

# MEMORANDUM

---

To: Office of Management and Budget

From: Brian J. Hartman and Elizabeth G. Booth, on behalf of the following organizations:  
State Council for Persons with Disabilities  
Developmental Disabilities Council  
Governor's Advisory Council for Exceptional Citizens

Date: November 19, 2015

Re: Division of Substance Abuse and Mental Health ("DSAMH") FY 2017 Budget

Please consider this memorandum a summary of the oral presentation of Brian J. Hartman, Esq. on behalf of the State Council for Persons with Disabilities ("SCPD"), the Developmental Disabilities Council ("DDC"), and the Governor's Advisory Council for Exceptional Citizens ("GACEC").

This commentary focuses on two (2) budget components: 1) ongoing funding for community-based services extending beyond the term of the State's Settlement Agreement with the United States Department of Justice, and 2) proposed funding to establish a partial hospitalization program for adults with mental illness and substance use disorders.

## **1) Ongoing Funding for Community-Based Services**

The State has been required to establish a variety of community-based services by the State's Settlement Agreement with United States Department of Justice ("U.S. DOJ") approved in 2011.<sup>1</sup> While the term of the Settlement Agreement may be drawing to a close,<sup>2</sup> the impact of the Settlement Agreement has been a total transformation of the landscape of mental health services in Delaware.

In implementing the terms of the Settlement Agreement, DSAMH has created a system of comprehensive and intensive community-based services for individuals with serious and persistent mental illness ("SPMI") who are at highest risk of institutionalization. These services include sixteen Assertive Community Treatment ("ACT") teams, one Intensive Care Management ("ICM") team, the Community Reintegration Support Program ("CRISP"), targeted case management, supported housing, and crisis intervention and supported employment services.<sup>3</sup>

---

<sup>1</sup> U.S. DOJ Settlement Agreement, U.S. v. State of Delaware, Civil Action 11-591-LPS.

<sup>2</sup> The State must demonstrate compliance with all terms of the Settlement Agreement by July 1, 2016. The requirements of the agreement, including monitoring by the appointed Court Monitor, may be extended beyond July 2016 at the discretion of the U.S. Department of Justice. See U.S. DOJ Settlement Agreement, p. 25.

<sup>3</sup> See, e.g., Sixth Report of the Court Monitor on Progress Toward Compliance with the Agreement, U.S. v. State of Delaware, Civil Action 11-591-LPS (Dec. 29, 2014); Dept. of Health and Social Services (DHSS), Third Progress Report on the Implementation of the Settlement Agreement between the U.S. Dept. of Justice and the State of Delaware, July 2015.

It is imperative that the community-based services now in place remain fully funded. The Americans with Disabilities Act and the Supreme Court's landmark decision in *Olmstead v. L.C.* prohibit unnecessarily institutionalization of people with disabilities, including those with SPMI, and require that qualifying individuals be served in the community, as opposed to an institutional setting.

The community-based services created under the Settlement Agreement have enabled more individuals with SPMI to be discharged from inpatient care, live in their communities, and pursue employment with the supports they need to live more independently.

Additionally, these community-based services are more cost-effective than institutionalization. For example, the estimated total annual cost of ACT services is \$23,500 per person (which includes the cost of housing in the form of a State Rental Assistance Program voucher), versus \$292,000 per person for a year of inpatient hospitalization at Delaware Psychiatric Center (DPC).<sup>4</sup> The census at DPC has continued to decrease since the implementation of the Settlement Agreement<sup>5</sup> and the U.S. DOJ's appointed Court Monitor has noted in his reports that clients being served with ACT, ICM, and CRISP services have lower frequency of involuntary hospitalizations, "even though these programs serve individuals with significant disabilities, generally with long histories of recurrent hospital admissions."<sup>6</sup>

We urge the State to prioritize fiscal support for the comprehensive and robust community-based mental health services prompted by the U.S. DOJ Settlement Agreement. Apart from ensuring ADA and *Olmstead* compliance, such services save money in the long-term and enable many of our residents to receive the treatment and support they need to succeed in integrated settings.

## 2) Partial Hospitalization Program

DSAMH has proposed to establish a partial hospitalization program for both addiction and mental health services in FY17. The requested funding for this program would provide resources for up to ten individuals to receive day treatment. The program would operate for six hours per day, five days per week, and would provide both substance abuse and mental health treatment.

This program would bridge a gap between inpatient hospitalization and existing community-based services, providing an opportunity for individuals with higher level treatment needs to "step down" from inpatient residential treatment setting, or manage an acute episode without being re-admitted to an inpatient residential treatment setting. Clients served by this program could receive more intensive treatment without separation from their homes and communities.

---

<sup>4</sup> Corrected Fourth Report of the Court Monitor, U.S. v. State of Delaware, Civil Action 11-591-LPS (Sept. 24, 2013) at 7.

<sup>5</sup> Sixth Report of the Court Monitor at 6-7.

<sup>6</sup> Corrected Fourth Report of the Court Monitor at 22. *See also* Sixth Report of the Court Monitor at 6 (noting that "hospital admissions among clients of ACT occur relatively infrequently").

The addition of this program would deter unnecessarily institutionalization and enable smoother transitions for individuals needing moderately intense behavioral health services. Given these salutary features, this proposed initiative merits favorable consideration for funding.

Thank you for the opportunity to share perspective on the DSAMH budget.

E:leg/mhbudombfy17  
F:pub/bjh/leg/mhbudombfy17