

Legislation & Policy Committee Meeting, March 20, 2019, 9:30am

Legislative Update

FY20 Executive Budget recommendations

Alan reviewed the budget that was proposed by Governor Whitmer on March 5, 2019. He spoke about the differences in it from the last 2 fiscal years' final budgets. He spoke about the increase in the CMH GF line, which was kept in the proposed budget. He then reviewed Medicaid Mental Health, Healthy Michigan and Autism line item proposals which look to increase. Bob Sheehan reminded everyone that when working on their own budgets, they should use the rate percentage increases, not the dollar increases shown, as it includes IPA tax, among other things, that could skew local budgeting if used. After reviewing specific line items, Alan spoke about some highlights such as \$10 Million included in the Governor's proposal for Healthy Michigan, \$2.2 Million for Center for Forensic Psychiatry and \$7 Million for the SIM project. Alan spoke about Boilerplate language that was included in the proposed Budget, and language that was NOT included. Sections included were 298, 928, 924, 961, 1009 and 1010. Those that were NOT included were 925, 959 and 1696. Alan included a House and Senate schedule of meetings in the packet provided to the group. House testimony for Behavioral Health will be on April 11th. Senate testimony is tomorrow, March 21st. Alan gave details of what the Association will be giving testimony on at tomorrow's meeting. He put together a PowerPoint to give to the Legislators, with a theme of the outdated financing/risk system. He will give information that looks at how funding was established 30 years ago (typically 65%Medicaid/35%GF) versus now (typically 95%Medicaid/5%GF). SUD services were separate 30 years ago but are not now. He stated that the Association will have four main asks – 1) Medicaid rates meet demand for services; 2) adequately funded risk reserves which follow federal requirements; 3) increase the amount that PIHPs are able to hold to possibly 15% (and allow CMHs to keep some Medicaid funds to build reserves as well); and, 4) removing local match draw down obligation for Medicaid funding.

Group discussed risk reserves and exactly what Alan will be testifying on tomorrow. Bob explained that Alan will be asking for this issue to be re-negotiated, not to iron out all details right now. The differences of each CMH, PIHP and regional wants/asks regarding risk reserve will continue to be discussed and worked out in future meetings.

Alan continued to review the document from MDHHS that listed highlights of the proposed budget. He gave details for the FMAP rate adjustment (down from 64.45% to 64.06%), among other items.

FY20 House and Senate budget presentations

Alan stated that mid to late April is likely when we will see something proposed from the House and the Senate. He stated that final budget may be as late as July or August.

HB 4051 – MI CARES hotline

This bill would add section 165 to the Mental Health Code, establishing a CARES hotline for individuals experiencing a mental health crisis. Alan stated that he is pushing for no additional work requirements for local CMHs. Group discussed whether or not this service was needed, or simply another middleman.

HB 4129-4132 – Parole for Medically Frail

These bills would implement a medical parole for medically frail prisoners. Alan stated that this passed the House last week. He reported that there is a small population of older, medically frail inmates who the State would like to see moved to a facility where they can be better taken care of. The catch is that once they are in such a facility, they automatically are covered by Medicaid, and we are trying to find cost effective ways to deal with this. This may not pass the Senate, but if it does, Federal Waivers may be needed to move forward. Group discussed statutory requirements that would be needed and how those changes would be implemented, also discussing if boilerplate would need to be introduced.

SB 106 – Sale of Vapor Products

Alan stated that this bill would amend the youth tobacco act and prohibit sales of these products to minors. The issue with this bill and the reason the Association opposes this Bill is that the tobacco industry is pushing to move these be excluded as a tobacco product. The sponsor of this Bill is trying to make incremental steps such as slow down sales to youth, then try to come back and not have these excluded from tobacco products.

2019-20 CMHAM Legislative & Policy Platform (informational only)

Alan stated that the revised Legislative & Policy Platform was included in everyone's packet. He stated that page 2 of this document has been revised to show that the Association would encourage re-examination of the full risk versus shared risk issue. Kay Randolph-Back stated that even though the Platform has been changed to reflect her questions regarding full risk, she wanted the group to be aware of the items brought forth at the last Executive Board meeting. She read the 3 questions to the group that were presented at that meeting. Those questions were as follows:

QUESTIONS PRESENTED TO EXECUTIVE BOARD AND REFERRED TO POLICY AND LEGISLATION COMMITTEE

1. If "full risk" versus "shared risk" were already the rule when Lakeshore PIHP ran into financial problems, would the options and/or outcome have changed at all? If so, would the change have been for the better or the worse?
2. Are there any other instances of financial challenges CMHs and/or PIHPs are facing or have faced that would have been or would be either positively or negatively affected by "full risk" status versus "shared risk" status? If there have been or are or might be effects on CMHs and/or PIHPs with financial challenges, are the effects mixed, that is, partly positive and partly negative, and, if so, how should the opposing effects be weighed against each other?

3. CMHAM staff report that the Insurance Code would have to be amended to allow the change from “shared risk” to “full risk” to take place. Staff also report that this item in the proposed policy platform has, like some others in the finance section of the platform, regulatory implications that are not necessarily laid out in the regulation section of the platform. Does the Executive Board want to direct staff to advocate for regulation of CMHs and/or PIHPs by the Department of Licensing and Regulatory Affairs? Would the Executive Board prefer or want to see explored another option for regulation under “full risk” arrangements? With respect to regulation under “full risk” arrangements, do Executive Board members want to be prepared for answering questions from or directing questions to state legislators?

Group had no discussion on these issues brought forth by Ms. Randolph-Back.

Siting Residential Facilities in Local Communities (HB 5505 & 5506)

This bill would amend the AFC Facility Licensing Act to do multiple items. Group reviewed some of those items. Alan had no update on this topic. Will not be kept on as a standing agenda item. Barbara Fowkes will send copy of judgement in favor of one of her Providers to Monique for distribution to this committee.

Policy Updates – Bob Sheehan

HCBS

Bob stated that compliance should be implemented by this month, but heightened scrutiny has been changed and change back causing confusion... He stated there will be time allowed for providers to come into compliance.

Crisis Services – Clarification of Right to Hold

Bob stated there are centers that are standalone, but the law is unclear if they have a first certification, whether they can hold them. If you let them go and they harm themselves, you could get sued. If you hold them and they get hurt, you could get sued. Restraint by touching is not allowed either. The Association has worked with Greg Moore on this and a white paper has been issued to our members which basically states use your best judgement. Bob stated that we are working with Michigan Protection & Advocacy to write changes to the laws. No language has been finalized, nor do we have anyone to sponsor this yet. Alan stated this could come under the CARES Task Force items, so sponsors of that may be likely candidates.

Physical Management Training for Parents

Bob explained that currently our system cannot talk to Parents about physical management of children and youth receiving services. This was discussed at a prior Children’s Issues Committee to address the need for training on this topic. Bob will keep the group updated on the progress of this. Jim Johnson stated that Representative Kennedy is working hard on HB4147 which requires state policy on seclusion and restraint in child care centers, group child care homes and family child care homes.

Other

Full Risk versus Shared Risk (added by Kay Randolph-Back)

Discussion covered in Item V.

State Psychiatric Hospital location (update requested by Christine Gebhard)

Alan reported that the Department has indicated that the new State psychiatric hospital that was to be built at the Caro Center location has been put on hold. This project will be reviewed to determine if it should be built at a different location.

The next meeting of the Legislation & Policy Committee is scheduled for Wednesday, April 17, 2019, 9:30am, CMHAM office, Lansing.

Meeting adjourned at 11:04am.