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2013 PRELIMINARY END OF SESSION WRAP-UP

The 2013 Session of the Maryland General Assembly drew to a close at midnight on April 8. After years of spending cuts and revenue increases, the onetime $2 billion structural deficit has been all but eliminated. As such, the budget situation was not as dire as in years past. Accordingly, the focus in the mental health arena over the past ninety days was directed primarily at policy issues rather than budgetary concerns. Despite a torrent of misinformation drawing a correlation between mental illness and violence, the MHAMD public policy team and our Coalition partners worked successfully to protect individual and civil rights, address gaps in the public mental health safety net, advance implementation of health care reform and the federal parity law, and defeat stigmatizing and regressive legislation.

BUDGET

Governor Martin O'Malley introduced his Fiscal Year 2014 budget proposal in early January. The proposal included funding for the expansion of Medicaid to 138% of the federal poverty level, a 2.54% rate increase for community mental health providers, and an increase in specialty physician (psychiatrists) evaluation and management rates to the 2013 Medicare rate, effective July 1, 2013.

In analyzing the budget proposal, the Department of Legislative Services (DLS) predicted and made recommendations addressing an expected $11.3 million surplus in the MHA FY13 budget. The legislature adopted DLS-recommended language to utilize FY13 surplus funds to (1) conform the specialty rate increases for psychiatrists to the same implementation date (January 1, 2013) as all other specialty physicians ($2.1 million), and (2) eliminate an FY12 deficit carried into FY13 ($4.2 million). The legislature rejected a recommendation to cut the remaining $5 million in expected surplus funds. Additionally, the legislature adopted budget language requiring reports on residential treatment center outcome measures, community-based programming options for older adults with serious mental illness, crisis response services, behavioral health integration, and mental health services for transition age youth.

The Governor issued a supplemental budget appropriation in early April bringing both good and bad news. The good: $5 million was added to the community services budget to establish a Center for Excellence on Early Intervention for Serious Mental Illness ($1.2 million), and to expand crisis response services ($2 million), crisis intervention teams ($1.5 million), and Mental Health First Aid ($300,000). The bad: some of the legislative action related to the FY13 MHA surplus was reversed. The $2.1 million for retroactive rate increases was eliminated and the $5 million surplus that was to be used for community services was effectively redirected to cover the increased cost of Clifton T. Perkins Hospital Center employee overtime and patient off-grounds hospitalization. Calls by MHAMD and others to restore this funding were unsuccessful.

In sum, budget action during the 2013 legislative session resulted in the following:

- 6.5% increase in MHA operating budget for FY14
- 2.54% community mental health provider rate increase
- Specialty physician rate increases for psychiatrists effective July 1, 2013
- $3.5 million for crisis response services and crisis intervention teams
- $1.2 million to establish Center for Excellence on Early Intervention for Serious Mental Illness (note: budget language provides that these funds may not be used to support administrative or indirect costs and may be used only for direct care services or research activities)
- $300,000 to expand Mental Health First Aid
- Expected FY13 budget surplus used partially to address carryover deficit of $4.2 million, to cover increased costs at Perkins Hospital Center, and any remainder will revert to the General Fund

Capital Budget

Unlike the Operating Budget items discussed above, capital projects include things such as construction and renovation of new and existing facilities, site development and improvements, and real property acquisition. This year, the legislature approved $5.25 million for the Community Health Facilities Grant Program, which provides capital grants for the acquisition, design, construction, renovation, and equipping of facilities that provide mental health, developmental disabilities, and substance use services. Of the eleven projects the Program is supporting in FY14, five are community mental health projects, two serve individuals with mental illness and substance use disorders, and one serves individuals with mental illness and/or a developmental disability. Many of these projects will provide housing for individuals with serious mental illness.

For several years, private developers have lobbied the State seeking to purchase property at Spring Grove Hospital Center. The legislature and executive branch have shown interest in utilizing this opportunity to redevelop Spring Grove, Maryland's largest and oldest State-run psychiatric hospital. Recent reports have detailed issues around inadequate facility infrastructure, inefficiency, and the need to improve patient space. Accordingly, the legislature this year appropriated $400,000 to design and renovate existing structures at Spring Grove Hospital Center to consolidate patient activity.

THE FIREARM SAFETY ACT OF 2013

Following tragic shootings in Connecticut and elsewhere prior to the start of Session, Governor O'Malley made gun control one of his priority legislative initiatives in 2013. The Firearm Safety Act of 2013 (SB 281 (passed)) bans the sale of assault-style weapons, limits magazines to ten rounds, and institutes fingerprinting and licensing requirements for handgun ownership. Of concern to MHAMD were the mental health provisions of the legislation. Supportive of efforts to ensure that

violent individuals do not have access to firearms, MHAMD cautioned against singling out a wide spectrum of non-violent individuals living with mental illness and urged the legislature to balance public safety with the protection of individual civil and constitutional rights.

As passed, the bill is slightly more restrictive than federal standards related to mental illness and gun ownership. Individuals found incompetent to stand trial and those found not criminally responsible will be disqualified from gun possession. Current language disqualifying individuals "confined for more than 30 consecutive days" in a mental health facility has been amended and clarified. While the current 30-day standard will remain for individuals *voluntarily* admitted to a facility, gun ownership is now prohibited for those *involuntarily* committed for any length of time. MHAMD advocated throughout the session for total conformity to the federal standard – which exempts from prohibition those receiving treatment in a facility voluntarily – but supported the 30-day standard as a compromise in the face of Senate action that would have unjustly identified thousands of voluntary patients for inclusion in a federal database.

In addition to defeating the Senate amendment, MHAMD, the Maryland Psychiatric Society, the Maryland Disability Law Center, the Maryland Psychological Association and many Coalition allies effectively thwarted an attempt to alter current requirements regarding the reporting of potentially dangerous patients to law enforcement by mental health professionals. Current law provides a clear standard for clinicians regarding when to notify law enforcement, treat or commit an individual. Leaving no room for professional judgment, the proposed amendment would have fractured the doctor/patient relationship, discouraged individuals from seeking treatment, and jeopardized public safety.

THE MENTAL HEALTH AND SUBSTANCE USE DISORDER SAFETY NET ACT OF 2013

While a considerable amount of 2013 legislation arose from a misinformed perspective on mental illness, the increased attention afforded opportunity as well. Through the introduction of the Mental Health and Substance Use Disorder Safety Net Act of 2013 (SB 822/HB 1245), MHAMD sought to ensure this attention was used productively to address longstanding unmet need. Specific provisions of the bill focused on service areas that will not be addressed through the implementation of federal health care reform and would have (1) required full implementation of the statewide crisis response system, (2) ensured the availability of school mental health in all public schools, (3) expanded the use of evidence-based practices, (4) improved early identification and intervention of substance use disorders, (5) addressed infrastructure needs of community mental health providers, (6) improved access to geriatric behavioral health services, (7) addressed reentry services and other criminal justice needs, (8) required annual investment in housing, and (9) improved mental health literacy and awareness.

Doomed by a fiscal note of nearly $200 million, MHAMD was under no misconception that the legislation would pass as drafted. The goal all along was to make incremental progress, raise

awareness as to the need and create a roadmap for the future. Although the bill did not pass, budget language was included to advance the statewide mental health crisis response system and the Governor's supplemental budget included funding for Safety net priorities, including $3.5 million for crisis response services, $1.2 million for evidence-based services, and $300,000 for Mental Health First Aid. Crisis services budget language requires MHA to report on the current availability of crisis response services (CRS) in each jurisdiction, the recommended continuum of CRS in each jurisdiction, and a plan for fully implementing CRS statewide.

PARITY AND HEALTH CARE REFORM

The effective implementation of the federal Mental Health Parity and Addiction Equity Act (MHPAEA) remains a core goal of MHAMD. During the 2013 session a package of bills was introduced at the request of MHAMD, NCADD Maryland, and the University of Maryland Drug Policy Clinic to address parity compliance and to enable consumers to enforce their rights under the law.

HB 1216/SB 581 (passed) requires insurers to provide notice on their websites and annually in print to members (1) of the benefits required under State and federal parity laws and (2) that the member may contact the Maryland Insurance Administration (MIA) for further information. The bill will also assist consumers in enforcing their rights by making important 'release of information' documents more accessible and by requiring the MIA to post on its website information about the complaint process, including where an individual may turn for assistance in filing a complaint. HB 1252/SB 582 (passed) requires that the criteria and standards used in conducting utilization review for mental health and substance use benefits are in compliance with MHPAEA. With this standard in statute, MIA will now have authority to examine the utilization review criteria of private review agents to ensure they comply with federal parity. Heavy opposition from insurers and a fiscal note from MIA prevented passage of HB 1001/SB 585 (failed). The bill would have required insurers to file annual reports demonstrating parity compliance. Work is already underway to continue these efforts during the interim and to address additional concerns related to network adequacy.

MHAMD also remained actively involved in Maryland efforts to implement the federal Affordable Care Act. The Maryland Health Progress Act of 2013 (HB 228 (passed)) marks the last step in a three year process. MHAMD worked in partnership with the Women's Coalition for Health Care Reform, the Community Behavioral Health Association and others to successfully advocate for the inclusion of critical continuity of care provisions for individuals transitioning between Medicaid and private health plans. An amendment that would have eliminated all continuity of care provisions for individuals receiving or transitioning from fee-for-service Medicaid mental health services was prevented and revised to ensure protections for those transitioning from Medicaid to Qualified Health Plans. Additionally, an amendment establishing a standing advisory committee to the Health Benefit Exchange was secured. Modeled after the Medicaid Advisory Committee, the group will convene in March 2014 and is charged with providing recommendations on important consumer issues.

OTHER LEGISLATION

Criminal Justice

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. The 2013 Session saw a number of reentry measures introduced, many finding a favorable result.

SB 479/HB 854 (passed) allows for the expungement of certain public nuisance crimes and misdemeanor offenses for which an individual was found not criminally responsible (NCR). If an individual commits a crime but lacks capacity to appreciate the criminal nature of the crime because of a mental illness, a finding of NCR is made and the individual is ordinarily ordered for treatment in lieu of incarceration. Unfortunately, a finding of NCR results in barriers to housing and employment, preventing meaningful participation in society following treatment. This bill will help to remove those barriers in certain instances.

For the fourth straight year, MHAMD supported legislation to "ban the box." SB 4 (passed) prohibits the State from inquiring into the criminal history of an applicant for employment until the applicant is selected for an interview. This gives individuals with criminal histories a chance to get further in the job application process and an opportunity to explain their circumstances to a prospective employer.

Initially a recommendation from the Task Force on Prisoner Reentry, HB 1006/SB 701 (failed) was reintroduced again in 2013. As introduced, the legislation would have allowed for individuals to request that records related to nonviolent misdemeanors be shielded from public view three years after the completion of their sentence. In the end the bill was heavily amended, providing only for the shielding of certain citation offenses. Even so, the bill drew a great deal of opposition and a conference committee was unable to settle differences between the two chambers.

Mental Health and Disability

The Qualifying Employees with Disabilities Tax Credit allows employers who hire a qualified individual with disabilities to claim a tax credit in the first two years of employment. MHAMD supported SB 124/HB 43 (passed) to repeal the termination date of this tax credit, which has increased employment opportunities for individuals living with mental illnesses and other disabilities.

MHAMD supported SB 632 (passed), which establishes the State Brain Injury Trust Fund to assist in the provision of a variety of services to individuals who have sustained brain injuries. The bill received unanimous support in both chambers.

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 SB 487/HB 603 (failed), which sought to prohibit such practices. For the first time in over a decade, the bill received a favorable report from the Senate Judicial Proceedings committee. Unfortunately, a floor fight ensued and opponents of the measure motioned to recommit the bill to committee. The motion passed by a vote of 23-22 and the bill was effectively killed.

A great deal of stigma was present this year in legislation related to mental illness. HB 969 (failed) would have created a commission to examine a range of issues, including the creation of a system "whereby individuals in schools or colleges who display a negative or 'dark' affect can be identified and monitored." MHAMD opposed the bill, arguing that the State should not be condoning and encouraging a humiliating practice of profiling students that are different or quiet. MHAMD also opposed SB 1040/HB 1258 (failed), which would have expanded the manner in which individuals with mental illness are involuntarily committed and medicated against their will. The bill passed the Senate but was never acted on in the House.

Older Adults

There is a rising need for specialized attention to the mental health and substance use disorder needs of older adults. Maryland continued in 2013 to heed the national call for heightened outreach and support to this population, one that suffers disproportionately from neglected behavioral health concerns. SB 83 (passed) establishes Maryland Access Point (MAP), which promises to be the primary point of interface between Maryland citizens and the long-term services and supports that exist to address individual health and functional needs.

MHAMD also supported SB 679/HB 690 (passed), which creates an entity to continue and expand on the work initiated by the Maryland Alzheimer's Disease and Related Disorders Commission. This legislation received unanimous support in both chambers.

Children and Adolescents

Depression, post-traumatic stress disorder, and suicide attempts are all common mental health issues among homeless youth. MHAMD supported SB 764/HB 823 (passed), which establishes a Task Force to identify and study the unique needs of this population, evaluate the resources available to meet those needs, and make recommendations for legislative and budgetary action.

Many group homes are therapeutic facilities that provide a nurturing environment and a stable living situation with an emphasis on the psychological, social and educational needs of their residents. Such homes allow children, many of whom are living with a mental health issue, to live together in a residential setting with the advantages of a family-like structure. MHAMD opposed several discriminatory bills that would have made it more difficult for these children to become part of the community. HB 679 (failed) and SB 939/HB 1307 (failed) would have required the Department of Health and Mental Hygiene (DHMH) to provide notice to local law enforcement before contracting for or authorizing a group home for children.