

LETTER FROM LANSING

~a monthly public policy newsletter from the Mental Health Association in Michigan (MHAM)~

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Section 298 Implementation Needs to Be Delayed, Says MDHHS

Since our last issue, the Michigan Department of Health & Human Services has announced that its latest target for Section 298 pilot implementation (October of this year) cannot be met and will have to be pushed back a year (to October 2019). It is unknown at this time how the legislators most behind the 298 initiative will react to that, and whether they'll try to do something toward a shorter target date.

We also await the outcome of Senate-House Conference Committee on whether the Senate's new and troubling 298 language (see last issue) will be in the final MDHHS FY-19 budget bill in current or revised form. The mental health community has made known to key legislators that the Senate's language is unnecessary and unhelpful. Final Conference Committee action is expected in June. Senate conferees will be Hildenbrand, MacGregor, and Gregory. The House has not yet announced its official conferees.

Medicaid Work Requirement Update

According to at least one media report, the Speaker of the House has said his chamber will not take up SB 897 (see last issue) while its sponsor (Mike Shirkey) and Governor Snyder are negotiating on it.

According to Sen. Shirkey, progress is being made in the discussions with the Governor. The Senator says the bill's 29-hours-a-week work requirement is likely to be scaled back close to 20. He also says a highly controversial provision that drew national attention will be eliminated. Per that provision, persons in high-unemployment counties (over 8.5% unemployment) would have been exempted from work requirements. Many parties pointed out these counties are largely rural, with relatively small minority populations, while urban cities with high unemployment would not be exempted because their counties' overall unemployment level would not be high enough. Senator Shirkey says the Governor convinced him this would be too difficult and costly to monitor and administer.

As we've stated before, the only way this can be politically defeated is if the Governor and Sen. Shirkey can't come to agreement and there is a gubernatorial veto of an eventual legislative act. The Governor has not been commenting on this to the degree Sen. Shirkey has. We encourage all readers to let the Governor know what you think of this issue/situation.

Senate Hearing Held on Medicaid Access-to-Medications Bill

The Senate Health Policy Committee held a non-voting hearing May 1 on SB 823, introduced by Margaret O'Brien and co-sponsored by Curtis Hertel.

SB 823 takes existing state statute, budget bill boilerplate, and MDHHS policy on open medication access for certain vulnerable populations, and puts all that material in a single state law. The protected populations (since 2004) are those experiencing mental illness (including substance use disorder); epilepsy; HIV-AIDS; organ replacement therapy; and cancer. The

protection for cancer is only for Medicaid fee-for-service beneficiaries; for the other four populations, it's across all of Medicaid.

The vast majority of testimony was in support of the bill. In addition to our organization, supportive testimony was provided by the Epilepsy Foundation, NASW-Michigan, Protection & Advocacy, the Arc-Michigan, and individual providers. The only testimony against came from the Michigan Association of Health Plans and Blue Cross-Blue Shield. The anti-testimony was quite disingenuous and attempted to confuse and confound with deceitful claims. We don't think those attempts succeeded, and we are hopeful the Committee will revisit the bill after the upcoming legislative recess. In the meantime, please contact members of the Senate Health Policy Committee to let them know you support SB 823, and that people in the covered populations are at great risk if they are forced to go through step therapy and fail twice on other medications for two months or more before they might be able to get the drug initially prescribed by their doctor.

In addition to Senators O'Brien and Hertel, members of the Senate Health Policy Committee are:

Mike Shirkey (Chair)

Joe Hune

Jim Marleau

Rick Jones

David Knezek

Jim Stamas

David Robertson

Hoon-Yung Hopgood

New Round of Assisted Outpatient Treatment (AOT) Law Revisions thru House Committee

On May 16, the House Health Policy Committee reported HB 5810, another round of AOT ("Kevin's Law") revisions.

The state's first AOT laws were enacted in 2005. Then, revisions were enacted in 2017.

The newest proposed revisions would do the following:

*When there is an AOT-only petition request, or a court is otherwise considering AOT-only, the subject of the petition no longer has to meet special experiential criteria (hospitalizations, incarcerations, violent incidents) from the previous 4 years (Mental Health Code section 401{1}{d}).

*In one of the other civil commitment criteria (401{1}{c}), any type of potential harm to a subject or other party could be taken into account. (Presently, the potential harm must be "physical" or "mental" for the subject, or "physical" for someone else.)

*The Alternative Treatment Order (ATO) would be removed from law. Thus, the only combined hospital-community order would be initial hospitalization followed by "Kevin's Law."

*When AOT-only is on the table, two medical attestations regarding a subject's condition and the advisability of AOT are presently required. That would be cut down to one (from a psychiatrist, other physician, or doctoral psychologist).

*Implementation of AOT orders shall be supervised by psychiatrists, who shall have the sole authority to discharge someone from AOT prior to expiration of a court order.

We support these changes and hope AOT can continue to progress as another toolbox mechanism that the mental health system can have and will use when warranted.

The Health Policy Committee bill included a problematic amendment to the effect that any increase in costs for court-ordered care of any type must be covered entirely by state funds. (Left unsaid was whether there might be overall system savings, and what happens with those.) We don't see this bill going all the way with the amendment as it presently exists. Most likely, the House will soon adopt 5810 with the amendment intact, and then the State Court Administrative Office will work with legislators and other parties on revising the amendment.

It should be noted that one of the major drawbacks to AOT usage is that, when AOT-only is under consideration, the court cannot order police pick-up of a subject so that s/he can be clinically evaluated. (This can be done when hospitalization is under consideration.) We hope the Legislature will be willing to look at that issue by next year.

Save the Date

MHAM Tribute Dinner, honoring Tom Watkins, who has led state departments (including Mental Health) and most recently the Detroit-Wayne Community Mental Health Authority. June 21, Burton Manor, Livonia (27777 Schoolcraft Rd., Livonia 48150). Reception at 6:00, dinner at 7:00, program at 8:00.

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