MINUTES
of the
THIRD MEETING
of the
BEHAVIORAL HEALTH SERVICES SUBCOMMITTEE
of the
LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

October 18, 2012
North Gymnasium, Mesilla Valley Hospital
Las Cruces

The third and final meeting of the Behavioral Health Services Subcommittee of the Legislative Health and Human Services Committee was called to order by Senator Mary Kay Papen, vice chair, on October 18, 2012 at 8:45 a.m. in the north gymnasium of Mesilla Valley Hospital in Las Cruces.

Present
Sen. Mary Kay Papen, Vice Chair
Rep. Dennis J. Kintigh
Sen. Nancy Rodriguez

Absent
Rep. Ray Begaye, Chair

Advisory Members
Sen. Sue Wilson Beffort
Rep. Bill B. O'Neill
Sen. Gerald Ortiz y Pino
Rep. Mimi Stewart

Staff
Shawn Mathis, Staff Attorney, Legislative Council Service (LCS)
Kathleen Dexter, Researcher, LCS
Theresa Rogers, Intern, LCS

Guests
The guest list is included in the subcommittee meeting file.

Thursday, October 18

Welcome
Brian Hemmert, chief executive officer (CEO) of Mesilla Valley Hospital, welcomed the subcommittee and described the services available at the hospital, which serves about 2,000 clients of all ages each year with its acute psychiatric services, treatment foster care (TFC) program and residential treatment center. Shantel, a client at the hospital, read a poem about how treatment at the hospital has helped her move beyond her difficult early experiences.

On questioning, Mr. Hemmert and subcommittee members addressed the following concerns and topics.

TFC parent homicide. The Children, Youth and Families Department (CYFD) has concluded its investigation into an incident in which two girls who were released from Mesilla

Valley Hospital into a TFC home killed their foster mother. The police are still investigating the case. There was a post-action analysis.

Hospital facilities and clients. The hospital is a secure facility more akin to an Alzheimer's unit rather than a juvenile detention center. Two clients have escaped in the past 15 months. The hospital is required by law to accept patients with psychiatric problems regardless of their ability to pay and may then transfer them to the New Mexico Behavioral Health Institute (NMBHI) in Las Vegas. The hospital takes both Medicaid and Medicare clients, though there is no Medicaid reimbursement for clients ages 18 through 64. The hospital has 120 beds, 32 of which are in the residential treatment center. The hospital's daily census last year ranged from 44 to 96 clients. The majority of referrals to the hospital come from emergency rooms statewide. Two to three clients a week are transferred to the NMBHI. The decision to release an adolescent client into the community is made by the client's treatment team.

Detoxification and substance abuse. The hospital received 731 calls in July for its detoxification services; Medicaid patients are referred to state facilities for detoxification. The state could develop a Medicaid waiver to cover detoxification services. Sixty to 70 percent of the hospital's adolescent clients have a history of substance abuse, and prescription drug abuse is increasing, mostly among adults. The hospital does not use suboxone for withdrawal.

Hospital funding. The hospital receives payment via private insurance, Medicaid, Medicare and indigent funds, and it provides approximately $1 million per year in uncompensated care. Returning clients who have unpaid balances may still receive care, and the hospital will continue to seek payment.

Crisis triage center. Hospital staff have attended meetings for the regional crisis triage center but have concerns about its sustainability.

On invitation of the chair, Roque Garcia, CEO of Southwest Counseling Center, stated that the majority of foster care placements are successful; the cases that make the headlines are the cases that go wrong, such as the incident in which the TFC children killed their TFC mother.

- ★ On a motion by Representative Kintigh, seconded by Senator Rodriguez, the subcommittee unanimously voted to send a letter to the New Mexico congressional delegation asking it to revise the federal mandate that prohibits Medicaid reimbursement for psychiatric services for people ages 18 through 64.
- ★ Mr. Hemmert will provide information on:
  - (1) hospital policies regarding what triggers a client's release to TFC;
  - (2) whether the CYFD is involved in the decision to release;
  - (3) how the hospital responds when an incident occurs;
  - (4) how many Medicaid and Medicare clients have been served; and
  - (5) the hospital's 30-day readmission rate.

New Mexico State University (NMSU) Community Mental Health and Wellness Clinic

Esther Devall, Ph.D., NMSU Family and Consumer Sciences Department, and David C. Holcomb, Ph.D., NMSU assistant professor of family and child science, gave a presentation on

the community health and wellness clinic at NMSU. The clinic is jointly operated by the NMSU College of Agricultural, Consumer and Environmental Sciences (ACES) — whose graduate students train at the clinic in marriage and family therapy — and the College of Education — whose master's and doctoral students train at the clinic in counseling, school counseling and counseling psychology. The clinic will expand its training opportunities in the future to include students in social work and psychologists working toward their prescriptive licensure. The clinic serves both students and members of the southern New Mexico community, where mental health services are in such short supply that people often end up on six-month waiting lists.

On questioning, the presenters and subcommittee members addressed the following concerns and topics.

Substance abuse. Substance abuse, overeating, gambling addictions and video game addictions are all forms of self-medication. There can be a long-term impact on the developing brain of substance abuse, and, without early intervention, some of the impact can be irreversible. NMSU requires that freshmen take a class on alcohol abuse and violence. The university offers a program for licensed alcohol and drug abuse counseling, or LADAC, which does not require a college degree; an interdisciplinary degree in drug abuse counseling for master's and doctoral candidates who already have a license in another discipline; and family strengthening programs to help prevent or intervene early in adolescent substance abuse.

Criminal justice system. Referrals for behavioral health services are important for offenders, and programs need to be expanded to make more slots available. Assigning mandatory community service in combination with behavioral health services is an effective approach.

Clinics. The ACES and the College of Education each has its own clinic; there is also a new four-bedroom unit in the NMSU family housing area that will soon be too small to meet the need for residential services. Clients served at the housing unit are screened; no dangerous clients, such as sex offenders, are accepted at the facility. Graduate students working in the clinics are closely supervised, and only predoctoral interns are assigned to serious mental health cases. The program's "social justice" mission is to help people become productive, content members of the community.

School-Based Behavioral Health Panel

Frank Mirabal, vice president of the Educational Support Division of Youth Development, Incorporated (YDI), Mary Ramos, M.D., University of New Mexico (UNM) Department of Pediatrics, and Jack Siamu, senior associate director of the Prevention, Intervention and Treatment Division of YDI, gave a presentation on school-based health center (SBHC) behavioral health services. Approximately 20,000 New Mexico students annually receive behavioral health services through the state's 56 SBHCs, which have been successful because they address both behavioral health and educational issues and they are easily accessible to any student. YDI's Elev8 Program, a community school program implemented in several middle schools around the state, has noted nearly a 20 percent rise in requests for behavioral health services in the past two years at SBHCs in Elev8 schools. Operational funding for SBHCs was reduced for fiscal year (FY) 2013 to $2.61 million from a high of $3.53 million in FY 2009.

The presenters requested that an additional recurring $2.5 million be appropriated to the Office of School and Adolescent Health in the Department of Health (DOH) in FY 2014 for behavioral health services at SBHCs in schools that have been rated C, D or F. The additional funding would allow SBHCs to operate five days a week rather than two days, as they currently do.

On questioning, the presenters and subcommittee members addressed the following topics and concerns.

Grant Middle School. Grant Middle School in the Albuquerque Public School District is a full-service community school with funding from the New Mexico Community Foundation and other sources for before- and after-school programs coordinated by YDI. The school also participates in the UNM early warning data system of academic predictors for graduation, including absences, truancy and involvement with the juvenile justice system. If a student's record is flagged by the system, the school calls the family to recommend at-school resources.

After-school activities. After-school activities can help prevent youth crime, most of which is committed between 3:00 p.m. and 6:00 p.m.

School grading system. School superintendents are concerned that under the Public Education Department's school grading system, only one person has the information on how grades are assigned. The superintendents need information on criteria and how they are used.

SBHCs. Eight or nine SBHCs are located in Albuquerque, and the rest are spread around the state. Some visits to SBHCs are for puberty adjustments rather than mental health issues. Minors cannot be treated at an SBHC without parental consent; exceptions to this include abuse or neglect, for which treatment and reporting are required, and behavioral health and reproductive health services, both of which are confidential by law. A minor 14 years old or older may receive two weeks of verbal therapy, after which time parental consent is required. Unlike primary care clinics, SBHCs screen for behavioral health issues at every visit. Group settings for dealing with adolescent behavioral health issues have been successful when groups consist of students who are all the same age. SBHCs will issue requests for proposals for additional behavioral health services if the state appropriates an additional $2.5 million, and UNM could bid for those service contracts.

YDI. YDI provides programs statewide, though the majority of its programs are in Bernalillo, Valencia, Sandoval and Torrance counties.

Adolescent suicide. New Mexico's rate of adolescent suicide attempts has consistently stayed above the national average. Nearly half of the adolescents who attempt suicide require subsequent medical treatment.

Truancy. The Albuquerque Public School District has only four truancy liaisons to conduct home visits with families; the district needs 100.

★ On a motion by Senator Beffort, seconded by Senator Papen, the subcommittee voted unanimously to send a letter to the principal of Grant Middle School to ask what

before- and after-school programs exist for students.

★ Dr. Ramos will verify statistics provided by the Centers for Disease Control and Prevention regarding adolescent use of ecstasy and methamphetamine.

Connecting College Students to Behavioral Health Services

Phillip Bustos, vice president for student services at Central New Mexico Community College (CNM), and Ann Lyn Hall, executive director of CNM Connect, gave a presentation on behavioral health services available at and through CNM. The CNM health center had more than 6,300 visits during the 2011-2012 school year, and nearly one-fourth of those visits were for behavioral health issues. The school's current behavioral health initiatives include a behavioral health intervention team; a post-crisis response team; a restorative justice model; the Vet Success Program; mutual health training for faculty and staff; and webinars on classroom management. In addition, the CNM Connect Program works to help students with a variety of concerns, including behavioral health issues, that might lead a student to drop out.

On questioning, Mr. Bustos stated that of the 2,000 military veterans enrolled at CNM, 894 are enrolled in the Vet Success Program.

Behavioral Health for Children of Military Families

Kourtney Vaillancourt, Ph.D., assistant professor and clinical director of the NMSU Marriage and Family Therapy Program, Merranda Marin, Ph.D., NMSU Family and Child Science Department, and Shawn Ticho, U.S. Army child, youth and school services coordinator, gave a presentation on behavioral health services available for children of military families. Approximately two million children nationwide have had a parent deploy to either Afghanistan or Iraq, and many of these children display increased anxiety, anger, depression and changes in academic performance. Deployment can also have a negative effect on families, with increased parental stress and a greater incidence of child abuse. The NMSU Marriage and Family Therapy Program has created Operation Military Kids in partnership with Army Child and Youth Services and 4-H to provide services and programs for children of military families in southern New Mexico. One outreach effort is the Together Everyone Achieves More, or TEAM, Program, which targets issues related to parental deployment such as depression and risk-taking behaviors in middle and high school students at White Sands Missile Range. Future efforts include implementing an online parenting education course for military families and further research into identifying family distress associated with deployment; the effects of transitions back home on children; and differences and similarities among active duty, National Guard and military reserve families.

On questioning, Mr. Ticho stated that children of military families stationed at White Sands Missile Range travel to Fort Bliss, Texas, for behavioral health services.

Treatment Foster Care Panel

Beverly Nomberg, L.I.S.W., CEO of La Familia-Namaste, and Kate Banks, former TFC parent, gave a presentation on the origins and structure of TFC, which places children with serious behavioral health issues in foster homes with adults who are licensed to provide a certain level of treatment in the home. TFC was originally conceived as a long-term placement; however, in the late 1990s, it became a managed care program and now has a 24-month limit.

Under managed care, it has become more difficult to place a child in TFC, and many children whose behavior merits the highest level of TFC care are placed in the lower, less expensive level. Fair hearings are available through the Human Services Department (HSD) for guardians who question the level of care assigned to a TFC child or a denial of TFC altogether, but the hearings are an expensive process. With OptumHealth denying TFC applications at its current rate and pushing TFC children into lower levels of care, some TFC programs around the state can no longer afford to stay open.

On questioning, the presenters and subcommittee members addressed the following topics and concerns.

TFC costs. Level 1 TFC care costs $165 per day, and Level 2 costs $125 per day. The average annual cost per TFC child for FY 2010 through FY 2011 was $30,000. TFC agencies in southeastern New Mexico have closed due to the impact of the lower reimbursement rates for Level 1, and those children must now be placed outside their geographical region.

TFC levels, placements and emancipation. It is not customary to admit a child to TFC at Level 2 because this level implies a child is functioning well enough for discharge to adoption. TFC programs make recommendations as to a child's appropriate level of care, but it is the managed care organizations that make the final decision. If two children are to be placed in one home, they should be related. Forty-five percent of TFC children go on to adoptive homes, and 40 percent go back to their families of origin. Some teenagers prefer group homes to foster care. There are few programs available for children who emancipate from TFC; more Section 8 housing and independent living programs are needed.

TFC denials. More TFC applications are being denied than approved. 2012 data from southern New Mexico show eight TFC denials and two approvals. Some children who are denied TFC go into regular foster care, and some get services from tribal agencies.

Regular foster care. The CYFD creates a treatment plan for all foster children, but behavioral health services are not always available for them.

Medication. TFC children are more likely to be on medication than children in regular foster care. Alternative treatments such as acupuncture are being used with some children to reduce the use of medication.

On invitation of the chair, Elizabeth Martin, CEO of OptumHealth, stated that:

(1) the TFC girls who killed their TFC mother were not OptumHealth clients; and

(2) OptumHealth's TFC denial rate is three percent; denials are made either because there is no medical necessity or because the paperwork is incomplete, and those who are denied go into community-based programs.

On invitation of the chair, Diana McWilliams, acting CEO of the Interagency Behavioral Health Purchasing Collaborative (IBHPC) and acting director of the Behavioral Health Services Division of the HSD, stated that:

(1) a discharge plan is done on each child leaving TFC;

(2) transition services will be provided for each TFC child when OptumHealth's contract expires in December 2013 and Centennial Care begins in 2014; and

(3) the decision to place a child in either Level 1 or Level 2 care is made based on clinical need.

On invitation of the chair, George Davis, M.D., director of psychiatry for the CYFD, stated that TFC children tend to have a history of involvement with the juvenile justice system, residential treatment, group homes and protective services; and that TFC agencies are liable for any incidents involving TFC children.

- ★ Ms. McWilliams will:
  - (1) provide an analysis of where TFC children go when they leave TFC; and
  - (2) conduct research to determine in which managed care organization the two TFC girls were enrolled when they killed their TFC mother.
- ★ Dr. Davis will provide information on what incident precipitated the initial TFC placement for the two girls who killed their TFC mother.
- ★ Ms. Martin will provide outcome information on children who are denied TFC.

Behavioral Health Programs for Children and Adolescents: Child Welfare and Juvenile Justice

Julia M. Kennedy, Psy.D., juvenile justice facilities behavioral health director for the CYFD, and Dr. Davis gave a presentation on behavioral health programs for children and adolescents in child welfare and juvenile justice programs. Approximately 60 percent of incarcerated juveniles in New Mexico have a mental health diagnosis, and 95 percent report some kind of developmental trauma, ranging from abuse, neglect, bullying, being a witness to violence, including murder, or being removed from their homes. A common course for children in "the system" is first to be removed from the home and placed in protective custody, then to be referred for behavioral health treatment and finally to be involved with the juvenile justice system, thus engaging with all three of the state's services for children: social, behavioral health and juvenile justice. CYFD programs for this population include Cambiar, formerly the "Missouri Model"; Phoenix, a life skills program; Alcoholics Anonymous and Narcotics Anonymous; the Substance Abuse Community Reintegration Program; general educational development testing; one-on-one therapy; special education and vocational training; family involvement programs; the Child Trauma Academy; and transitional services up to age 21.

On questioning, the presenters and subcommittee members addressed the following topics and concerns.

Juvenile justice system and facilities. The assumption that children are in the juvenile justice system because the child protective system (CPS) "failed them" is an oversimplification; one-half of the children in the juvenile justice system were never referred to the CPS. There is often no continuity between referrals in the system, and providers should review a child's records thoroughly to understand that child's situation. It has been difficult to fill some positions at CYFD facilities because staff members have been assaulted; residents who commit such an assault cannot be transferred to a higher-level facility until after such an incident occurs. Desert

Hills is a managed care facility for girls who cannot be placed in a state facility and is not a secure facility. Gender-specific programming has worked well, and the CYFD has contracted with a psychologist to train staff on gender-specific issues. There has been an increase in girls in the juvenile justice facilities, partly because of a lack of community resources for them.

Children's Code. Though certain low-intensity interventions have been successful, some criminal justice professionals feel the Children's Code should include aggressive early intervention that is not possible under current law — for example, requiring certain mothers to participate in structured treatment programs as a condition of taking a baby home from the hospital after birth. Those professionals also feel the courts should use the arrest of a parent as an opportunity to intervene.

Schools. Health curricula in high schools should include more information on mental health. Bullying prevention programs are required in each school district but are not being implemented. Schools need to include instruction on how to raise children.

Diagnoses. A child's diagnosis is sometimes changed by a consensus diagnostics committee that reviews the child's files.

On invitation of the chair, Ms. McWilliams and Ms. Martin stated that:

(1) the HSD is overseeing the transfer of TFC clients from the Carlsbad TFC agency that has closed; and

(2) Partners in Wellness, which comprises Teambuilders, Carlsbad Mental Health, Presbyterian Medical Services and YDI, provides services for adults in Los Lunas.

Review of Behavioral Health Services for Adult Offenders

Jon R. Courtney, Ph.D., program evaluator at the Legislative Finance Committee (LFC), gave a presentation on adult corrections facilities and presented the subcommittee with an LFC report titled *Reducing Recidivism, Cutting Costs and Improving Public Safety in the Incarceration and Supervision of Adult Offenders*, which is included in the meeting file. The report recommends that the Corrections Department (CD) and the IBHPC move toward a system of evidence-based treatment programs and that the legislature consider legislation requiring that most funding go to such programs, with a four-year phase-in period. It also recommends that the CD, the IBHPC and OptumHealth work to expand the community-based provider network. Dr. Courtney also pointed out that the IBHPC should work to recover $1 million in overpayments to OptumHealth for non-Medicaid services in FY 2010 and FY 2011.

On invitation of the chair, Aurora Sanchez, deputy secretary of corrections, clarified that the $1 million in overpayments were, in part, a result of reporting and transition issues in 2010. The CD now has a full-time employee working to reconcile the account with OptumHealth.

★ Ms. McWilliams will provide projections for behavioral health spending in corrections facilities.

Southern New Mexico Crisis Intervention

Ron Gurley, executive director of the Forensic Intervention Consortium of Dona Ana County, gave a presentation on crisis intervention in southern New Mexico. According to guidelines set by the National Association of the Mentally Ill, New Mexico needs an additional 400 inpatient psychiatric beds to adequately meet demand. Because of this lack of beds, many people needing psychiatric services end up housed in jails around the state. The Centennial Care waiver will allow for five-year demonstration projects, and Mr. Gurley suggests that the state redirect most of the Medicaid dollars spent on the mentally ill to an internal block grant demonstration project to be administered by local entities such as the Dona Ana County Local Behavioral Health Collaborative. The funds could be used for jail diversion programs, temporary housing, mobile crisis intervention services, family training, coverage for the uninsured and increased pay for providers. Mr. Gurley also noted that amendments are necessary in Chapter 43 NMSA 1978 to allow for assisted outpatient treatment and a 72-hour assessment period.

On questioning, Mr. Gurley and subcommittee members noted that county commissions have the authority to increase the threshold for indigent claims; Assertive Community Treatment programs are an alternative to jail for the mentally ill; and a treatment guardian can file an order of enforcement to get the police to deliver a mentally ill person to doctor appointments.

On invitation of the chair, Ms. McWilliams reported that:

(1) New Mexico is ranked twenty-third in per capita spending on behavioral health at $93.51; and

(2) Centennial Care's provider penalties for avoidable payment delays are $10,000 per month if performance is 75 percent to 94 percent and $25,000 per month if performance is under 75 percent.

★ On a motion by Representative Kintigh, seconded by Senator Sanchez, the subcommittee unanimously voted to ask the IBHPC to meet with Mr. Gurley to address the needs he noted in his presentation.

Public Comment

Earl Nissen, chair of the Teen Pregnancy Prevention Work Group of Dona Ana County, spoke in support of proposed funding to the DOH for behavioral health services at SBHCs in schools rated C, D or F.

Pamela Field, psychiatric nurse, spoke of the fragmented array of services available for the mentally ill in Dona Ana County and the need for more beds and more safe housing. She noted that Camp Hope is available to the homeless but not others.

There being no further business, the subcommittee adjourned at 5:40 p.m.