

SEVERE MENTAL ILLNESS TASK FORCE

Minutes of the 4th Meeting of the 2021 Interim

September 21, 2021

Call to Order and Roll Call

The 4th meeting of the Severe Mental Illness Task Force was held on Tuesday, September 21, 2021, at 3:00 PM, in Room 171 of the Capitol Annex. Senator Alice Forgy Kerr, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Alice Forgy Kerr, Co-Chair; Representative Danny Bentley, Co-Chair; Senators Ralph Alvarado, and Stephen Meredith; Representatives Ken Fleming, Melinda Gibbons Prunty, and Lisa Willner.

Guests: Wendy Morris, Commissioner, Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities; Stephanie Craycraft, Deputy Commissioner, Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities; Dr. Allen Brenzel, Clinical Director, Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities; Tanya Dickinson, AOT Program Grant Director, Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities; Leslie Hoffmann, Chief Behavioral Health Officer, Kentucky Department for Medicaid Services; Veronica Judy-Cecil, Deputy Commissioner, Kentucky Department for Medicaid Services; Terry Nunley, Jailer, Muhlenberg County Detention Center; Andrea Blake; Wade Shoemaker, Chief Deputy, Muhlenberg County Sheriff's Department; Representative Kim Moser

LRC Staff: DeeAnn Wenk, Samir Nasir, Elizabeth Hardy, and Amanda DuFour

Approval of August 4, 2021 Minutes

Senator Alvarado moved to approve the minutes from August 4, 2021. The motion was seconded by Representative Gibbons-Prunty. The minutes were approved.

Tim's Law

Wendy Morris, Commissioner of the Kentucky Department of Behavioral Health, Developmental and Intellectual Disabilities (DBHDID) discussed Tim's Law that passed in 2017. It provides a mechanism for involuntary outpatient treatment known as assisted outpatient treatment (AOT). Tim's Law could only be utilized in December 2020 after the DBHDID received a grant of \$4 million from the Substance Abuse and Mental Health Services Administration (SAMHSA) to rollout the pilot program over the next four years.

Next, she discussed the grant service partners. The first being SAMHSA who provided the grant to the department, the four CMHCs located in Kentucky, and the Department for Public Advocacy who developed the client rights statement. Another partner is the UK College of Social Work who will provide evaluation and analysis of the effectiveness of the program in conjunction with SAMHSA.

Commissioner Morris gave an overview of the treatment services, provided client specific data for the first six to seven months of the pilot rollout, and discussed future implementations of the AOT program. She recommended that this program should be utilized in all Kentucky state hospitals and CMHCs but should be done at a pace so they can ensure AOT is done correctly and clients receive the necessary supports. The pilot project is intended to reveal what resources are needed and expand it over the Commonwealth. CMHCs would need adequate resources for components that are not covered by Medicaid or other payers.

In response to Senator Meredith, Commissioner Morris explained as they expand the program over the next four years, they should see an increase in clients served. She anticipates the data report for February 2022 will provide a clearer picture of the amount of funding they would need to continue to provide these services once the grant ends. Senator Meredith commented that their first priority to getting individuals the services they need, but he is also interested in programs that generate a return on investment.

In response to Senator Alvarado, Commissioner Morris explained that since Tim's Law was passed in 2017, only one or two individuals have fully utilized Tim's Law. This is partially due to not receiving funding until July of 2020 and the official pilot program rollout December 2020.

In response to Representative Willner, Commissioner Morris explained that the SAMHSA grant should provide enough funding through the following year, but by the third year the department will have to seek additional funding.

Chairwoman Kerr commented that she went to a NAMI meeting in 1998 and met with Faye Morton and Tim Morton, the parents of Tim Morton, whose Tim's Law is named after, before his passing.

Severe Mental Illness Populations and Hospitalizations

Dr. Allen Brenzel, Clinical Director of Kentucky Department for Behavioral Health, Developmental and Intellectual Disabilities discussed the SMI population and hospitalizations. Dr. Brenzel discussed the state hospitals expenditures and stated that it does cost a lot of money to run a hospital. Appalachian Regional Healthcare (ARH) is funded differently, because it is a distinct part of a regular hospital and is ineligible for Medicaid reimbursement. The Medicaid Institutions for Mental Disease (IMD) exclusion

prohibits the use of federal Medicaid funds to provide care to most patients in mental health and substance use disorder residential treatment facilities larger than 16 beds. Historically, the state hospitals have been funded through state general funds and also receive a small amount of federal funding through the chair of provisions of Medicaid, a small amount of funding from managed care organizations, and other payers.

Dr. Brenzel explained that the hospitals primarily serve individuals who are on involuntary civil commitments under statute KRS Chapter 202A which requires the individual to have a mental illness, is a danger to themselves or others, cannot be cared for in a less restrictive environment. They have to be able to benefit from hospitalization. State hospitals do treat substance use disorder and intellectual disabilities when it is co-occurring with a SMI. Kentucky also does not operate any mental hospital for children or adolescents.

Dr. Brenzel presented statistics relating to patients and hospitals to the committee and he discussed barriers for people with SMI. To try to increase the number of follow-up appointments, hospitals and CMHCs utilized telehealth so the patient could meet the provider or prior to COVID, the provider would come to the hospital and meet with the individual in-person. Transportation is also a barrier so often times the patient is driven from the hospital to their first appointment the day of discharge. Another barrier is unstable housing. Assertive community treatments (ACT) is another tool utilized to engage with individuals in the community rather than waiting for individuals to come to them. ACT teams are a great resource but maintain staffing is challenging and deploying teams to rural areas is expensive.

Lastly, Dr. Brenzel discussed his recommendations for the committee. First, investing in identifying ultra-high risk individuals and early prevention, enforcing mental health parity, funding to create a recovery focused system of care, and new payment models to make CMHCs viable. Other recommendations include diverting people from the justice system, making sure individuals are maintaining jobs and schooling, and ensuring people have stable housing.

In response to Representative Moser, Dr. Brenzel stated that ACT teams can be made up of as many as 10 individuals, but are usually made up of four or five professionals. They typically have a targeted case manager, peer support specialist, a community support associate, therapist, and physician as part of an ACT team. ACT teams accept referrals of individuals who may benefit from ACT. ACT teams are not utilized in all of Kentucky's CMHCs.

In response to Representative Fleming, Dr. Brenzel stated that total about 20 percent of individuals are re-admitted and that he believes there is not sufficient support in the community for those that have a high level of severity with their mental illness. Individuals often do not remain stabilized once they leave hospitalization because of adherence to medication and treatment. In response to Representative Fleming's next question, he

explained that they pay for transportation with their facility budget. In response to Representative Fleming's last question, Dr. Brenzel explained that he believes that although Kentucky was progressive and early in adopting parity requirement, the issue has been enforcing them.

In response to Senator Alvarado's questions, Dr. Brenzel explained that there is a workforce issue and a lack of psychiatrists and that could be why psychiatrists are not visiting long term care facilities. That is why there are not long term care beds in state mental hospitals because of the workforce shortage.

In response to Representative Gibbons Prunty, Dr. Brenzel stated that he was not implying a change in statute regarding involuntary commitment of patients. He explained that it is a societal question if you can force people take medications. There is court in all of their facilities and ultimately it will be up to the judge whether a person is released or not from a state hospital.

In response to Representative Willner, Dr. Brenzel defaulted to Commissioner Morris' who stated that Tim's Law will only be implemented in parts of Kentucky due to lack of funding to implement Tim's Law statewide.

Severe Mental Illness Wavier Development

Leslie Hoffmann, Chief Behavioral Health Officer of the Kentucky Department of Medicaid Services (KDMS) discussed SMI and serious emotional disturbance (SED) waiver options for the future. In 2020, KDMS started research on SMI and SED waivers. This year, the department hired a dedicated staff, completed training, and have participated in collaborations. The Center for Medicare and Medicaid Services (CMS) is recommending that an SMI/SED waiver be added under the same authority as the approved SUD 1115 waiver. KDMS also applied for and was granted technical assistance with the State Health and Values Strategies that will begin October 20, 2021.

Miss Hoffmann discussed the upcoming initiatives KDMS has for SMI/SED waiver. One initiative rolling out in January 2022 is the Certified Community Behavioral Health Clinics (CCBHC).

Another initiative is their collaboration with CMS housing as well as participating in a housing collaborative on a federal level over the last nine months. The federal housing collaborative was initially only relating to SUD, but they soon realized that it was necessary to include SMI and SED too. She also discussed the Home and Community Based Services Enhanced Federal Medical Assistance Percentages Request recently submitted to CMS.

In response to Senator Alvarado, Ms. Hoffmann explained that the CCBHCs was applied for in 2016 for four of the CMHCs and it is different than receiving a grant. She stated that they would receive an estimated \$800,000 for the Mobile Crisis Planning Grant.

In response to Representative Willner, Ms. Hoffmann explained that the difference between SMI and SED is an individual has to be over the age of 18 to be considered having a SMI, while individuals under the age of 18 are considered SED.

Severe Mental Illness Issues with Prison and Jail Inmates

Andrea Blake testified about her personal experience having her sister-in-law that struggles with SMI and the justice system due to her mental illness, coexisting SUD, and the possibility of her having an intellectual disability as well.

Terry Nunley, Jailer of the Muhlenberg County Detention Center testified about the issues he has witnessed people with SMI face in the criminal justice system. He stated that from his perspective, many individuals are locked up due to a mental illness and the justice system is making criminals out of people who struggle with SMI. Officials that work in the detention center are not trained to deal with the SMI population that are in their jails despite having a 24 hour nursing staff on the premises who also are not specialized in SMI.

Chief Deputy Wade Shoemaker of Muhlenberg County Sheriff's Department agreed with Jailer Nunley's comments. He stated that he is not sure if law enforcement should be dealing with individuals who struggle with SMI because sometimes it may escalate the situation. He hopes that the system can be fixed and that people who are mentally ill can get the proper care necessary.