Mental Health Advocacy Network

Consumer & Family Network
Mental Health America of ND
Youth Move Beyond
The Arc of Bismarck
Fraser, Ltd.
Federation of Families for Children's Mental Health
Protection & Advocacy Project
ND Association of Community Providers
Individual Consumers & Families

HB 1012 – Behavioral Health
April 20, 2021

EPSDT Study

We are requesting an amendment for the North Dakota legislature to conduct a study to determine if North Dakota is fully implementing the Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) benefit under Medicaid, or as it is known in North Dakota, "Health Tracks." EPSDT provides comprehensive and preventive health care services for children under age 21 who are enrolled in Medicaid. EPSDT is key to ensuring that children and adolescents receive appropriate preventive, dental, mental health, and developmental, and specialty services. When EPSDT is fully implemented, it can provide children and families vital services, including access to medically necessary treatment.

Safe Beds

We would like safe beds to return to the Bismarck region. Safe beds are a safe place for a child to deescalate and function as an alternative to costly hospitalization. In the last year, safe beds were no longer available for children with mental health disorders in a mental health crisis. As a result, the only options many families have are: a) do nothing, b) hospitalize their child, c) call law enforcement.

Children and Family Services has agreed to take on the responsibility for providing safe bed services through the use of shelter beds throughout the state.

Peer Support

In the 2019 Session, Maggie Anderson presented information on peer support and the 1915(i) for SB 2012. As passed by the Legislature, the budget included peer support "for those not eligible for 1915(i) services" (a total of $304,784, half federal and half State) as well as separate funds for those 1915(i) eligible. While things are "moving" for the 1915(i), per Caprice Knapp, nothing is happening to implement peer support for those not 1915(i) eligible. When I asked her about this, she said, "I have no

staff, no money, and no time". Individuals with mental illness have been advocating for peer support for years. This is a priority for them. Questions for DHS: 1) why has this not happened? 2) where is the money that was allocated? 3) what is funded for next biennium for peer support for non-1915(i) eligible individuals? 4) what about Legislative intent?

The Department recently agreed they were funded for non-1915(i) peer supports in Medicaid and that they will move forward with this activity this biennium (2019-2021).

Family Support

Contracts were reduced significantly in the executive version of HB 1012 for the Federation of Families for Children's Mental Health and Family Voices of ND. Some funds were restored by the House but these contracts are skimpy to begin with as is one of the Early Intervention programs, "Experienced Parents". This one is in the DD budget and was cut completely. All of these programs should be prioritized for continued full funding into 21-23. Families would be lost without them.

Supported Housing

In the executive version of HB 1012, DHS decreased funding for Cooper House, LaGrave on First, Prairie Harvest, and Gerridee's. We believe DHS thought the individuals served would be eligible for the 1915(i) and could then draw down a federal match. The House restored some of the money. It has come to light that many, if not most, of these individuals will not be 1915(i) eligible. Without supported housing, many will be at risk and will not be successful living in the community. Full funding should be considered for these programs.

Autism Voucher

DHS put in a bill (SB 2089) to repeal the ASD Voucher with no discussion with the Governor's ASD Task Force. It removed all monies for the Voucher from HB 1012. Senate Human Services turned SB 2089 into a study but replaced the ~ $1.3 million with only $300,000. The Task Force opposes the repeal and submitted amendments to House Human Services to make the Voucher more family-friendly (also shared with Senate Appropriations - testimony by Holly Johnson). The Voucher should be funded at $1.3 million with the amendments from the Task Force. [NOTE: The population at the LSTC is now over 50% adults and youth with a diagnosis of autism.]

Supported Employment

We would like Supported Employment services for people with mental illness to have their budgets restored from the cuts that were slated under "1915(i) Savings." Supported Employment (SEP) services assist individuals to obtain and keep competitive employment at or above the minimum wage. Ongoing follow-along support is available for an indefinite period as needed by the individual to maintain their paid competitive employment position. Individuals with serious mental illness rely on supported employment services so that they can maintain employment and can maintain living in the community. The proposed budget made significant cuts to those program areas, with some initial requests to eliminate entire programs. While some has been discussed to be restored to allow providers time to become Medicaid providers, it does not account for the fact that some of those individuals with serious mental illness will not meet the eligibility requirements of the 1915(i). We also want to make sure that individuals who receive supported employment services under the 1915(i) continue to receive ongoing and continuous SEP services as they earn and maintain their employment wages.

Voluntary Placement Dollars

We would like a restoration of the dollars allocated to the Voluntary Treatment program. The Governor's proposed budget cuts the voluntary treatment program from its previous budget of $533,440 to a proposed 2021-2023 budget of $453,424. With the creation of the voluntary treatment program, parents were no longer required to relinquish custody of their children in order to receive treatment that would be provided in that residential treatment facility. During the last legislative session, the voluntary treatment program was given the flexibility to provide services to children in order to prevent an out-of-home placement. The voluntary treatment program is essential in families being able to maintain custody of their children and provide linkages to community-based services.

Maintenance of this program is in keeping with an *Olmstead*-savvy behavioral health system in North Dakota.

State Hospital

As Dr. Etherington has shared, many studies have already been completed regarding building of a new State Hospital (see binder she gave Sen. Appropriations). All advocacy organizations that have taken a position on this matter are supporting the building of a new State Hospital in conjunction with 8-10 new behavioral health beds in the western part of the State. Dr. Etherington has shared a funding plan

that does not require new monies for this however, if a new facility is not built, there will be significant monies needed for repair and maintenance of existing buildings. Action is recommended to move forward with authorization of a new State Hospital.

1915(i) – Legis. intent language re WHODAS score (future)
We would like there to be legislative intent raised regarding the WHODAS score that is used to determine eligibility for services under the 1915(i) State Plan Amendment. We would like that the legislature direct the Department of Human Services to conduct multi-stakeholder meetings (that include consumers and family members) to evaluate the WHODAS score threshold used to determine eligibility for services under the 1915(i) and lower the score, if necessary, to ensure individuals with Serious Mental Illness (SMI) and Serious Emotional Disturbance (SED) are not losing the invaluable services to meet their needs. This would also serve to benefit North Dakota as it seeks to maximize federal dollars in providing services to those in need.

Definition of Serious Emotional Disturbance (SED):

> A diagnosable mental, behavioral, or emotional disorder in the past year, which resulted in functional impairment that substantially interferes with or limits the child's role or functioning in family, school, or community activities.

-Approximate number of North Dakotans with SED (2019): 18,125.

Definition of Serious Mental Illness (SMI):

> Someone over 18 having (within the past year) a diagnosable mental, behavior, or emotional disorder that causes serious functional impairment that substantially interferes with or limits one or more major life activities.

-Approximate number of North Dakotans with SMI (2019): 30,258

-North Dakota 1915(i) Application set eligibility at a WHODAS score of 50 or above. With those parameters, the Department of Human Services anticipated that the number served between SUD, SED, SMI, TBI was 11,150.

Brain Injury Network
Brain injury services and programs were cut significantly in the executive budget, some related to expected federal matches through the 1915(i). The House restored some of the funds noting the 1915(i) may not provide funding for many of the individuals. Still, ND has

little in the way of services for individuals with a brain injury – any reductions will mean even less for supports. Relevant are the NDBIN, pre-vocational program, and the return to work program with a total reduction, after HB 1012 was passed by the House, of over a $¼ million. Consideration is requested to restore all of the funds cut for brain injury services and support.

It is suggested that, while giving DHS flexibility with funding items, there is also accountability for Legislative intent. Examples include the ASD Voucher; ASD training funds (the ASD Task Force did not know there was $90,000+ for this); and peer support. Where has the money gone that was authorized for these things?

IMD Exclusion Waiver

MHAN stands opposed to any attempts to move forward with an IMD Exclusion Waiver for behavioral health services. Since the Goodrick, Daniels, and Goodrick report of 1988, the state of North Dakota has been repeatedly advised by its own consultants to reduce our reliance on institutional placements to provide mental health services to the citizens of North Dakota. North Dakota has had a consistent record of spending most of its mental health dollars on institutional settings instead of providing community-based services.

As institutional facilities are far more expensive than community-based programs, funding that goes to institutional placements is ultimately funding that inhibits the creation and maintenance of a functioning community-based service delivery system.

After the 1999 *Olmstead* decision, states have been required to give citizens access to community-based services before requiring that they seek only institutional care. The Schulte Report of 2014 and the HSRI Report of 2018 have warned that North Dakota is not meeting federal requirements in providing community-based mental health services under *Olmstead* and the Americans with Disabilities Act.

In 1976, the state of North Dakota said that its vision for mental health services was that every citizen of North Dakota have access to the right services, at the right time, and nearest their home as possible. The citizens of North Dakota agree with that vision, and that vision is also required under the Americans with Disabilities Act. As we continue to advocate for the state of North Dakota to meet its

requirements under federal law, we also strenuously object to any effort to further incentivize institutionalization.