



To: Howard Ashkin, President
Maryland Association for the Treatment of Opioid Dependence

From: Ann Ciekot
Public Policy Partners

Date: April 23, 2019

Re: 2019 Maryland General Assembly Wrap-Up

~~~~~

Public Policy Partners (PPP) is pleased to present the Maryland Association for the Treatment of Opioid Dependence (MATOD) with this review of activities during the 2019 Maryland General Assembly Session.

## **Budget**

The final budget for the upcoming 2020 fiscal year provides additional funding for the 3.5% reimbursement rate increase for community-based behavioral health providers. This was the amount mandated in 2017's HOPE Act. Future rate increases are provided for in legislation that passed to increase Maryland's minimum wage (Fight for Fifteen). Attached is a fact sheet with information on both the planned wage and rate increases over the next few years. As with all mandated funding increases, while the Governor must build the rate increases into the budget, companion legislation to the budget bill called the Budget Reconciliation and Financing Act, is a vehicle that can be used to reduce those mandates. Given that state budget officials are projecting significant budget deficits in the coming years, it is likely providers will need to engage in significant advocacy each year to retain the rate increases.

## **Legislation**

### **Medication Assisted Treatment in Jails**

*House Bill 116/Senate Bill 846 – Public Health - Correctional Services - Opioid Use Disorder Examinations and Treatment > Passed*

As passed, the bill requires screening, evaluation, and access to medication assisted treatment for people with opioid use disorders in local correctional facilities and in the Baltimore Pre-trial Complex by January 2023. Howard, Montgomery, Prince George's and St. Mary's Counties will be the first four locals to participate. There will also be a pilot within the Baltimore City Jail. That pilot is not yet defined. The State will pay for these services with additional federal funding it has just received.

- PPP recommends MATOD develop relationships with staff at the Governor's Office on Crime Control and Prevention and the Maryland Correctional Administrators Association to provide assistance as the local detention centers explore how to meet the requirements of the legislation. MATOD members could be available for educational and training opportunities and, ideally, would reach out to local detention center administrators in the 19 jurisdictions that are not included in the first year of the bill to begin discussions prior to the 2023 deadline.

## **Medical Directors**

*House Bill 35 - Public Health - Opioid Maintenance Therapy Programs – Medical Director Requirement and Qualifications > Withdrawn*

*House Bill 570/Senate Bill 178 - Outpatient Mental Health Centers – Medical Directors – Telehealth > Passed*

There were two bills introduced dealing with community-based provider medical directors. HB 35 was specific to changing required qualifications for medical director of opioid treatment programs (OTPs). MATOD took the lead in trying to work with the sponsor of the bill and requested a meeting with the Behavioral Health Administration (BHA) to discuss regulatory changes to the qualification requirements instead of putting them in statute. With the bill being withdrawn, MATOD will continue to work with BHA on regulatory changes in the coming months.

- PPP recommends that MATOD be proactive with BHA in following up to the initial meeting. With leadership changes at BHA, MATOD should make sure this issue is not neglected in any transition.

In addition, HB 570/SB 178 was intended to allow medical directors to satisfy any regulatory requirement to be onsite through the use of telehealth. The bill as introduced would have applied to outpatient mental health centers (OMHCs) as well as OTPs. In the last few days of Session, legislators from Baltimore City started proposing amendments because they believed the bill would remove accountability from the small number of OTPs they have concerns about. After much discussion, MATOD proposed that the bill be amended to apply only to OMHCs as the use of telehealth more meaningfully addresses workforce shortages in those clinics as opposed to in OTPs. This strategy worked and the bill passed.

- PPP strongly recommends that MATOD partner with the Baltimore City Substance Abuse Directorate and participate in discussions with the City's House and Senate delegations about how to address community concerns about treatment programs. There appears to be a renewed and significant interest among several City legislators to better understand how OTPs are regulated and to what entities complaints and concerns from the community should be directed.

## **Public Health System Structure**

*House Bill 846/Senate Bill 482 – Maryland Medical Assistance Program - Managed Care Organizations - Behavioral Health Services > Withdrawn*

*House Bill 938/Senate Bill 975 – Behavioral Health Transformation Act of 2019 > Withdrawn*

*House Bill 941/Senate Bill 976 – Public Behavioral Health System - Implementation Plans to Improve Efficiency, Accountability, and Outcomes - Workgroup > Withdrawn*

The first of this trio of proposals was brought to the attention of the Behavioral Health Coalition by representatives of the managed care organizations (MCOs) in January who offered to take providers' concerns into consideration as possible amendments to the bill that they had been working on, according to them, with Maryland Department of Health (MDH) Secretary Robert Neall for several months. This was the proposal to end the existing carve-out in Medicaid and have all SUD and mental health services managed by the MCOs. The Coalition responded by having the other two bills introduced, the first of which offered a managed behavioral health system as an alternative structure to consider, and the second proposed a workgroup to look at ways to improve and measure the outcomes of the system.

Legislators were heavily lobbied by providers and advocates and it was clear that legislators were not interested in getting behind such a large structural change without much more discussion and input from stakeholders. MATOD members participated in meetings and hearings on the bills, opposing the carve-in legislation (HB 846/SB 482) and expressing support for a stakeholder process that would examine the current system and identify ways to make improvements, and if need be, change how the system is financed and administered.

- PPP recommends MATOD participate in planning efforts by the Behavioral Health Coalition to determine the next steps in working with MDH and others to examine this issue and make recommendations for system changes.

## Parity

*House Bill 599/Senate Bill 631 - Health Insurance – Coverage for Mental Health Benefits and Substance Use Disorder Benefits – Treatment Criteria > Passed*

As passed, the bill requires commercial carriers to use ASAM criteria in medical necessity determinations. The bill had been significantly amended, with the legislature removing the pieces of the bill that required certain reporting on Parity compliance by carriers to the Maryland Insurance Administration (MIA). This was one of two bills introduced at the request of the Parity at 10 Coalition. The other bill, *House Bill 837/Senate Bill 761 - Health Insurance – Payments to Non-contracting Specialists and Non-contracting Non-physician Specialists*, was intended as an incentive to carriers to expand their networks by requiring a specific reimbursement rate for approved out-of-network SUD and mental health services. This bill did not pass. MATOD provided testimony in support of both bills, and had actively participated in their development as part of the Parity at 10 Coalition.

- PPP recommends members of MATOD continue to participate in the Parity at 10 Coalition as legislative leaders have committed to continue to work on this issue and there will likely be meetings with legislators and the MIA taking place during the interim.

## Cannabis

*House Bill 33/Senate Bill 893 – Medical Cannabis - Provider Applications - Opioid Use Disorder > Failed*

Once again, the legislature considered a bill that would encourage the Medical Cannabis Commission to approve applications to use medical cannabis to treat opioid use disorders (OUDs). MATOD joined with the MD-DC Society of Addiction Medicine in opposition. In the Senate, the

bill as amended to allowed medical cannabis for OUD treatment only if the patient had tried all other traditional treatments and was unsuccessful, or if the patient would use cannabis in conjunction with traditional therapies. The House Health and Government Operations Committee did not vote on the measure.

- PPP recommends MATOD have a discussion among its members about cannabis-related issues. It is likely there will be a significant effort to pass legislation to legalize the recreational use of cannabis in the 2020 General Assembly Session. Poor budget forecasts for the coming years will force law makers and the Governor to consider significant budget cuts, tax and fee increases, creation of new revenue sources, or some combination of these. As it is likely that a proposal to legalize cannabis will end up going to the voters to make a final decision, legislation would have to pass in 2020 to make it to the November ballot. Legislative leadership also announced at the beginning of the year a new Senate/House workgroup to examine issues around legalization. MATOD should participate in these discussions.

## Prenatal Care

*House Bill 520/Senate Bill 406 - Prenatal and Infant Care Coordination - Grant Funding and Task Force > Passed*

This legislation was introduced to expand funding in a newly created program in MDH to provide support to local jurisdictions in providing care coordination to low income pregnant women and women with infants. The bill also created a task force to examine how to incentivize early intervention and prevention of key adverse health outcomes. MATOD worked with the sponsors and committees to add to the task force a member of the organization to add expertise related to OUD and substance-exposed newborns. As passed, the bill includes a MATOD representative as one of the 17 members and appropriates \$100,000 for the fund.

- PPP recommends MATOD discuss who will be its representative and reach out to staff at the three entities designated to staff the task force.

## Hepatitis C Treatment

*House Bill 962/Senate Bill 598 - Maryland Medical Assistance Program - Coverage - Hepatitis C Drugs > Passed*

This legislation requires Maryland Medicaid to provide treatment to enrollees who test positive for Hepatitis C, regardless of fibrosis score, which is a severity measure currently used in eligibility determination. While the bill's mandate is subject to budget limitations, the General Assembly also fenced off \$1.3 million within the Medicaid budget to be used for this purpose. The amount is based on the fiscal note to the bill, which is based on information from MDH.

- PPP recommends MATOD participates in advocacy efforts to urge MDH to change its eligibility criteria to remove the restrictions that prevent people with Hepatitis C from obtaining the cure to this infectious disease. Governor Hogan had already provided funding in the budget to lower the fibrosis score restriction to F-1 beginning July 1, 2019. The Governor has discretion as to whether or not to spend the \$1.3 million that the legislature fenced off. Public pressure will be needed to ensure that all people enrolled in Medicaid have access to the cure.



## Medicaid Provider Rate Increases as Included in Maryland's New Minimum Wage Law – Fight for Fifteen

**House Bill 166/Senate Bill 280 (Chapters 10 & 11)**

### Minimum Wage Increases

|          | <b>Large Employers<br/>(15 or more employees)</b> | <b>Small Employers<br/>(14 or fewer employees)</b> |
|----------|---------------------------------------------------|----------------------------------------------------|
| 01/01/20 | \$11.00                                           | \$11.00                                            |
| 01/01/21 | \$11.75                                           | \$11.60                                            |
| 01/01/22 | \$12.50                                           | \$12.20                                            |
| 01/01/23 | \$13.25                                           | \$12.80                                            |
| 01/01/24 | \$14.00                                           | \$13.40                                            |
| 01/01/25 | \$15.00                                           | \$14.00                                            |
| 01/01/26 | \$15.00                                           | \$14.60                                            |
| 07/01/26 | \$15.00                                           | \$15.00                                            |

### Medicaid Rate Increases

|                     | <b>Behavioral Health</b> | <b>Developmental Disabilities</b> | <b>Home- and Community-Based Services<sup>1</sup></b> |
|---------------------|--------------------------|-----------------------------------|-------------------------------------------------------|
| FY2020 <sup>2</sup> | 3.5%                     | 3.5%                              | 3%                                                    |
| FY2021              | 4                        | 4                                 | 4                                                     |
| FY2022              | 3.5                      | 4                                 | 4                                                     |
| FY2023              | 3.25                     | 4                                 | 4                                                     |
| FY2024              | 3                        | 4                                 | 4                                                     |
| FY2025              | 4                        | 4                                 | 4                                                     |
| FY2026              | 4                        | 4                                 | 4                                                     |

<sup>1</sup> This includes nursing home services, medical day care services, private duty nursing services, personal care services, home- and community-based services, assisted living facilities, and services provided through the community first choice program.

<sup>2</sup> Rates for FY20 are not included in HB 166/SB 280 but were included in budget submitted by the Governor.