

HJR 39 STUDY: RETROSPECTIVE OF THE MDC CLOSURE

BACKGROUND

In March, the Children, Families, Health, and Human Services Interim Committee asked that a bill be drafted to transition individuals with dementia from the Montana State Hospital into community settings and to end involuntary commitment of those individuals to the facility. The committee suggested that the bill be modeled closely on Senate Bill 411, the 2015 legislation that led to closure of the institution that served individuals who were seriously developmentally disabled.

This briefing paper provides a brief overview of SB 411 and the events that unfolded following passage of the bill.

WHAT DID SB 411 REQUIRE?

Before passage of SB 411, the Montana Developmental Center (MDC) in Boulder had served for more than 100 years as the state-operated facility for individuals with developmental disabilities. At the time SB 411 was passed, individuals were either:

- involuntarily committed to the facility by a court because they had a developmental disability and could not be safely habilitated through the voluntary use of community services due to behaviors that posed an imminent risk of harm to self or others; or
- placed at the facility because they had committed a crime and been sentenced to the custody of the Department of Public Health and Human Services (DPHHS) for placement at an appropriate facility.

SB 411 directed DPHHS to:

- develop and implement a plan to close MDC by June 30, 2017;
- transition most residents out of the facility by December 31, 2016; and
- work with community providers to develop services needed in the community.

The bill also created a 15-member Transition Planning Committee of legislators, administration officials, and stakeholders to help the executive branch plan for the changes that would be needed to close the facility. Four legislative members were appointed by legislative leadership, while the remaining members were appointed by the governor.

HOW DID THE CLOSURE PROCESS WORK?

As DPHHS worked to carry out the intent of SB 411, the agency faced challenges that included:

- finding providers who were willing and able to serve MDC clients, most of whom had behavioral health issues in addition to their developmental disabilities;
- placing people in communities or with providers that had the necessary range of services to meet the needs of the clients, including mental health services; and
- ensuring staff coverage 24 hours a day at a facility slated for closure, as some employees began leaving for other jobs.

DPHHS took several steps, as outlined below, to place MDC residents in community services. However, the agency was unable to meet SB 411's deadline of placing most residents in the community by December 31, 2016. The 2017 Legislature subsequently extended the closure date to June 30, 2019.

TRANSITIONING MDC RESIDENTS TO COMMUNITY SERVICES

A Medicaid waiver program pays for community services for individuals with developmental disabilities. Using an assessment process, DPHHS determines the needs for each waiver recipient and allocates an amount of money to be spent on the necessary services each year. Providers are notified when a person becomes eligible for services and can decide whether they have the ability to serve that person within the "cost plan" that has been developed.

Because MDC residents had more difficult behaviors and higher needs than most people receiving DD waiver services, DPHHS took a two-pronged approach to placing residents in the community:

- Payments to community providers exceeded the payments for the typical DD waiver participant. Cost plans during the first year of transition ranged from \$82,000 to \$392,000 per MDC client, compared to the average \$40,000 cost for other participants. The average cost plan for MDC clients was close to \$200,000.
- Providers who agreed to accept an MDC resident for a full year received incentive payments of \$60,000 per resident, to help offset the anticipated staffing and facility-related costs.

STAFFING MDC DURING THE TRANSITION

Knowing that closure of the facility was in the offing, many staff members began leaving MDC for other jobs. Hiring additional staff became more difficult.

In order to ensure that the facility had 24-hour staff coverage, DPHHS paid double overtime to employees who remained at the facility.

IDENTIFYING GAPS IN COMMUNITY SERVICES

Midway through the transition planning process, administration officials presented a plan for ensuring a continuum of services for people who would typically be served at MDC. The proposal, endorsed by the Transition Planning Committee, included the following elements:

- creating a new Medicaid waiver to provide more intensive services at a higher payment rate for people who had co-occurring mental health conditions and whose needs could not be met under the existing DD waiver;
- providing statewide crisis training for community providers and law enforcement;

- establishing up to four state-run group homes for more difficult clients; and
- maintaining the secure 12-person facility at the Boulder campus.

The 2017 Legislature authorized the continued use of the 12-person facility. But DPHHS did not pursue a separate Medicaid waiver and did not establish any state-run group homes.

EXTENDING THE CLOSURE TIMELINE

SB 411 called for DPHHS to transition most MDC residents to community settings by December 31, 2016, and to close the facility by June 30, 2017.

However, community placements did not happen that quickly. Fifty-two residents were at the facility in August 2015, and 25 remained there in November 2016. That prompted the 2017 Legislature to pass House Bill 387, extending the closure date to June 30, 2019.

HB 387 also authorized the permanent use of a 12-bed locked facility at the Boulder campus, now known as the Intensive Behavior Center. Individuals with developmental disabilities can still be committed to that facility if they pose a danger to themselves or others.

WHAT ROLE DID THE ADVISORY COMMITTEE PLAY?

SB 411 set out the following duties for the Transition Planning Committee:

- design and recommend to DPHHS a plan to close MDC and transition residents into community services;
- recommend community-based services needed to allow for closure;
- propose a rate structure for community providers and identify potential sources of funding for those rates;
- identify potential options for repurposing the MDC campus;
- recommend workforce planning and transition options for MDC staff members; and
- recommend secure facilities needed to allow for MDC closure.

The committee met almost monthly from June 2015 through September 2016. Members primarily reviewed information presented by DPHHS and the Office of Budget and Program Planning and heard updates on the number of MDC clients who had left the facility, the efforts being made to retain staff and provide 24-hour coverage at MDC, and efforts to plan for a new use of the Boulder campus.

While the committee approved motions to keep a 12-bed secure facility open on campus and approved the transition proposal that was presented by the administration, most of its time was spent discussing the reports provided by the executive branch. Some committee members asked for specific presentations and suggested the committee should have more of a role in recommending steps to be taken to prepare for closure of the facility. However, then-Budget Director Dan Villa, who served as presiding officer of the committee, told members that their role was advisory only. He said and that the administration needed to take certain steps outside of the committee's monthly meetings in order to meet the closure deadline.

Sources:

- Sue O'Connell. "Wide Scope, Singular Focus: Examining Services to Support Montana's Vulnerable Population." A report to the 65th Legislature on the Activities of the Children, Families, Health, and Human Services Interim Committee, 2015-2016 Interim. *Legislative Services Division*. September 2016.
- "Legislative Budget Analysis: 2019 Biennium." *Legislative Fiscal Division*. January 2017.
- Transition Planning Committee meeting materials. June 2015 through September 2016.
- E-mails from Rebecca de Camara, Administrator, DPHHS Developmental Services Division.