

OptumHealthSM

NEW MEXICO

Michael K. Evans
Chief Executive Officer
8801 Horizon Blvd., NE, Suite 260
Albuquerque, New Mexico 87113
Telephone: 505-798-5662
Fax: 877-220-6206
michael.k.evans@optumhealth.com

July 11, 2012

Senator John Arthur Smith
Chairman of the New Mexico Legislative Finance Committee
325 Don Gaspar; Suite 101
Santa Fe, NM 87501
lfc@nmlegis.gov
john.smith@nmlegis.gov

RE: Optum Response to the June 14th Report to Legislative Finance on the NM Corrections department

Dear Mr. Chairman and members of the New Mexico Legislative Finance Committee (LFC):

I had the pleasure of joining you at the recent LFC committee meeting at the Lea County Correctional Facility in Hobbs. As OptumHealth New Mexico (OHNM) is invested in the success of the New Mexico Corrections Department's (NMCD) behavioral health programs, I was very interested in hearing the opportunities and challenges facing them. While at the hearing I discovered that critical, supplemental information had not made it into the committee member packets. The purpose of this letter is to ensure delivery of this additional information and to make myself available should further discussion be needed.

There were four points set forth in the Committee Report, *Reducing Recidivism, Cutting Costs and Improving Public Safety*, which OHNM would like to supplement: 1) NMCD Funding; 2) NMCD Reporting; 3) Quality Reviews of NMCD Programs; and 4) NMCD Service Provision.

1. NMCD Funding. The Committee Report (page 8) states the following:

One million dollars that should have been reverted to NMCD for FY10 and FY11 overpayments is still at OptumHealth

OptumHealth is collecting interest on FY10 NMCD overpayments that have yet to revert to NMCD

Overpayments to the single entity . . . have been occurring since FY06 and the recovery of these funds is a continuing issue.

Additionally, at the hearing NMCD Deputy Secretary Sanchez stated that Optum should be making allocation decisions “not the other way around.”

A critical piece of information neither the committee nor the Deputy Secretary had was formal correspondence sent to both the NMCD Director Cordova and the Behavioral Health Collaborative addressing these inaccuracies. I attached that letter for your review and summarize the salient points below. The Collaborative has endorsed our response as accurate.

First, as context, NMCD is a member of the Collaborative and therefore its behavioral health dollars are subject to the terms and conditions of the contract between the Collaborative and OHNM. This contract directs the Statewide Entity (OHNM) to propose at the end of each Fiscal Year a plan for applying under-expenditures of behavioral health dollars from some regions to over-expenditures elsewhere. Over-expenditures are inevitable in a system where the need for behavioral health services outstrips the dollars available. Per the contract, any funding agency has the opportunity to either accept or modify OHNM’s fiscal year-end proposal to re-allocate funds (underages to overages) or simply reject it and opt for full reversion of funds. The decision *and the dollars* belong to the agency, not OHNM. OHNM will only act as NMCD directs or advises. So while it is correct that OHNM is holding these dollars, their disposition and the timing of that disposition are wholly within NMCD’s discretion.

Second, while OHNM does earn interest on these dollars, by the contract, any accrued interest is held for the agency and **not** kept by OHNM. The agency is notified of the accrued interest on a monthly basis. The requisite language from the contract is set forth below:

Interest: The SE shall ensure that any interest earned on payments from the Collaborative to be used for direct services (the percent of funding, by funding source, that shall be used on direct services) shall also be used for direct services. The SE (Statewide Entity) shall not retain the interest earned from direct services payment for administrative expenses or profit.

Finally, to address Deputy Secretary Sanchez’s comments that OHNM should be making allocation decisions, not NMCD. That is not accurate! Again, the contract between the Collaborative and the SE is clear. NMCD is the designated party to make those decisions; OHNM’s role to execute those decisions by contracting with specified providers. This distinction is critical. The funding agency knows their goals, population and needs better than any contractor could. As such the funding agency is in the best position to make these critical decisions based on experience, policy and impact desired. While OHNM is certainly available to offer the funding agency perspective, its role in the allocation process is advisory only.

2. NMCD Reporting. Statements were made at the hearing that OHNM was not providing reports to NMCD regarding funding and program activities impacting their

consumers. While we recognize the spokesperson may not have access to these reports, NMCD does in fact receive multiple reports on a weekly, monthly, quarterly, semi-annual and annual basis. Referred to as "General Memorandum (GM) reports, OHNM is obligated to provide funding overview, progress and impact analysis for all NMCD funds per established timelines. Those reports have been delivered to both NMCD and the Behavioral Health Collaborative consistently since the SE contract began in July 2009.

3. Quality Reviews of NMCD Providers. In the report and at the hearing it has been stated that OHNM's "site visits [of NMCD providers] are limited in scope to financial analysis, fraud detection, contract compliance and procedural issues." This is not accurate. Of the providers receiving NMCD funds (page 55 of the report), multiple reviews have occurred which include all aspects of quality metrics, including care coordination and overall compliance. For example, in this fiscal year alone, Carlsbad Mental Health has received four comprehensive reviews well beyond the scope mentioned in the report. This level of scrutiny has been received by multiple providers mentioned in the report. It is important to note that as a member of the Collaborative, NMCD programs and funding are often reviewed in conjunction with asks from other agencies, i.e., Medicaid, BHSD, CYFD, and ALTC. In addition to regularly scheduled reviews, we also conduct reviews at the specific request of funding agencies or if OHNM's daily monitoring reveals an anomaly.

4. NMCD Service Delivery. Finally, in both the report and at the hearing it was mentioned that recruitment of NMCD providers of behavioral health services for this complex population is substantially lagging. OHNM recognizes this; however the lag is not due to a lack of recruitment effort. The NMCD consumer population presents many challenges. Many parolees are not eligible for Medicaid - a necessary funding supplement for viable behavioral health providers. Nor are there adequate underlying supports for parolees - housing, employment, life skills training, transportation - which would allow any overarching behavioral health treatment to be successful. As a result, recruitment, although continuous, is challenged by unique barriers. We would recommend a small task force of NMCD, OHNM, BHSD, our Core Service Agencies and consumers come together and brainstorm new avenues and ways to ease the barriers while ensuring access.

Mr. Chairman, thank you and the Committee for allowing me to clarify this issue and inaccurate statements made at the meeting. In the coming two weeks, OHNM will be meeting with both NMCD and the Collaborative to address each of these issues and to define further opportunity for a successful partnership. Should additional clarification be needed on these points, please do not hesitate to contact me.

Sincerely,



Michael K. Evans
Chief Executive Officer

Cc: Rep. Luciano "Lucky" Varela, Vice-Chairman, NM Legislative Finance Committee
Sent by email: lucky4st@msn.com
David Abbey, Director, NM Legislative Finance Committee
Sent by email: david.abbey@nmlegis.gov
Linda Roebuck-Homer, CEO, NM Behavioral Health Collaborative
Sent by email: Linda.Roebuck@state.nm.us
Diana McWilliams, Deputy CEO, NM Behavioral Health Collaborative
Sent by email: Diana.McWilliams@state.nm.us
Deputy Secretary Sanchez, NM Corrections Department
Sent by email: aurora.sanchez@state.nm.us
Jose Cordova, Director, Probation and Parole Division, NM Corrections Department
Sent by email: jose.cordova@state.nm.us
Elizabeth Martin, VP of Service Delivery, OptumHealth New Mexico
Sent by email: Elizabeth.a.martin@optum.com

ATTACHMENT A



Michael K. Evans
Chief Executive Officer
8801 Horizon Blvd., NE, Suite 260
Albuquerque, New Mexico 87113
Telephone: 505-798-5662
Fax: 877-220-6206
michael.k.evans@optumhealth.com

June 06, 2012

DELIVERED VIA EMAIL AND OVERNIGHT EXPRESS

Jose N. Cordova, Director of Probation and Parole
State of New Mexico Corrections Department
4337 State Road 14; Santa Fe, NM 87508
PO Box 27116; Santa Fe, NM 87502-0116

RE: OptumHealth New Mexico Allocation of NMCD FY10 Dollars

Dear Mr. Cordova:

Thank you for your letter of May 29th and the opportunity to provide clarity around your concerns and questions. OptumHealth New Mexico (OHNM) agrees that "as stewards of the public dollars and trust [OHNM and the New Mexico Corrections Department (NMCD)] have an obligation to ensure we are spending tax dollars as authorized under approved allocations." OHNM's proposal concerning the close-out of State Fiscal Year 2010 (SFY2010) seeks such approval from NMCD. The following provides you with the necessary context. It demonstrates the alignment between OHNM's proposal and strong fiscal management. It should also alleviate your stated concerns.

Under its contract with the Behavioral Health Collaborative (of which NMCD is a valued member), OHNM has a contractual obligation to manage all State General Funds to the *fund source* within a given fiscal year [See *Articles 6 and 15 of the Statewide Behavioral Health Service Contract and the incorporated response to the Request for Proposals (Sections 49-T, 04-A, 30-L, 16-F, 35-Q.)*]. Practically speaking, this means that once OHNM receives all dollars (and authorized allocation directives) from each Collaborative agency¹ (the fund source) at the beginning of each fiscal year, it is in turn obligated to ensure either the full expenditure or reversion of such funding by *the end* of the fiscal year. Between these two points, the beginning and end of a given fiscal year, other contractual activity must occur.

First, as you correctly note, NMCD, *not* OHNM, specifies each provider allocation within the overall NMCD fund. Once specified, OHNM then contractually obligates providers of NMCD services to manage their service delivery to the specified allocation; failure to do so places a provider at risk for subsequent recoupment should over-expenditures occur. Regardless, providers (and the system as a whole) continually struggle to balance those resources where, in an ever-changing and financially lean environment, consumer need can (and often does) outstrip allocated funds. Given the competing interests of both sound fiscal management *and* overwhelming consumer need, the statewide entity contract allows for a year-end reconciliation process, subject to full Collaborative approval, that strives to ease this tension. OHNM's contractual obligation to *manage to the fund source* is the contractual tool that allows the statewide entity to balance the competing concerns and facilitate a proposed reconciliation process.

By managing primarily to the overall fund source (the entire NMCD fiscal year allocation) as opposed to discrete provider allocation (managed exclusively by the providers), OHNM is able to match, at the end of any fiscal year, under-expenditures throughout the system against over-expenditures throughout the system. The result of this match is a proposal which, if accepted by the funding agency, allows OHNM to re-route unexpended dollars to

¹ In Fiscal Year 2010 [FY10] the annual allocation amount from NMCD was \$6,395,695

over-leveraged providers where documented need surpassed originally allocated funds. While each provider is still ultimately responsible for any over-expenditure it accrues, an end of fiscal year agency decision to re-route unexpended dollars in the overall system to over-burdened areas does accomplish three things:

- Dollars intended to meet overall consumer need are appropriately leveraged statewide to satisfy as much of that need as possible;
- Providers who have prioritized service provision at their own financial risk are aided in mitigating that risk; and
- Reversion of crucial dollars is avoided lessening the chance of future funding reductions for the agency due to under-utilization.

Nevertheless, benefits aside, the ultimate decision as to which course of action an agency should take with respect to its end of fiscal year dollars lies exclusively with the agency (in this case NMCD).

With this context, I expect that there is more understanding as to why OHNM's proposed reconciliation for the closeout of NMCD's SFY2010 is appropriate. Our proposal is grounded in both contractual obligations to manage all agency funding to the fund source as well as our commitment to leverage scarce dollars to meet maximum consumer need. It is also a proposal that wholly respects NMCD's authority to allocate funds in the manner in which it sees fit. In fact, since July 2009, OHNM has had weekly exchanges with either Mike Estrada, Community Corrections Administrator or Marianna Vigil, Acting Community Corrections Program Manager, requesting guidance or seeking authority on the utilization of NMCD funding as represented by the burn rate reports.

Given the above, two alternate plans of action exist for NMCD:

1. Accept OHNM's proposed reconciliation of SFY2010 allowing OHNM to re-direct under-expended NMCD funds to areas where additional dollars are needed to serve NMCD clients. This option would satisfy an over-abundance of documented, consumer need across the entire NMCD system with funds that would remain un-utilized otherwise. It would also still net a reversion of \$584,501.70 (which you refer to as a "refund") back to NMCD. *Please note: this has been the chosen course of action of your Collaborative peer agencies, specifically Children, Youth and Families and the Behavioral Health Service Division.*
2. Reject OHNM's proposal; do not authorize the re-routing of unexpended NMCD funds to cover additional, NMCD consumer need elsewhere. This decision would net a reversion of \$1,000,501.70 back to NMCD and would initiate the recoupment of dollars from over-expended providers who prioritized NMCD consumer need over existing funding. *Please note: As OHNM is not allowed profit on its management of State General Funds, your suggestion that these "over-expenditures" be satisfied in that regard is not possible. It is each NMCD provider's contractual obligation to manage need to their discrete allocations.*

As indicated above, the statewide close-out of any Fiscal Year is complex. All activity must balance need, limited funding and contractual deliverables.

Dr. Cordova, in light of offering this clarity and if your concerns remain, OHNM would propose a face-to-face meeting with your agency representatives and our Collaborative partners to resolve any remaining issues as soon as possible. OHNM is committed to ensuring that NMCD have all the information you need to make the most informed decision as quickly as possible. We look forward to the opportunity to meet with you, if desired.

Sincerely,



Michael K. Evans
Chief Executive Officer

CC: Linda Roebuck-Homer, CEO, NM Behavioral Health Collaborative
Diana McWilliams, Deputy CEO, NM Behavioral Health Collaborative
Joe W. Booker, NMCD Deputy Secretary of Operations
Aurora B. Sanchez, NMCD Deputy Secretary of Administration
Mike Estrada, Community Corrections Administrator
Jim Brewster, NMCD General Counsel
Elizabeth Martin, VP, Service Delivery, OHNM