Health Coalition was passage of the Keep the Door Open Act (SB 497 / HB 595 (failed)). The bill would have indexed provider reimbursement rates to medical inflation, ensuring stable and reliable funding for the professionals now serving over 180,000 Maryland children and adults who use and depend on the public behavioral health system. The bill passed through the Senate, but an amended version passed by the House of Delegates failed to garner a consensus.

Maryland Crisis Response System

The second item on the Behavioral Health Coalition's 2016 platform addressed a longstanding priority for the group. Since Maryland's Crisis Response System was enacted in 2002, MHAMD and the Coalition have been working to fully implement the system and ensure a complete continuum of care in every jurisdiction. In that time it has become apparent that a walk-in capacity is critical. In places that have implemented highly efficient crisis response systems – both in Maryland and across the country – a central hub, operating 24/7, where individuals and their families can go without an appointment or a referral, is a key to success. Currently, only three jurisdictions in Maryland have a walk-in capacity, and only two of those are available 24/7.

SB 551 / HB 682 (passed) was introduced as a way of putting Maryland on a path toward the availability of crisis services on demand. The bill requires the Maryland Behavioral Health Advisory Council, on which MHAMD serves as vice chair, to develop a strategic plan for ensuring that clinical crisis walk-in services and mobile crisis teams are available 24/7 statewide. The plan design must address the need for both mental health and substance use disorder services, regional models must be considered, and it must include measures to monitor outcomes and methods for recovering payment for services delivered to individuals with commercial insurance.

Substance Use Disorder Treatment

Lastly, the Coalition called on the legislature to expand on Governor Hogan's anti-heroin initiatives (detailed below) by increasing funding for substance use treatment. According to the federal Substance Abuse and Mental Health Services Administration (SAMHSA), use of illicit drugs has steadily increased in Maryland over the past four years and now exceeds the national average. Accordingly, MHAMD and its Coalition partners took every opportunity to advocate for additional treatment resources.

A funding stream for these needs was identified in SB 1144 / HB 1618 (failed), which sought to increase access to care by expanding funding for substance use treatment services and community behavioral health provider reimbursement rates. The bill would have required the state's Cigarette Restitution Fund to include a separate behavioral health treatment account to be used for these purposes, with priority given to residential treatment services, recovery support housing, and crisis response services for individuals with substance use disorders. Although each chamber passed a version of the bill, differences were not reconciled before the close of session.

FISCAL YEAR 2017 BUDGET

In addition to the two percent behavioral health provider increase noted above, the $42 billion FY17 state budget is notable for a number of other provisions and actions related to mental health and substance use disorders. Governor Hogan included the following monies to implement recommendations from Maryland's Opioid and Heroin Emergency Task Force:

- $697,653 for a Good Samaritan law public awareness campaign
- $622,622 for recovery support specialists to assist pregnant women with substance use disorders
- $522,245 to help move toward requiring mandatory registration and querying of the Prescription Drug Monitoring Program
- $206,480 to implement a statewide buprenorphine access expansion plan
- $10,000 to expand online overdose education and naloxone distribution

Governor Hogan also included $1 million to establish a Maryland Center for Excellence for Prevention and Treatment, but the legislature directed that money be used instead to expand current substance use disorder treatment services provided by the state.

Additionally, the governor issued a supplemental budget appropriating $3 million to expand residential substance use and co-occurring treatment resources for court-involved individuals (Section 8-507 commitments), and $3 million for emergency inpatient psychiatric care at freestanding psychiatric facilities, also known as Institutions for Mental Diseases (IMDs).

Lastly, the legislature fenced off money in the budget for a wide range of priorities, including $880,000 to increase psychiatrist evaluation and management rates to 96% of Medicare. The item is one of eighteen included in a broad package totaling nearly $80 million that the governor must authorize in its entirety or return to the general fund.

Collaborative Care and Other Budget Language

The legislature took a step this year toward improving behavioral health outcomes in primary care settings by requiring the Department of Health and Mental Hygiene (DHMH) to report on the possibility of developing pilot Collaborative Care programs within the Medicaid Managed Care Organizations (MCOs). Most individuals receive behavioral health care from their primary care

provider, yet this treatment is often suboptimal. Collaborative Care is an integrated care approach for the treatment of common behavioral health conditions through team-based care management, telepsychiatric consultation and routine monitoring of outcomes. The evidence-based intervention has repeatedly shown improved clinical outcomes, patient satisfaction and cost savings. Implementation of the Collaborative Care model in primary care settings was the focus of MHAMD's 2016 Legislative Reception and Briefing. The DHMH report is due December 15, 2016.

Additional budget language requires DHMH to report on the following:

- Alternatives to residential treatment for criminal defendants committed to DHMH under Section 8-507 of the Health-General Article, including the appropriateness of utilizing recovery support housing in conjunction with outpatient services to meet the needs of these individuals
- Impact of the Medicaid substance use disorder carve-out on access, quality and efficiency of care, and an evaluation of the costs associated with the carve-out
- Efforts to promote the development of affordable housing for individuals with severe mental illness
- Status of hospital partnerships with community behavioral health providers
- Security recommendations for state psychiatric facilities

[NOTE: Budget action and language related to the Governor's Office for Children (GOC) is covered in the 'Children and Youth' section below]

NETWORK ADEQUACY

MHAMD continued this year to advance solutions to address a number of troublesome findings related to the accuracy and adequacy of commercial health insurers' psychiatric networks, which were detailed in a Network Adequacy Report MHAMD released in 2015. The report found that more than 50 percent of the psychiatrists listed in the network directories were unreachable due to directory inaccuracies, and only 14 percent of the psychiatrists listed were accepting new patients and available for an appointment within six weeks. Following efforts to address the issue during the interim through the Standing Advisory Committee of the Maryland Health Benefit Exchange, MHAMD partnered with the Maryland Women's Coalition for Healthcare Reform and other consumer advocates to introduce legislation modeled after the recently released National Association of Insurance Commissioners Draft Model Act on Network Adequacy.

SB 929 / HB 1318 (passed) faced a variety of challenges, but strong leadership from key legislators and a unified effort from stakeholders resulted in passage of a landmark bill that includes numerous consumer protections. The legislation requires the Maryland Insurance Administration (MIA) to work with interested stakeholders to develop network adequacy regulations, and enables them to hold insurers accountable for meeting quantitative standards and maintaining accurate provider directories. Insurers will be required to periodically audit their directories and feature new information in the listings, including participating health facilities, provider gender and

languages spoken, and whether new patients are being accepted. They will have 45 days to correct any provider directory errors identified by members through a new electronic link on the directory, and they must provide information on how members may seek an out-of-network referral at in-network cost-sharing when the network is inadequate. MHAMD looks forward to participating in the MIA regulatory process that will begin this summer.

CHILDREN AND YOUTH

MHAMD and partners advocated successfully this year to enact legislation designed to assist in the development of a system of school behavioral healthcare that best meets the needs of Maryland students and their families, and to protect services and funding for children and youth with behavioral health needs.

Community-Partnered School Behavioral Health (CP-SBH) programs are service delivery models in which community behavioral health providers partner with schools and families to augment existing school supports and services, providing for a more comprehensive array of mental health and substance use disorder care within schools. These models have proven to be an effective method of increasing academic achievement, decreasing disciplinary action, reducing school violence and dropouts, increasing academic engagement and motivation, and improving school climate. SB 494 / HB 713 (passed) requires the development of a standardized reporting mechanism to demonstrate the effectiveness of CP-SBH programs in the state through the collection of data on student outcomes, including academic, behavioral, social and emotional functioning and progress. This was a main recommendation from a 2015 report issued by the University of Maryland Center for School Mental Health, in collaboration with DHMH, the Maryland State Department of Education, and a range of stakeholders, including MHAMD.

SB 858 / HB 579 was introduced to restore funding for a program that was providing research-based Wraparound services to children and youth with intensive behavioral health needs. These services had been provided for over a decade before the program was ended late last year. Wraparound services produce better outcomes at reduced cost by serving children and youth in their homes and communities rather than expensive out-of-home placements. An emotional hearing and a targeted advocacy campaign demonstrated the importance of this issue, and the bills were withdrawn after the sponsors received written assurance that DHMH will continue to make these services available to Maryland families regardless of insurance status or income.

The legislature also requested a report on the recent transfer of the Wraparound program from the Governor's Office for Children (GOC) to DHMH, including details on the structure of the program, the services offered, and the number of children served both before and after the transfer. Additional budget language requires GOC to report on out-of-home and out-of-state placements, and on funding allocations to Local Management Boards (LMBs).

Lastly, the General Assembly amended the budget to restrict over $1.8 million in funding that may only be used for early intervention and prevention activities through Youth Service Bureaus (YSBs), and nearly $1.7 million that may only be used for navigation or case management services.

OTHER LEGISLATION

Criminal Justice

As chair of the Maryland Mental Health and Criminal Justice Partnership (MHCJP), MHAMD supports all efforts to promote the successful reentry of ex-offenders and prevent recidivism. SB 1005 (passed) was introduced to implement recommendations from the Justice Reinvestment Coordinating Council, which worked during the interim on a policy framework aimed at reducing the incarcerated population and spending on corrections, and reinvesting in strategies to increase public safety and reduce recidivism.

The bill passed with a number of behavioral health-specific provisions, including language to:

- Expand the number of programs for which an offender may earn credits toward an early release from incarceration, including cognitive behavioral therapy or substance use therapy
- Authorize a court to order DHMH to conduct a substance use disorder assessment before sentencing an individual for a drug-related crime, then impose drug treatment in lieu of incarceration as appropriate
- Require that DHMH facilitate placement within 21 days of a defendant diverted to residential substance use treatment (Section 8-507 commitments), or risk being ordered to appear before the court to explain the reason for the lack of placement
- Establish the Addiction Treatment Divestiture Fund at DHMH to provide treatment for substance-related disorders
- Require an analysis to determine the gap between offender treatment needs and available treatment services in the state
- State the intent of the General Assembly to expand funding for substance use treatment under Section 8-507; establish a process to expand the enrollment of ex-offenders in Medicaid quickly upon release; and expand funding for behavioral health treatment under the Division of Correction and the Division of Parole and Probation

Additionally, the final version includes language offered by MHAMD to ensure that savings gleaned from the justice reinvestment process will be reinvested into community behavioral health supports by providing explicitly that a newly established Performance Incentive Grant Fund may be used to provide mental health and substance use disorder services.

Healthcare Reform and Insurance

Efforts to ensure the proper implementation of the federal Mental Health Parity and Addiction Equity Act continued this year through passage of legislation requiring the adoption of regulations

necessary to ensure that Medicaid is in compliance with the law. MHAMD supported SB 899 / HB 1217 (passed), which will increase access to care by requiring that DHMH examine a range of limitations in the Medicaid program, including those that currently prevent substance use disorder providers from billing for services provided in schools or via telehealth, or for multiple substance use disorder services delivered on the same day.

MHAMD also supported SB 887 / HB 1150 (passed), requiring that insurance carriers permit consumers a minimum of one year to submit a claim from the date of treatment. This is a major issue for consumers accessing out-of-network services. Many wait until they have compiled multiple claims in order to meet their deductible or because the filing process is cumbersome. Behavioral health consumers use more out-of-network services than other types of health consumers because of the lack of in-network mental health and substance use disorder providers.

Behavioral Health and Disability

In addition to the school behavioral health reforms detailed above, MHAMD supported a number of initiatives this year aimed at giving parents of children with disabilities more input into their child's development and education. HB 85 (passed) requires that parents be given written information they can use to contact local school system early intervention and special education staff, and details about the services provided by those staff members. SB 421 / HB 86 (passed) provides for parents to receive individualized education programs (IEPs) and individualized family service plans (IFSPs) in their native language, ensuring they understand the rights, responsibilities and safeguards outlined therein. HB 551 (passed) requires that parents in disagreement with their child's IEP be informed of their right to mediation, and requires that staff be available to explain the mediation process.

Co-occurring mental health and substance use disorders are increasingly common, and it is understood that both issues must be addressed and treated concurrently for individuals to recover fully. In the face of an unprecedented opioid overdose crisis, MHAMD opposed several measures that would have decreased access to critical substance use disorder treatment by making it more difficult to open various opioid maintenance programs. SB 569 (failed) would have created a distance requirement and neighborhood approval process applicable to methadone clinics but not to other medical facilities. And although opioid maintenance programs must already complete a vigorous application and inspection process to receive a license and treat patients, SB 1060 / HB 1416 (failed) sought to implement a broad assessment process prior to the licensure of opioid maintenance programs, which would have added yet another barrier and made timely and effective treatment less accessible.

As Maryland hospitals work to improve discharge procedures and lower readmission rates, there is a greater reliance on caregivers to appropriately perform aftercare activities. Effective aftercare and planning is particularly important for individuals with psychiatric and other brain-based disorders that may compromise their ability to self-advocate and/or fully comprehend the steps necessary to a full recovery. MHAMD supported SB 336 / HB 1277 (passed) to provide hospital

patients an opportunity to designate a lay caregiver prior to discharge for purposes of aftercare and planning. The bill was carefully vetted by multiple stakeholders prior to introduction to minimize burden on the hospital system and to maximize patient choice and flexibility.

There is no shortage of studies and scholarly articles detailing the overrepresentation of mental illness and addiction among the homeless population. Failure to address the treatment and rehabilitation needs of individuals with mental health and substance use disorders has contributed to a large increase in the number of people who are especially vulnerable to displacement and homelessness. Removing barriers that prevent this population from accessing treatment services is critical. MHAMD supported SB 931 / HB 280 (passed) to prohibit the collection of a fee for a birth certificate issued to a homeless individual, making it easier for these individuals to secure identification and access critical benefits, health care and other community services.

Lastly, MHAMD supported successful efforts to establish a program that will allow people with disabilities to save money without sacrificing eligibility for benefits (SB 355 / HB 431); require DHMH to document its reasoning before closing a Regional Institute for Children and Adolescents (RICA) (SB 586); and extend the work of the Virginia I. Jones Alzheimer's Disease and Related Disorders Council (SB 549 / HB 730).