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Children, Families, Health, and Human Services Interim Committee
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HJR 24 STUDY: PROPOSED COMMITTEE BILL DRAFTS KEY CHANGES AND DECISION POINTS

Background

At its June 2018 meeting, the Children, Families, Health, and Human Services Interim Committee asked for changes to several bill drafts related to its House Joint Resolution 24 study of community services for adults with developmental disabilities. Members will review the revised drafts at their final meeting in September and decide whether to introduce any of the measures as committee bills in the 2019 legislative session.

This briefing paper summarizes key changes to the bill drafts and decision points for the bills that involve appropriations.

LCCF01: Assessment Tools

LCCF01 as initially drafted required the use of the Supports Intensity Scale (SIS) to assess a person's need for supports and services in the community. The SIS is a nationally recognized assessment tool developed by the American Association on Intellectual Disabilities. The committee asked in June that the draft be changed to remove the specific reference to the SIS.

As revised, Section 1 of the bill draft:

- requires the use of appropriate, valid, and reliable assessment tools that are standardized but does not require use of a specific assessment tool;
- allows for additional, relevant assessments to be conducted to determine the full range of supports a person will need;
- establishes the points at which a person must be assessed or reassessed; and
- creates a process for providers to suggest that a person be reassessed because of a significant change in condition.

Section 5 of the draft has been revised to direct DPHHS to determine the process it will use to reassess people who were accepted into the home and community-based services waiver before Oct. 1, 2019. The original bill draft established a priority order for assessment and reassessment.

LCCF02: Provider Rates and Direct-Care Worker Wages

LCCF02 as initially drafted required DPHHS to submit a budget proposal each legislative session that included an inflationary increase for providers of community developmental disabilities services. The draft also included an appropriation to increase direct-care worker wages by \$3 over the biennium.

The committee asked in June that the bill be split into two drafts.

LCCF2a: Inflationary Increase

LCCF2a still contains the requirement that DPHHS prepare a budget proposal showing an inflationary increase equal to the increase in the Consumer Price Index for the previous year. The bill also contains a new requirement, in Section 1, that the increase be included in the executive budget proposal that is submitted to the Legislature before each legislative session. The revision reflects the current process used to develop the executive budget and ensures that the DPHHS proposal for an inflationary increase is included in the budget presented to the Legislature.

Both versions of the bill draft simply require that the increase be included in the executive budget proposal. The Legislature would decide whether to appropriate money for the increase.

LCCF2b: Direct-Care Worker Wages

LCCF2b contains the appropriation for a direct-care worker wage increase. The bill has not changed since the June meeting, but the landscape surrounding the topic has.

House Bill 638 in 2017 appropriated money to increase direct-care worker wages by \$3 an hour over the 2018-2019 biennium. However, a shortfall in 2017 revenues prevented the appropriation from going into effect as scheduled on July 1, 2017.

Higher revenues for FY 2018 triggered the first year of the HB 638 appropriation this summer, meaning that direct-care worker wages should increase by \$1.50 an hour in the current fiscal year. Because of that change in circumstances, the committee may want to consider a range of options for LCCF2b, as outlined below.

1. Does the committee want to leave the bill as is and provide an additional \$3 an hour increase in the next biennium, essentially raising wages by \$4.50 an hour over the three-year period covered by fiscal years 2019, 2020, and 2021? If so, no changes are needed to the draft.
2. Does the committee want to limit the increase to \$1.50 an hour over the next biennium, so the increase totals \$3 an hour over the three-year period? If so, the total appropriation would vary depending on whether the increase is phased in over the biennium. Some options are shown in the table below.

Options for Phasing in \$1.50 an Hour Increase

| | FY 2020 | FY 2021 | Total |
|--|--------------|--------------|--------------|
| Full Increase on July 1, 2019 | \$12,403,716 | \$12,403,716 | \$24,807,432 |
| 75 Cents on July 1, 2019, and Jan. 1, 2020 | \$9,328,274 | \$12,437,699 | \$21,765,973 |
| 75 Cents on July 1, 2019, and July 1, 2020 | \$6,201,858 | \$12,403,716 | \$18,605,574 |
| 37.5 Cents Every Six Months | \$4,664,137 | \$10,882,986 | \$15,547,123 |

3. Does the committee want to provide an increase of more than \$1.50 an hour but less than \$3 an hour over the biennium? If so, the appropriation in the bill would be revised based on the committee's decisions about:
 - a. the total amount of the hourly wage increase; and
 - b. how the increase should be phased in.

LCCF03: Flexibility in Funding of Community Services

The initial draft of LCCF03 restricted the use of general fund dollars that are appropriated for waiver services and created a grant program with unused general fund. It also required DPHHS to pay for certain waiver services on a daily – rather than hourly – basis. The committee asked that these concepts be put into two separate bills.

LCCF3a: Grant Program for Community Services

The essential elements of the grant program have not changed from the June version of LCCF03, but some changes have been made to reflect the committee’s discussion of the bill. The changes include the addition of language that:

- indicates the legislative intent that appropriations made for community services are used only for those services (Section 1); and
- allows DPHHS to establish by rule additional purposes for which grant funds could be used other than the purposes outlined in Section 3.

The statutory appropriation in this bill allows for unused general fund to be appropriated each year without further action by future legislatures, because the amount of unused money could vary from year to year and would not be immediately known.

LCCF3b: Daily Rates

LCCF3b contains the requirement that certain services be reimbursed using a daily rate, rather than an hourly rate.

The initial bill draft did not specify which services other than residential habilitation should be reimbursed with a daily rate. The revised draft allows for a daily rate as appropriate for “nonresidential congregate services,” such as day programs.

LCCF04: Crisis Response

The initial version of LCCF04 established requirements for a tiered level of crisis response for people with developmental disabilities and offered two funding options for the program. The revised versions of the bill:

- allow families, along with providers, to access the crisis services (Section 1);
- split the two funding options into separate bills for easier committee consideration; and
- allow DPHHS to put the new crisis response program into effect in selected areas of the state if funding isn’t sufficient to implement it statewide.

LCCF4a: Redirecting Existing Funding

LCCF4a directs DPHHS to use the funding currently used to support its Behavior Consultation Team for the services outlined in the bill draft. The agency has said the current team consists of five FTE and two consultants and has a budget of about \$359,000, primarily for staff costs.

LCCF4b: Appropriating New Funding

LCCF4b would appropriate an amount, to be determined by the committee, to put the program into effect either statewide or on a more limited basis. The program is modeled on the program used in New Mexico, where five teams made up of a crisis specialist and a masters-level mental health professional are spread throughout the state and supported by an administrative staff. That program began more modestly about 20 years ago by training experienced direct-care workers to provide the initial response. Those workers at the time were employed at a state-run facility that was closing.

Decision Points for Crisis Response

If the committee wants to pursue a crisis response bill, members should consider and decide the following questions.

1. Should existing funding be redirected to put the program in place, should new funds be appropriated, or should a combination of redirected and new funding be used? If the committee wants only to redirect existing funding, LCCF4a could be advanced without changes.
2. If new funding should be appropriated, what amount of funding should be included in the bill? The table below provides an estimate of the costs (salary, benefits, and related office equipment) for varying numbers of crisis response teams, with each team made up of one crisis specialist earning \$15 an hour and one masters-level mental health professional at the starting salary of \$42,080 for an employee in Pay Band 5. The estimate includes a 1% pay raise in the second year of the biennium.
3. If a combination of existing funding and new funding is to be used, what amount of new funding should be included in the bill?
4. If new funding or a combination of funding is used, should language be included to allow DPHHS to implement the program on a limited basis if funding isn't sufficient to cover the costs of a statewide program?

Potential FTE Costs for Crisis Team Staffing

| | 1 Team | 2 Teams | 3 Teams |
|---------|-----------|-----------|-----------|
| FY 2020 | \$117,293 | \$234,586 | \$351,879 |
| FY 2021 | \$118,157 | \$236,314 | \$354,471 |
| Total | \$235,450 | \$470,900 | \$706,351 |

LCCF05: Regulatory Review

The initial version of LCCF05 required DPHHS to review any administrative rule, policy, or procedure for developmental disabilities services that was adopted for a reason other than to comply with federal laws and to eliminate regulations that weren't cost-effective or that were duplicative of other monitoring and oversight requirements.

The committee asked that the bill be narrowed to apply only to community developmental disability services.

The revised draft makes several changes in Section 1 to incorporate the committee's requested change and also limit the review to areas identified through consultation with providers as:

- duplicating federal regulations;
- duplicating or contradicting rules or policies established for community DD services by other DPHHS divisions;
- being applied inconsistently across DD regions or by department staff or contractors; or
- creating the potential for waste of resources.

DPHHS would be required to develop a written plan that outlines how it will conduct the initial review and establishes a process and timeline for an ongoing review of regulations. The agency must present a draft plan to Children, Families, Health, and Human Services Interim Committee by Nov. 1, 2019, and complete the plan by Jan. 1, 2020. CI0425 8236soxa.docx