



## HUMAN SERVICES COMMITTEE

Wednesday, June 3, 2020

Representative Karen M. Rohr, Chairman, called the meeting to order at 9:30 a.m.

**Members present:** Representatives Karen M. Rohr, Jeff A. Hoverson, Lisa Meier, Matthew Ruby, Mary Schneider, Kathy Skroch; Senators JoNell A. Bakke, Dick Dever, Kathy Hogan, Judy Lee, Tim Mathern, Jessica Unruh

**Members absent:** Representatives Dwight Kiefert, Bill Tveit, and Greg Westlind

**Others present:** See [Appendix A](#)

**It was moved by Senator Dever, seconded by Senator Mathern, and carried on a voice vote that the minutes of the March 12, 2020, meeting be approved as distributed.**

### OTHER COMMITTEE DUTIES

#### Acute Psychiatric and Residential Care Statewide Needs Plan

Dr. David Hughes, President, and Dr. Dow Wieman, Senior Research Associate, Human Services Research Institute, presented a report ([Appendix B](#)) on a study of the use of the State Hospital and other facilities to provide acute psychiatric and residential care in the state. Dr. Hughes said the study focused on the size and use of the State Hospital, the need for psychiatric facilities outside the city of Jamestown, the ability for private providers to offer additional psychiatric services, the effect of the Department of Human Services (DHS) efforts to increase crisis and other behavioral health services at regional human service centers, and the potential use of available Medicaid waivers and state plan amendments.

Dr. Hughes presented the following recommendations that resulted from the study:

Study Area	Key Recommendations
Size and use of the State Hospital	<ol style="list-style-type: none"> <li>1. A new 75- to 85-bed facility should be constructed.</li> <li>2. Demand for the rehabilitation function of the State Hospital may be alleviated by expanding the availability of partial hospital programs.</li> <li>3. Problems with access to behavioral health services reported by critical access hospitals should be investigated.</li> </ol>
Need for state-operated or private acute facilities outside the city of Jamestown	<ol style="list-style-type: none"> <li>1. Explore options to establish a small number of beds to serve a combination of adults and youth in the northwestern part of the state. Review options to contract with an existing inpatient facility for the beds.</li> </ol>
Expansion of private providers offering of acute psychiatric and residential care needs	<ol style="list-style-type: none"> <li>1. Expansion efforts should focus on increased capacity for outpatient treatment that reduces the demand for inpatient treatment.</li> <li>2. Expansion of services should be accompanied by the goal of increased efficiency.</li> <li>3. Federally qualified health clinics and critical access hospitals may provide increased access in less populated areas.</li> <li>4. Assessment of geographic distribution is needed along with expansion.</li> </ol>
Effect of DHS efforts to expand crisis and other behavioral health services at regional human service centers	<ol style="list-style-type: none"> <li>1. Offering additional and enhanced behavioral health services should be accompanied by thorough data collection and monitoring to assess the impact on emergency department and hospital diversion.</li> <li>2. Consideration should be given to contracting for residential beds until the effects of service changes are known.</li> </ol>

	<ol style="list-style-type: none"> <li>3. Care criteria should be reviewed and utilization management processes enhanced to ensure appropriate level of care assignment.</li> <li>4. Community stability should be monitored when transferring individuals from residential programs to less intensive settings.</li> <li>5. Permanent housing supports should be maximized.</li> <li>6. Service utilization should be monitored across the entire behavioral health system.</li> <li>7. A comprehensive and integrated crisis response system could monitor individuals through care transitions and more efficiently identify available capacity.</li> </ol>
<p>Potential use of Medicaid waivers and plan amendments</p>	<ol style="list-style-type: none"> <li>1. A Medicaid Institution for Mental Disease waiver should not be sought by the state which may increase inpatient capacity and is counter to the report recommendations of increased community-based services.</li> </ol>

In response to a question from Senator Hogan, Dr. Hughes said rural health clinics, federally qualified health centers, and local public health units are potential options for providing medication-assisted treatment.

Senator Hogan said local public health units already may be receiving Medicaid payments for services provided and may have the infrastructure in place to provide additional behavioral health services.

In response to a question from Senator Mathern regarding the recommendation to construct a new state hospital, Dr. Hughes said many health systems are moving to integrate all health services, including psychiatric care services. However, he said, it is difficult to get buy-in from private hospitals to admit patients with higher acuity service needs. He said there may be unintended consequences if large reductions in psychiatric beds are made before community services are made available.

Senator Lee said many critical access hospitals may not have the staff and resources to provide psychiatric services.

Dr. Wieman said the volatility of the private psychiatric service market needs to be considered. He said private hospitals may choose to discontinue psychiatric care and other services when it is not profitable.

In response to a question from Representative Schneider, Dr. Hughes said telehealth will be a major component in the delivery of mental health services in rural areas of the state.

Dr. Wieman said telehealth can be used in emergency departments to determine if an individual needs to receive care at the State Hospital. He said telehealth services may reduce the number of unnecessary referrals to the State Hospital.

In response to a question from Senator Hogan, Dr. Wieman said the report emphasizes efficiency in the placement of individuals in residential care beds. He said developing a system to identify and hold residential care beds can reduce the time and distance traveled to receive residential treatment.

In response to a question from Senator Mathern, Dr. Hughes said the expansion of crisis services may mitigate the need for placement of an individual in a residential facility.

Senator Mathern suggested the construction of four state-operated psychiatric facilities around the state instead of one central facility.

Dr. Hughes said the study reviewed the option of operating multiple facilities in the state but it was determined it is more cost-effective to operate one central facility.

Dr. Wieman said there would be several benefits to operate multiple facilities. However, he said, it may be more appropriate to focus on reducing the demand for services at a central facility rather than operating multiple facilities.

Dr. Rosalie Etherington, Superintendent, State Hospital, presented information ([Appendix C](#)) regarding the study of the statewide acute psychiatric and residential care needs. She said DHS contracted with the Human Services Research Institute to conduct the study and to analyze the condition of State Hospital facilities and options to construct a new state hospital facility. She said DHS is working to address the behavioral health needs identified in the report. She said DHS is currently expanding crisis and behavioral health services and continuous crisis services will be available across the state. She said DHS also formed a psychiatric residential treatment facility workgroup to review admissions criteria at the treatment facilities.

Dr. Etherington said the State Hospital facility analysis determined patient care buildings are not equipped for modern psychiatric hospital care. She said 82 percent of mechanical, electrical, and plumbing systems at the hospital are past life expectancy. She said the large size of the campus is not cost-efficient.

In response to a question from Senator Hogan, Dr. Etherington said the psychiatric residential treatment facility workgroup is reviewing the admissions criteria at treatment facilities. She said the workgroup is focusing on the length of stay for individuals and the refusal of admission to individuals who may be better served at a treatment facility rather than in an acute psychiatric hospital.

In response to a question from Representative Schneider, Mr. Christopher D. Jones, Executive Director, Department of Human Services, said the acuity level of individuals served at the State Hospital results in a higher cost to provide inpatient psychiatric services compared to a private hospital. He said the State Hospital is required to provide specific services even if the number of individuals served is low.

In response to a question from Senator Mathern, Dr. Etherington said a new state hospital facility would be constructed away from the current facility. She said the cost of land would be considered as part of reviewing potential site locations.

In response to a question from Senator Dever, Dr. Etherington said some infrastructure repairs have been made at the State Hospital such as the replacement of a boiler. However, she said, there is another boiler to replace and most other infrastructure is beyond its life expectancy.

Senator Dever said reducing the number of beds available at the State Hospital may be an option to encourage the development of community-based services.

Dr. Etherington said the State Hospital has been reducing the number of beds available at the hospital by identifying programs that would better serve individuals through community-based treatment.

In response to a question from Senator Hogan, Dr. Etherington said DHS is developing a plan for the replacement of the State Hospital and the plan will be completed by fall 2020.

In response to a question from Senator Mathern, Dr. Etherington said the function of psychiatric care cannot be provided by the Department of Corrections and Rehabilitation. She said programs providing treatment to individuals, such as the sex offender unit, must be under the direction of DHS.

### **Coronavirus (COVID-19) Update**

Mr. Jones presented an update ([Appendix D](#)) on DHS actions in response to Coronavirus (COVID-19). He said the department has been providing guidance to providers and individuals in response to COVID-19. He said the department has had to develop programs and enhance services in response to how the economic downturn has affected individuals.

Mr. Jones said DHS developed the vulnerable population protection plan to protect individuals in congregate care settings. He said the department created a long-term care and hospital leadership team to develop guidelines and protocols to respond to COVID-19.

In response to a question from Senator Mathern, Mr. Jones said the state and private providers are working together to improve services to individuals affected by COVID-19.

In response to a question from Senator Hogan, Mr. Jones said occupancy rates have decreased in some long-term care facilities. He said some families decided to provide care at home for family members. He said it is too early to determine the financial impact to long-term care facilities but some facilities have received federal assistance to address financial concerns.

In response to a question from Senator Hogan, Mr. Jones said supplemental federal funding also has been identified for other providers such as homeless shelters. He said the COVID-19 pandemic has resulted in the identification of gaps in services provided and DHS plans to review and develop a plan to address the gaps prior to the 2021 legislative session.

In response to a question from Senator Hogan, Mr. Jones said workers' compensation coverage was extended to front-line health care workers and first responders exposed to COVID-19. However, he said, there is concern that some individuals in health care positions may not be covered.

In response to a question from Representative Schneider, Mr. Jones said long-term care facilities were the main focus of the vulnerable patient protection plan. However, he said, other congregate care settings, such as developmental disability providers, were included in the plan.

Ms. Jessica Thomasson, Director of Community Inclusion, Department of Human Services, presented information ([Appendix E](#)) on the child care emergency operations grant program and emergency rent bridge program. She said the child care emergency operations grant program was designed to support continuity of child care services. She said 771 child care programs, which represents 71 percent of all child care providers in the state, are participating in the program.

In response to a question from Senator Hogan, Ms. Thomasson said the child care grant program recently was extended to continue through July 3, 2020. She said DHS is reviewing options to extend the program further if needed.

In response to a question from Chairman Rohr, Ms. Thomasson said DHS is using funding from the federal Coronavirus Relief Fund for the program, and the department is requesting additional funding from the Coronavirus Relief Fund for the program extension.

Ms. Thomasson said the emergency rent bridge program is available for up to 3 months to qualified individuals. She said a renter is eligible for assistance if the renter's income is 60 percent or less than the average area median income. She said renters are required to pay 30 percent of their income toward rent. She said 1,040 applicants in 22 counties are prequalified for the program.

In response to a question from Chairman Rohr, Ms. Thomasson said the Office of Management and Budget supply registry is being utilized to verify bank account and other housing provider information for the rent assistance program.

In response to a question from Representative Schneider regarding difficulty in applying for the program, Ms. Thomasson said DHS is using federal Housing and Urban Development guidelines for application requirements for the rent assistance program. She said individuals may verify their income, asset, and rent costs in a number of ways, including by taking a picture of documents with their phone. She said the department is trying to be as flexible as possible while making the necessary verifications.

In response to a question from Representative Hoverson, Ms. Thomasson said area median income is determined by county of residence and household size.

In response to a question from Senator Hogan, Ms. Thomasson said approximately 60 renters have been approved for the program, over 500 renters have been contacted to provide additional documentation, and 40 housing providers have been approved. She said the rent assistance can be applied retroactive to April 1, 2020, if the renter's income was affected in April. She said individuals are asked to recertify their income each month.

Ms. Sara Stolt, Chief Operating Officer, Department of Human Services, presented information ([Appendix F](#)) regarding homeless housing, domestic violence, and food insecurity issues due to COVID-19. She said there are approximately 600 to 650 beds available for homeless individuals and 150 to 175 beds available for victims of domestic violence. She said the state contracted with eight hotels across the state to shelter homeless individuals and victims of domestic violence. She said 162 individuals have been sheltered at a hotel, including 41 with COVID-19.

In response to a question from Senator Hogan, Ms. Stolt said individuals leaving the correctional system have utilized the shelter program including those awaiting a COVID-19 test.

In response to a question from Senator Lee, Ms. Stolt said representatives of veterans homeless programs were involved in the development of the shelter program. However, she said, there may need to be better communication with veterans organizations to coordinate services provided to homeless veterans.

In response to a question from Senator Bakke, Ms. Stolt said there has been a recent increase in the number of individuals calling advocacy groups for support for domestic violence situations. However, she said, due to COVID-19, there has been a decrease in the number of individuals seeking services at a domestic violence shelter.

In response to a question from Senator Mathern, Ms. Stolt said the cost of sheltering an individual at a hotel varies by city. She said the rates negotiated with hotels are below the state rate for lodging.

Ms. Pamela Sagness, Director, Behavioral Health Division, Department of Human Services, presented information ([Appendix G](#)) regarding behavioral health issues related to COVID-19. She said the state received a \$2 million federal grant to address mental health and substance abuse issues during the COVID-19 pandemic. She said federal funding also has been received to provide assistance to individuals through the crisis counseling program and immediate assistance program.

In response to a question from Senator Mathern, Ms. Sagness said information is not yet available regarding changes in the suicide rate during the COVID-19 pandemic.

In response to a question from Senator Hogan, Ms. Sagness said part of the federal grant funding received is to support the mental health of health care practitioners. She said the definition of a health care practitioner is broad to encompass as many individuals as possible.

Dr. Etherington presented information ([Appendix H](#)) regarding the DHS Field Services Division response to COVID-19. She said a core set of staff has remained at human service centers to assist individuals, but the use of telehealth was expanded from 71 to over 350 providers. She said telehealth services previously were used to connect individuals at a human service center to a provider. However, she said, most individuals now receive telehealth services remotely at their home or other location.

Ms. Caprice Knapp, Medical Services Director, Department of Human Services, presented information ([Appendix I](#)) regarding the effect of COVID-19 on medical services. She said the state has applied for a federal Medicaid 1135 waiver to allow additional flexibility in offering services during an emergency. She said the federal Coronavirus Aid, Relief, and Economic Security (CARES) Act also temporarily increased the state's federal medical assistance percentage by 6.2 percent to 56.25 percent.

In response to a question from Senator Hogan, Ms. Knapp said DHS is analyzing claim data to determine the effect of COVID-19 on Medicaid utilization rates.

**Tribal Health Care Coordination Fund**

Ms. Knapp provided a report ([Appendix J](#)) on the status of the tribal health care coordination fund. She said a federal change was made in February 2016 to allow state and tribal governments to enter health care coordination agreements to provide 100 percent federal funding for eligible medical assistance provided to an American Indian. She said House Bill No. 1194 (2019) provided any funding received in excess of the state's regular share of federal medical assistance funding due to a care coordination agreement is to be deposited 60 percent in the tribal health care coordination fund and 40 percent in the general fund. She said DHS has signed agreements with two tribes but the agreements are inactive.

Mr. Brad Hawk, Indian Health Systems Administrator, Indian Affairs Commission, provided comments ([Appendix K](#)) regarding the tribal health care coordination fund. He said tribal governments have expressed concern the percentage of funding deposited in the tribal health care coordination fund is too low. He said there also are concerns increased staffing would be needed at tribal health care facilities to administer the agreements. He said another concern is funding distributed from the tribal health care coordination fund is not allowed to be used for construction purposes.

In response to a question from Senator Mathern, Mr. Hawk said there are no active health care coordination agreements and no funding is being deposited in the tribal health care coordination fund.

Ms. Knapp said without active agreements, federal funding will not be received in excess of the state's regular share of the federal medical assistance.

In response to a question from Senator Mathern, Mr. Hawk said legislative changes are needed to address tribal government concerns with the health care coordination agreements.

**Medicaid Expansion Provider Rates**

Ms. Knapp provided a report ([Appendix L](#)) on Medicaid Expansion provider rates. She presented the following schedule comparing Medicaid Expansion rates to traditional Medicaid rates for calendar years 2017 and 2018:

<b>Medicaid Expansion Provider Rates as Percentage of Traditional Medicaid Rates</b>		
<b>Service</b>	<b>2017</b>	<b>2018</b>
Inpatient	158.7%	165.8%
Outpatient	209.8%	208.0%
Professional	168.2%	168.2%
Overall	175.0%	177.8%

### **Medical Marijuana Program Update**

Mr. Jason Wahl, Director, Medical Marijuana Division, State Department of Health, presented an update ([Appendix M](#)) on the medical marijuana program. He said the first medical marijuana dispensary opened in March 2019 and a total of eight dispensaries currently are operating. He said the Fargo dispensary closed in April 2020, but reopened in May 2020 under new ownership. He said as of June 1, 2020, there are 2,988 individuals registered under the medical marijuana program.

In response to a question from Senator Hogan, Mr. Wahl said medical marijuana sales have continued to increase each month. He said confidentiality requirements do not allow him to provide data such as the number of program registrants that purchase medical marijuana.

## **STUDY OF THE IMPLEMENTATION OF THE HUMAN SERVICES RESEARCH INSTITUTE'S REPORT ON BEHAVIORAL HEALTH Behavioral Health Update**

Ms. Sagness presented an update ([Appendix N](#)) on behavioral health issues. She said DHS has submitted an application for a federal Medicaid 1915(i) state plan amendment. She said the amendment proposes to provide home- and community-based services to individuals who have a mental illness, a brain injury, or a substance use disorder. She said some services included in the amendment are care coordination, community transitional services, and training for caregivers.

Ms. Sagness said the 2019 Legislative Assembly authorized DHS to draft administrative rules for the certification of peer support specialists. She said the rules have been drafted and the department has received public comments regarding the rules. She said the rules are scheduled to be reviewed by the Administrative Rules Committee.

In response to a question from Senator Hogan, Ms. Sagness said changes have been made to the free through recovery program due to COVID-19. She said more services are being provided through telehealth rather than in person. She said it is important to provide support to peer support specialists and care coordinators during the pandemic.

In response to a question from Senator Mathern, Ms. Sagness said DHS is monitoring the free through recovery program to determine if program funding will be sufficient to maintain current service levels. She said individuals entering the free through recovery program are screened to determine if the individual may be served through an alternative community-based program.

In response to a question from Senator Dever, Ms. Sagness said DHS is monitoring the effectiveness of different methods of providing services to individuals. She said the department is reviewing quality measures to ensure appropriate services are being provided.

In response to a question from Chairman Rohr, Ms. Sagness said she will provide the committee with information regarding the quality metrics being used for the free through recovery program.

### **Expansion of Crisis Services**

Dr. Etherington presented an update ([Appendix O](#)) regarding the expansion of crisis services in the state. She said the expansion will increase services from limited region-specific crisis response to statewide continuous telephone and in-person crisis response. She said the expansion will provide for 95 flexible stabilization beds for crisis intervention, suicide observation, and withdrawal management. She said the expansion is anticipated to be completed in September 2020.

In response to a question from Senator Hogan, Dr. Etherington said DHS has a suicide screening tool built into its initial patient assessment and also uses a secondary screening tool if needed.

In response to a question from Chairman Rohr, Dr. Etherington said each region in the state will have a pool of clinicians available to provide crisis services and a statewide on-call system will be available to provide assistance and supervision to in-person responders.

### **Services to Veterans in the Court System**

Mr. Lonnie Wangen, Commissioner, Department of Veterans' Affairs, presented information ([Appendix P](#)) regarding services available to veterans in the court system. He said a virtual veterans court was established to identify veterans in the court system and connect them with services. He said a Veterans Affairs justice outreach coordinator will work with prosecutors and judges as a veteran proceeds through the court process. He said some

approaches to assist the veteran include allowing the veteran to receive treatment while waiting for a court date or having a veteran's criminal charges removed after pleading guilty and receiving treatment.

In response to a question from Senator Lee, Mr. Wangen said the services provided to veterans in the court system are designed to identify if military service has contributed to the veteran's involvement in the justice system. He said conditions caused by military service, such as posttraumatic stress disorder, may be a factor in the veteran's actions.

In response to a question from Senator Lee, Ms. Sagness said all individuals, including veterans, would have access to services provided through a federal Medicaid 1915(i) state plan amendment.

In response to a question from Senator Bakke, Mr. Wangen said he would provide information regarding the status of a Veterans Affairs counselor position in Grand Forks.

### **OTHER BUSINESS**

Senator Mathern suggested the committee receive information regarding hospitals in the state which provide behavioral health services and the level of services provided.

No further business appearing, Chairman Rohr adjourned the meeting at 2:00 p.m.

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Brady A. Larson  
Assistant Legislative Budget Analyst and Auditor

ATTACH:16