

HJR 35: CHILDREN'S MENTAL HEALTH CHILDREN'S SYSTEM OF CARE STATUTES

BACKGROUND

Montana policymakers have long sought ways to avoid placing children with significant mental health needs in out-of-state facilities, as evidenced by testimony provided during a 1993 legislative hearing on a bill that laid the groundwork for trying to serve children with significant mental health needs not only in state, but in their communities, if possible.

HB 632 would create a structure to reduce the over-reliance on out-of-state mental health providers for children and creates both a planning process to limit what we are doing now and a mechanism to encourage the development of in-state resources. It is something that all of the agencies spending money on children out of state would welcome and it could very well be the mechanism by which qualified providers in the state could begin receiving the funds and keep the kids closer to home.

*-- Department of Family Services Director Hank Hudson
House Appropriations Committee Hearing on HB 632, March 5, 1993*

The Children, Families, Health, and Human Services Interim Committee heard briefly about the system of care effort in November and asked for more information on the statutes that were developed in the early 2000s. This briefing paper examines the history of those statutes.

1993: SOWING THE SEEDS

In the 1990s, the state was preparing to put a managed care payment model in place for Medicaid-funded mental health services. In 1993, then-Rep. Brad Molnar of Billings brought House Bill 632 to address concerns about the high number of children in out-of-state mental health treatment. The bill envisioned using the managed care system to create more in-state resources for those children.

During testimony on the bill, Rep. Molnar said 128 children were being treated out of state at a cost of \$5.2 million a year. He said his bill would help develop the resources needed to treat those children closer to home, while at the same time bringing jobs back to Montana and adding to the tax base.

Among other things, the bill:

- established as legislative policy – which still exists in statute – the idea that the state should have a continuum of care for high-risk children to serve those children at home or in the least restrictive setting possible while using out-of-state providers "as a last resort;"
- created an advisory committee of state agency representatives to develop a plan for limiting placement of children out of state and developing policies to allow local providers, through a managed care system, to access funding to serve those children; and
- established criteria for allowing out-of-state placements while the new plan was developed and implemented. The placements were to occur only if: the provider was located closer to the child's home than an in-state provider; if equally appropriate and individualized in-state services were not available or could not be developed at the same cost; and if a local interagency staffing group approved the placement.

2001: CHANGING COURSE IN THE POST-MANAGED CARE YEARS

The state entered into a managed care contract for mental health services in 1997, but problems with the contract prompted the Legislature to cancel funding for it during the 1999 legislative session. The Department of Public Health and Human Services (DPHHS) subsequently contracted, in 2000, with a consultant to evaluate the state's mental health program and make recommendations for changes.

The consultant's final report, issued in January 2001, recommended that DPHHS take the lead in reactivating an interdepartmental working group that existed primarily to discuss ways to meet the needs of children served by multiple systems. Sen. Mignon Waterman brought that idea to the 2001 Legislature through Senate Bill 454, which called for state agencies and providers to spend the next two years:

- working on ways to pool funds to serve children;
- identifying – by community – the children who were served by multiple agencies, in order to determine the services needed to keep the children as close to home as possible; and
- working with the recently created Mental Health Oversight Advisory Council to review recommendations made by the consultant and design new mental health structures for children.

Sen. Waterman told the House Human Services Committee that the state should consider moving to a regional mental health system that would allow high-cost youth to be served in state.

2003: CONTINUING THE EFFORT

The two-year effort started by SB 454 in 2001 resulted in a DPHHS bill in 2003 to create an ongoing process for multi-agency planning and coordination of services to high-risk children. The bill established a permanent Children's System of Care Planning Committee that included providers and family members. The committee was charged with:

- promoting creation of an in-state array of services to help bring children back in state and prevent placement of additional children out of state; and
- identifying outcome indicators and measures to evaluate the effectiveness of the system of care.

The bill also repealed the 1993 statutes related to criteria for approving out-of-state placements.

BUILDING THE SYSTEM OF CARE

Following the 2003 legislation, DPHHS undertook a couple of federally funded or authorized efforts to serve children in the community and in lower levels of care. One effort involved a federal grant for what were known as Kids Management Authorities, or KMAs. The other involved a Medicaid state plan amendment that provided for care coordination and other services for children who would otherwise have been placed in a psychiatric residential treatment facility (PRTF). Both efforts started regionally.

KIDS MANAGEMENT AUTHORITIES

In October 2003, DPHHS and the Crow Nation jointly applied for and received a 6-year federal grant of nearly \$5.6 million, to be matched with \$4 million in state funds. The money was used to develop an integrated care delivery system for high-risk children with serious emotional disturbance, using community-based KMAs to develop and coordinate services. The effort was piloted in six communities, starting with Missoula, Billings, and the Crow Nation in 2005 and followed by Butte, Havre, and Helena in 2006.

Staff of each KMA was trained in ways to coordinate care and help families access services in their community. The KMAs also worked on developing a continuum of care in the community. They could use grant funds to pay for assessments, therapy, medications, wraparound services, transportation, and respite care.

State funding for the KMA effort ended in June 2010, and federal grant funding ended in September that year. The KMA effort ended when state and federal funds ran out.

PRTF WAIVER-LIKE PROGRAM

In 2007, Montana applied for and received a five-year PRTF Demonstration Grant for a waiver-like program that allowed the state to pay for some home and community-based services to children who were at risk of an out-of-home residential placement or who were already placed in a residential program. Covered services included clinical and therapeutic services, education and support services, family support services, home-based therapy, and wraparound facilitation.

The grant allowed services to be developed during the 5-year period in Yellowstone, Missoula, Lewis and Clark, and Cascade counties, as well as some nearby counties with smaller populations. The state then applied for and received a state plan amendment for its Medicaid program, allowing it to continue providing waiver-like services that included a new model for care coordination.

The state ended the effort in 2016 due in part to lack of provider participation in the new model.

2007-2009: TWEAKING THE SYSTEM OF CARE STATUTES

The system of care statutes are largely unchanged from the provisions of SB 94 in 2003. Only three significant revisions have occurred since then:

- The 2007 Legislature approved a bill to create a system of care special revenue account, where agencies or divisions could pool resources to reimburse in-state providers for services that allow children to be placed or remain in the least restrictive setting.
- The 2009 Legislature approved a bill:

- prohibiting out-of-state placement of high-needs children if a qualified in-state provider had offered an acceptable plan of care for the child; and
- requiring DPHHS to collect data and report on the number of children placed out state, including the reasons for their placement and the costs of their care.

FITS AND STARTS ALONG THE WAY

Efforts to develop and sustain the children's system of care have been affected by various factors over the decades, including significant changes in federal and state funding. Managed care started briefly and was halted abruptly. DPHHS in 2002 and 2003 faced revenue shortfalls that led to reductions affecting Medicaid services – a scenario that played out again in 2017 and 2018. And federal funds or waivers have come and gone, as evidenced by the KMA grants that dried up.

During a hearing on SB 94 in 2003, a lobbyist with 25 years of experience working with children's human services shared his thoughts on the trouble the state had had with better integrating children's services in Montana. His testimony might seem as applicable today as it was then:

"I believe it can be attributed to a difficulty in maintaining consistent movement toward well thought out visions. These visionary interruptions seem to be attributed primarily to periodic political adjustments that occur in government. A new governor, a new director, a shift in philosophy, and last, but not least, a shifting of budgetary priorities. It seems that we take three steps forward, then two steps backwards when continuity interruptions occur. Great programs, visions, and efforts have been initiated but not allowed to mature....Long term strategy is critical! Without it, we end up almost forcing children into the expensive, deep end of the mental health service continuum."

– Al Davis, Montana Mental Health Association
Senate Public Health, Safety, and Welfare Committee Hearing on SB 94, Jan. 15, 2003

Sources:

- Discussion with Zoe Barnard, former DPHHS Children's Mental Health Bureau Chief. Jan. 10, 2022.
- "Hearing on House Bill 632." Minutes of the House Appropriations Committee. March 5, 1993.
- "Hearing on SB 454." Minutes of the House Human Services Committee. March 26, 2001.
- "Improving Montana's Mental Health System – Final Report." *The Technical Assistance Collaborative, Inc.* Jan. 15, 2001.
- Out-of-State Placement and System of Care Legislation:
 - Chapter 324, L. 1993
 - Chapter 416, L. 2001
 - Chapter 118, L. 2003
 - Chapter 123, L. 2007
 - Chapter 430, L. 2009
- "System of Care Report to the Legislature." *Open Minds.* Aug. 17, 2010.
- Written testimony of Lou Thompson for Dan Anderson, Administrator, DPHHS Addictive and Mental Disorders Division. Exhibit 3, Hearing on SB 94. Minutes of the Senate Public Health, Welfare, and Safety Committee. Jan. 15, 2003.
- Written Testimony of Al Davis, lobbyist for the Montana Mental Health Association. Exhibit 6, Hearing on SB 94. Minutes of the Senate Public Health, Welfare, and Safety Committee. Jan. 15, 2003.
- Written Testimony of DPHHS Deputy Director John Chappuis. Exhibit 1, Hearing on SB 41. Minutes of the Senate Public Health, Welfare, and Safety Committee. Jan. 12, 2005.