MEMO

To: Office of Management and Budget

From: Marissa L. Band, Esq., on behalf of the following organizations:
Disabilities Law Program, Community Legal Aid Society, Inc.
State Council for Persons with Disabilities
Governor's Advisory Council for Exceptional Citizens
Developmental Disabilities Council

Date: November 14, 2014

RE: Division of Prevention and Behavioral Health Services ("DPBHS") FY 2016 Budget

Please allow this document to memorialize the presentation made by Marissa L. Band, Esq., on behalf of the Disabilities Law Program ("DLP")[1] of Community Legal Aid Society, Inc., the State Council for Persons with Disabilities ("SCPD"), the Governor's Advisory Council for Exceptional Citizens ("GACEC") and the Developmental Disabilities Council ("DDC"). We would like to focus today on: 1) additional funding request for FACTS II; 2) the need for adequate financial support for community based services; and 3) potential treatment gaps for those in need of some period of residential treatment.

I. FACTS II

We support DPBHS's request for additional funding for FACTS II. Youths with behavioral health conditions often have complex social and treatment histories. Many have interacted with multiple DSCYF divisions, or have had multiple cases with the DSCYF. An updated case management system will only help DSCYF to have a fuller understanding of their youths, and thus to better assist them.

II. Community Based Services

DPBHS reports an increasing demand for services for complex behavioral health disorders. Indeed, the annual demand for more intensive community based services has increased dramatically in recent years. The following table underscores the burgeoning community/day services rolls:

	FY 2010 Children Served	**FY 2011 Children Served**	**FY 2012 Children Served**	**FY 2013 Children Served**	**FY 2014 Children Served**	**Percentage increase between 2010 & 2014**
Substance Abuse Intensive Outpatient Program	141	141	148	240	279	98%
Mental Health Intensive Outpatient Program	391	474	470	586	609	56%
Day Hospital	167	188	204	259	229	37%

[1]The DLP serves on the DPBHS Advisory and Advocacy Council and collaborates with DPBHS staff on behalf of mutual clients.

Even with these increases, more is needed. KIDS COUNT data reveals that approximately 37,000 - or 20% - of children in Delaware have one or more emotional, behavioral, or developmental condition.[2] Further, DPBHS's data indicates that up to 52% of youth in mental health treatment exhibited behaviors and had risk factors suggesting the existence of substance abuse problems, but only 21% were receiving focused treatment for substance abuse.[3] Of concern, DPBHS is and expects to continue to operate in a deficit for the balance of FY 2015.

We wish to take this opportunity to urge the state to adequately fund community based services to eliminate unnecessary institutionalization consistent with Americans with Disabilities Act as well as best treatment practices. According to the U.S. Supreme Court in the landmark *Olmstead* case, states are required to place persons with mental disabilities in the community, rather than in institutional settings, when appropriate. Consistent with *Olmstead*, several years ago the State of Delaware entered into a Consent Decree with the U.S. Department of Justice to ensure Delaware's compliance with the ADA and the Rehabilitation Act, including community integration. While this agreement focuses on the adult mental health system, the principles addressed in the Consent Decree are equally relevant to the children's mental health system. Also of note, other states have experienced major class action litigation for failures to provide children with adequate community-based mental health services, including the *Katie A. v. Bonta* (California) and *Rosie D.* (Massachusetts) litigation.

We strongly support DPBHS's provision of community-based services and encourage consideration of increased funding to build greater capacity for community-based services. We support DPBHS and their aspiration to expand to a fuller range of services. Serving children with behavioral health disabilities in the community is widely viewed as the appropriate approach for most children in terms of obtaining clinically effective outcomes in the long-term and should decrease unnecessary institutionalization. In Delaware, community based services is both effective and cost-efficient.[4]

III. Gaps in Residential Treatment Services

DPBHS recently reported to its Advisory and Advocacy Council[5], that there are several potential service gaps with respect to the bids that were submitted in response to DPBHS's residential treatment RFP. Specifically: 1) no bidders were willing to serve opiate dependent youths; 2) no bidders would accept adjudicated sex offender youths; and 3) only one bidder was willing to accept youths with more than mild intellectual or developmental disabilities. We acknowledge that finding appropriate services for these particular youths is a challenge. However, we wish to use this forum as an opportunity to express our concern with respect to these gaps and our hope that the State will adequately fund DPBHS to find appropriate solutions that maintain these youths in the Delaware area.

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[2]See: http://datacenter.kidscount.org/data/tables/6031-children-who-have-one-or-more-emotional-behavioral-or-developmental-conditions?loc=9&loct=2#detailed/2/9/false/1021,18/any/12694,12695

[3]Delaware Combined Behavioral Health Assessment and Plan, 2014-2015, page 49.

[4]State statistics demonstrated the effectiveness of community based mental health programming: 66% of children and teens who use intensive-outpatient services do not need higher levels of interventions such as day or inpatient hospitalizations. See "When it is more than a bad mood," The News Journal (February 7, 2012). Further the costs of community based programs can be dramatically lower than institutionalization. See e.g., id.: day programs run approximately $200 a day versus inpatient hospitalizations at about $650 daily.

[5]Information presented orally at their November 10, 2014 meeting.