FURTHER REALIGNMENT OF CALIFORNIA'S COMMUNITY MENTAL HEALTH PROGRAMS: KEY POLICY RECOMMENDATIONS

DRAFT FOR DISCUSSION – May 18, 2011

Reorganization of State Governance

- CMHDA supports the Governor's 2011-12 May Revise proposal to separate the administration of state hospitals from the state's oversight of community mental health services. Specifically, we support the Governor's proposal to create a Department of State Hospitals. This would reduce the apparent conflicting priorities that exist for the state Department of Mental Health between its responsibilities to administer state institutional and correctional mental health services, while at the same time administering community mental health services. Each system clearly has very different goals, access, and services criteria.
- CMHDA supports the Governor's 2011-12 May Revise proposal to consolidate Medi-Cal Specialty Mental Health oversight, audit, and compliance functions under the direction and administration of California's Medicaid single state agency, the Department of Health Care Services (DHCS). Numerous inefficiencies in how California currently manages this program have been pointed out in both federal Centers for Medicare & Medicaid Services (CMS) and the California Department of Finance - Office of State Audits and Evaluations (OSAE) audits. Consolidating oversight of the mental health waiver program with the state's other waiver programs under DHCS would reduce administrative redundancy and more closely align the accountability structure with that recommended by CMS. Additionally, with growing focus on the need to coordinate specialty mental health with other health programs covered by state waivers and plans, and in anticipation of federal health care reform and parity, important policy objectives could be advanced in this more integrated structure.
- For all remaining community mental health services oversight, it is vital that a state-level division or department focused solely on mental health and/or behavioral health be identified to maintain California's commitment to a recovery and resiliency oriented community mental health/behavioral health system. Additionally, CMHDA recommends the Legislature and Administration use the existing statutory guidance to inform the development of the state-county administrative structure and functions.
    - From the beginning, the statutory structure has been developed to integrate the risk and responsibility for community mental health services at the county level. Specifications for 1991 mental health realignment, Medi-Cal Specialty Mental Health Managed Care, and the Mental Health Services Act (MHSA) are all currently integrated under the Bronzan-McCorquodale Act in the Welfare and Institutions Code.
    - Today, the role of the state in community mental health is not to *deliver* direct services, nor to appropriate state General Funds for direct service. Instead, the state should act as a *convener* for the purposes of:
        - Establishing performance measures and quality indicators;
        - Promoting the integration of overlapping federal, state and local requirements;
        - Developing the annual state-county performance contract provisions; and

        - Providing support to promote the success of each county in implementing a recovery-focused community mental health, and achieving positive outcomes for consumers.
- Under this recommended structure, the "rules" under which counties must operate programs are already established, and incentives for administrative efficiency are provided through increased federal and local financial resources for direct services.
- The state's focus on measurement and public reporting of results and outcomes would keep everyone's "eye on the ball." We know mental health treatment works, and access to treatment reduces negative outcomes such as incarceration, homelessness, truancy, trauma, and stress-related disorders.
- Existing policy and oversight bodies need not be re-invented.
    - There are already existing policy and oversight bodies specified in statute -- the California Mental Health Planning Council and the Mental Health Services Oversight and Accountability Commission (MHSOAC) -- that include stakeholders and advocates who play a role in informing the state on their perspectives regarding the important policy issues impacting the community mental health system.
    - There are also local public input structures and processes in existence today, such as the Local Mental Health Boards and Commissions and the MHSA local planning process specified in statute, which assure the participation of community members in the design and implementation of the community mental health system in each county. These statutorily required structures act in an advisory capacity to county government and the county Boards of Supervisors.

Recommended Approach for Legislative Changes

- Utilize the existing Bronzan-McCorquodale Act's statutory structure for California's mental health system by amending the Act in a precise fashion to incorporate modifications to county responsibilities under the Governor's new realignment proposal.
- Establish that counties' Medi-Cal Specialty Mental Health obligations are defined in the most recent CMS-approved waiver and State Plan Amendments, which specify coverage, provider, financial, benefit limitations, and other federally-required specifications.
- Specify the local government Certified Public Expenditure (CPE) requirements in both the waiver and statute.
- Establish in statute the continuous appropriation of federal Medicaid reimbursement funds to counties, as well as the new dedicated mental health realignment revenues (if applicable).
- Consider the role of the CMS-required Prepaid Inpatient Health Plan (PIHP)/Managed Care contract, and incorporate into statute.
- Develop dedicated mental health revenue fund and county distribution language, in collaboration with CSAC, for specification in Welfare & Institutions Code.
- Identify and consolidate the variety of current statutory requirements for counties' data reporting, outcomes, performance, and accountability.

Funding Recommendations

- Ensure that realigned mental health programs, which are entitlement programs, receive adequate revenues to meet federal obligations, as compared to other programs that are realigned.
- Emphasize the importance of federal Medicaid revenue maximization, which is a requirement under current California statute.
- For pre-2004 and suspended mandates, include repayment amounts owed for AB 3632 special education mandate.
- Provide means to restore base funding to mental health programs and base restoration to 1991 realigned programs. The 1991 realignment funding base for mental health is approximately $200 million below what it was two years ago. Caseload-driven social services programs receive priority for sales tax growth, leaving only VLF growth (if any) for mental health.

Medi-Cal Specialty Mental Health Managed Care Recommendations

- State Medicaid plans and waivers specify required coverage, financial, beneficiary protection and provider limitations. DHCS is the single statewide Medicaid agency, which, along with DMH, has negotiated the state plans and waivers with limited county involvement, to date. Therefore, it is critical that there be a formal county role in state decision-making, including negotiations with federal CMS on California's Medicaid state plan and waivers.
- Maintain and renew the 1915(b) freedom of choice waiver or a similar approach approved by CMS to accomplish the mental health realignment.
- In order to maximize counties' access to federal Medicaid reimbursement, the state should eliminate state-only Medicaid rules it applies to the Medi-Cal Specialty Mental Health Managed Care program, including:
  - Eliminate State Maximum Allowances for federal reimbursement. Instead, use federal upper payment limits;
  - Eliminate the 15% cap on administrative costs. Instead, use federal requirements that permit full allowable cost reimbursement to counties; and
  - Eliminate the 6-month claim submission deadline. Instead, use the federal 12-month deadline.

EPSDT Recommendations

- The state has settled lawsuits in the program requiring counties to produce increases in program utilization, with no additional funds. Settlements require therapeutic behavioral services to grow by 4 percent per year. In addition, there remains ongoing litigation in EPSDT (Emily Q. and Katie A.). Settlement of these suits may drive costs at rates well beyond how the revenue

sources will perform. Therefore, it is critical that the state take responsibility for the share of cost for its settlements related to Katie A. and Emily Q.

Educationally Related Mental Health Services (AB 3632) Recommendations

- CMHDA supports the Governor's May Revise proposal to permanently repeal the AB 3632 state mandate and remove this program from the Administration's realignment proposal. We recommend state statute be amended to reflect the fact that local educational agencies, consistent with federal law, are responsible for providing students with a Free and Appropriate Public Education (FAPE). Under existing law, schools may contract with and provide funding to counties to provide mental health services to special education students.