Washington State
Department of Social
& Health Services

Report to the Legislature

RSN Administration of a Portion of Funds Appropriated to State Psychiatric Hospitals

RCW 71.24.300(1)(e)

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EXECUTIVE SUMMARY

The adoption of the Mental Health Reform Act of 1989 outlined a framework to consolidate management responsibility for the public mental health system with county-based authorities known as Regional Support Networks (RSNs).

Current law requires the RSNs to administer and provide for the availability of all mental health services in local areas. A number of specific duties are listed in statute including a requirement that RSNs administer a portion of funds appropriated by the legislature to house mentally ill persons in state institutions - RCW 71.24.300(1)(e). In the mental health system this requirement became known and referred to as 'administer a portion'. The portion of funds referred to is the amount allocated to state hospitals to manage civil beds. Forensics beds are specifically excluded in the 'administer a portion' language.

When mental health reform was passed, the department convened a series of stakeholder workgroups to plan for implementation of the statute. The work groups identified several major implementation obstacles to administer a portion in the initial law as enacted in 1989. A recent evaluation indicates that these obstacles have not changed. Most notable, the department would risk loss of significant amounts of federal Disproportionate Share Hospital (DSH) payments. Currently, DSH constitutes 29 percent of state hospital funds. Other major obstacles – including potential concerns of state hospital labor unions, current state hospital billing systems, and reallocation of state hospital resources – remain and require significant expenditure of resources to explore whether or not they could be overcome. Additional resources and research would not guarantee success.

Despite the obstacles, the department has engaged in several initiatives that ensure appropriate utilization of the state hospitals. These include expanding community services, improving timely discharges from the state hospitals, assessing inpatient and residential capacity and need, and developing outcome measures. It is the department's recommendation that work continue on these initiatives to achieve the intent of the "administer a portion" provision.

DIRECTIVE TO SUBMIT THIS REPORT

The Joint Legislative Audit and Review Committee (JLARC), in its performance audit of the mental health system in 1999, included as part of recommendation 11, "allocate funding for state hospital beds to Regional Support Networks (RSNs)." The Mental Health Division (MHD), through the Department of Social and Health Services (DSHS), concurred with the overall recommendation, but partially concurred with the particular recommendation to “allocate funding for state hospital beds to the RSNs”. DSHS’s partial concurrence to this recommendation (which essentially is an implementation of “administer a portion”) and concerns were due to implementation barriers encountered during a previous exploration of administer a portion in 1989.

Chapter 323, Laws of 2001, added, "The Secretary shall submit a report to the appropriate committees of the senate and house of representatives on the efforts to implement this section by October 1, 2002". This is codified in RCW 71.24.300(1)(e), which states:

> “Administer a portion of funds appropriated by the legislature to house mentally ill persons in state institutions from counties within the boundaries of any regional support network, with the exception of persons currently confined at, or under the supervision of, a state mental hospital pursuant to chapter 10.77 RCW, and provide for the care of all persons needing evaluation and treatment services for periods up to seventeen days according to chapter 71.05 RCW in appropriate residential services, which may include state institutions. The regional support networks shall reimburse the state for use of state institutions at a rate equal to that assumed by the legislature when appropriating funds for such care at state institutions during the biennium when reimbursement occurs. The secretary shall submit a report to the appropriate committees of the senate and house of representatives on the efforts to implement this section by October 1, 2002. The duty of a state hospital to accept persons for evaluation and treatment under chapter 71.05 RCW is limited by the responsibilities assigned to regional support networks under this section.”

The report to the Legislature due October 1, 2002, was added in 2001 based on the recommendation from the JLARC audit.

HISTORY

The adoption of the Mental health Reform Act of 1989 outlined a framework to consolidate management responsibility for the public mental health system with Regional Support Networks (RSNs). This Act requires the RSNs to submit an overall six-year operating and capital plan, timeline, and budget and submit progress reports and an updated two-year plan biennially thereafter, to assume within available resources a number of specific duties. One of those duties requires RSNs to administer a portion of funds appropriated by the legislature to house mentally ill persons in state institutions (71.24.300(1)(e), noted above).

Shortly after the adoption of the Mental Health Reform Act, MHD convened a series of stakeholder workgroups to plan implementation of the "administer a portion" section. These workgroups concluded that implementation of "administer a portion" was not practical due to the state hospitals' heavy reliance upon federal funding, specifically, Disproportionate Share Hospital (DSH) payments intended to support hospitals that provide a certain amount of uninsured care. Both Eastern State Hospital and Western State Hospital are designated as DSH hospitals.

When a Medicaid beneficiary enrolled in managed care receives covered inpatient hospital care from a DSH hospital, the disposition of the DSH payment associated with that beneficiary becomes an issue. In Washington State, the cost of a beneficiary's covered hospital care is included in the monthly capitation payment made to the RSN by the state on behalf of each Medicaid enrollee. Regardless of the methodology any state elects to use when paying DSH hospitals, it must make DSH payments directly to each eligible facility. Federal law, Section 1923(i) of the Social security Act, prevents states from channeling DSH payments through managed care organizations (including RSNs) by including them in the monthly capitation payments. The purpose of this prohibition is to prevent the managed care organizations from delaying or diverting DSH payments from the facilities for which they are intended. DSH payments are based on the uninsured portion of a patient's cost of care. Currently, the Federal DSH payments account for 29 percent of state hospital revenue. When state match is included, DSH payments total about 50 percent of state hospital revenue.

In addition to DSH, regular Medicaid (for persons age 65 years and over) state and federal share would also have to be apportioned to the community programs. Medicare, commercial health insurance and private patient payments would continue to be subject to Federal sequence of payment rules. DSH and regular Medicaid health care coverage are

payers of last resort. Patients may be eligible for several types of health care coverage for a given hospital service. This would further complicate the claims and payments for services.

The state stakeholder workgroups ultimately concluded that a method to "administer a portion" of state hospital funds through the RSNs was not feasible. The workgroup ceased meeting, and further efforts to implement "administer a portion" were abandoned.

INTENT OF THE STATUTE

The intent of "administer a portion" provision in statute is to ensure appropriate utilization of the state hospitals. That is, that people in the state hospitals require hospital level of care. It is also intended to provide appropriate incentives to the RSNs regarding use of the state hospital.

ANALYSIS OF OBSTACLES

"Administer a portion" continues to face major obstacles to implementation. Chief among them remains the continuation of DSH funding. A preliminary analysis by MHD staff concludes that preserving DSH reimbursement would be in jeopardy in any "administer a portion" plan. It could also require significant administrative changes and resources. These could include amending the current Section 1915B waiver with the Centers for Medicare and Medicaid Services (CMS) of the federal government, a new Section 1115 demonstration waiver, and amendment of the Medicaid State Plan. In addition, several significant obstacles to implementation of "administer a portion" remain, among them:

- State hospital labor unions: Concerns may arise from state hospital labor unions due to potential diversion of hospital resources to alternative settings (intensive community or other residential services).
- Current state hospital billing systems would likely be unable to support a reimbursement and payment system under "administer a portion." Should the Department's requests for update of the state hospital billing system be fully funded, this concern may be addressed.
- Reallocation of state hospital resources: "Administer a portion" would require a defensible allocation of state hospital resources to the RSNs. In 2001, the MHD began a phase in of a re-allocation of state hospital resources (that is, state hospital beds allocated to each RSN) based on more objective criteria. This phase in is to be completed by 2006. It is unclear how resources would be apportioned during this phase in.

- Transfer authority from the legislature would be necessary in order to allow transfer of state hospital resources to RSN community programs.

Despite these obstacles to full implementation of the "administer a portion" concept, the Department believes there are several activities begun or ongoing that support the intent of "administer a portion". These activities include:

- **Expanding Community Services** (ECS): The Department initiative approved by the legislature in 2001 will close a total of 178 state hospital beds (58 beds were added in the 2002 session) with part of the funding being transferred to community programs to support these consumers closer to their home communities.
- **State hospital practices:** MHD and the RSNs have worked actively to improve timely discharges from the state hospitals. This work will result in development of Utilization Review (UR) criteria, improved census tracking mechanisms, and a dispute resolution process.
- **Inpatient and residential study**: MHD engaged the Public Consulting Group (PCG) to assess inpatient and residential capacity and need in Washington State. This study concluded that the state needs to invest in community residential systems (e.g., community evaluation and treatment and residential beds, support in nursing homes, intensive case management programs, etc.) to provide alternatives to state hospital utilization. The Department is preparing a budget request consistent with these study findings.
- **Outcome measures**: MHD continues on schedule in development and implementation of the outcome measures recommended in the JLARC mental health system audit and supported by funding from the legislature in 2001. Among these measures will be re-hospitalization rates within 30 days of discharge and outpatient follow-up care within seven days of hospital discharge.
- **RSN Incentives**: RCW 71.24.035(13)(c) allows the Department to create an incentive fund to award achievement of superior outcomes beginning in July 2003. Incentive criteria have not currently been established, but creating incentives related to state hospital utilization could encourage appropriate use of those resources.

CONCLUSION

The Department believes that major obstacles remain unresolved to complete implementation the "administer a portion" provision by the method specified in the statute. These obstacles include risk of significant

loss of federal funding to the state hospitals and significant administrative and personnel costs involved in implementation.

However, the Department also believes that the intent of "administer a portion" can be achieved through current and ongoing Department initiatives. It is the Department's intent to continue these initiatives and to re-evaluate the impact of these activities on state hospital utilization before each biennial legislative session.