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STATE OF VERMONT
AGENCY OF HUMAN SERVICES

MEMORANDUM

TO: Representative Lippert, Chair, House Committee on Health Care

Senator Ayer, Chair, Senate Committee on Health and Welfare

FROM: Al Gobeille, Secretary, Agency of Human Services

DATE: April 18, 2017

SUBJECT: Recommended Language for S.133, Section 12: Rates of Payments to Designated and Specialized Service Agencies.

The Senate has worked incredibly hard to improve and resolve the problems within Vermont's mental health system. The Agency of Human Services (AHS) is aligned with what it understands to be the intent of the language in S.133, but is struggling with the course set forth in Section 12 that aims to achieve that intent.

To be operationally feasible, AHS requests the following modifications to Section 12. Rates of Payments to Designated and Specialized Service Agencies, of S.133, An act relating to examining mental health care and care coordination:

(a) The Secretary of Human Services shall have sole responsibility for establishing the Departments of Mental Health, Health, and Disabilities, Aging and Independent Living rates of payments for designated and specialized service agencies and the Alcohol and Drug Abuse Program preferred providers that are reasonable and adequate ~~to meet the costs of achieving the required outcomes for designated populations~~. When establishing rates of payment for designated and specialized service agencies and preferred providers, the Secretary shall ~~adjust rates~~ consider factors that include:

> *(1) the reasonable cost of any governmental mandate that has been enacted, adopted, or imposed by any State or federal authority; and*
>
> *(2) a cost adjustment factor to reflect changes in reasonable cost of goods and services of designated and specialized service agencies, including those attributed to inflation and labor market dynamics.*

(b) When establishing rates of payment for designated and specialized service agencies and the Alcohol and Drug Abuse Program preferred providers, the Secretary may consider geographic differences in wages, benefits, housing, and real estate costs in each region of the State.

While the modified language above makes the directives technically possible, AHS does not believe the intent of bill will be achieved through such legislation, as it targets only a small part of a large system of mental health care that requires comprehensive payment reform.

The Agency of Human Services is committed to creating and participating in alternative payment models that promote value based payments, an integrated system of care across the care continuum, and alignment with the Vermont All Payer Accountable Care Organization Model. In order to be successful in these efforts, AHS needs the flexibility to establish rates based on demonstrated methodologies and the support of the legislature to appropriate funds to adequately finance the system.

Recommendation for the Exclusion of the Department of Vermont Health Access:

The amended language excludes the Department of Vermont Health Access (DVHA) from this section, which is necessary due to the nature of DVHA's reimbursement methodology for designated agencies (DAs) and specialized service agencies (SSAs). Unlike its sister departments, DVHA reimburses DAs and SSAs based on Medicare's resource based relative value system (RBRVS) payment methodology, which sets the rates for nearly all medical services covered by DVHA. The RBRVS fee schedule uses cost data to determine the level of resources needed for a particular service relative to all other services. It is maintained by the Centers for Medicare and Medicaid Services for use in the Medicare program and is updated annually to reflect new data and other policy changes.

Inclusion of DVHA in Section 12 of S.133 would necessitate *either*:

1. Increases to all RBRVS codes relative to the increases to codes billed by DAs and SSAs.
    a. This option would require an appropriation far greater than that currently being considered for S.133 in order to fund an increase for all RBRVS codes relative to those increases prescribed by this section for DAs and SSAs.

-or-

2. Removing all medical service codes billed by DAs or SSAs from the RBRVS fee schedule.
    a. This option is not advisable for the following reasons:
        i. DVHA is unable to pay DAs and SSAs rates different from that of any other Medicaid provider of the same service. Therefore, any increase in DVHA rates to DAs and SSAs would result in increases for private providers, driving up cost;
        ii. It would require procedures that deviate from standard operating procedures and are at high risk for errors in implementation or updates; and
        iii. It would set precedent for resolution of rate disputes to result in arbitrary rates not set based on recent cost and utilization data, or any other underlying payment methodology.

Recommendation for the Inclusion of the Department of Health's Alcohol and Drug Abuse Program Preferred Providers:

The Department of Health's Alcohol and Drug Abuse Program (ADAP) designates a Vermont-wide network of "preferred providers" of alcohol and drug abuse counseling services, for which it sets rates for Medicaid services. ADAP preferred providers are employed both within and outside of DAs and SSAs.

ADAP is unable to pay DAs and SSAs rates different from that of any other ADAP preferred provider of the same service. Therefore, any increase in ADAP rates to DAs and SSAs must be extended to ADAP's entire preferred provider network. An increase to the existing appropriation being considered for S.133 would be needed to fund an increase for all ADAP preferred providers.

Recommendation for the Exclusion of Cost-Based Requirement for Rate Setting:

The amended language removes the requirement to set rates based on the cost of achieving required outcomes for designated populations, while still obligating the Secretary to consider factors of cost when setting rates for DAs and SSAs. Directing rates be tied to cost would have the effect of paying each one of the 17 DAs and SSAs different rates for the same services. In order to operationalize cost-based payments across the DA/SSA system, the creation of an entirely new and highly sophisticated administrative process would be needed, and for which there are not currently adequate state staff resources to develop or maintain.

It is important to note that DAs and SSAs presently operate under a capped budget for Department of Mental Health, Alcohol and Drug Abuse Program, and Department of Disabilities, Aging, and Independent Living services, so any increase to rates without a concurrent and proportional increase in annual budgets would necessitate a reduction in services. In order to adjust rates annually *to, "reflect changes in reasonable cost of goods and services of designated and specialized service agencies, including those attributed to inflation and labor market dynamics,*" without a direct reduction in the level of services provided, an increased appropriation would be required. Additionally, increasing reimbursement to DAs and SSAs separate and apart from comprehensive system reform could be of significant financial impact to entities that contract with DAs and SSAs for services, such as local school districts and family services.