NEW YORK STATE COUNCIL FOR COMMUNITY BEHAVIORAL HEALTHCARE

2020 BUDGET & LEGISLATIVE PRIORITIES

NYS Council for Community Behavioral Healthcare
911 Central Avenue, P.O. Box #152, Albany, NY 12206 ◆ www.nyscouncil.org

NYS Council for Community Behavioral Healthcare

2020 Budget and Legislative Priorities

The NYS Council and its 100 behavioral health members are bound together by our common mission to ensure and enhance access to and continuity of care for children, youth, single individuals, and families seeking behavioral health services from the public mental hygiene system. Our priority areas focus predominantly on the historical failure of government to invest in our sector. The consequences of this disinvestment, despite the heroic work of our agencies, are reflected in the unmet behavioral health services needs of New Yorkers.

PRIORITY: INVEST IN THE HUMAN SERVICES SECTOR

Over 40 state and regional associations are standing together and calling on state government to infuse the community-based system with a long term – and long overdue – investment of desperately needed resources as our fiscal circumstances continue to deteriorate.

- *In 2017, the mental health and substance use disorder sectors had a 35-40% turnover rate of direct care (those who work directly with care recipients) staff.*
- A record 68% of all non-profits across the state report not being able to meet the demands of their local communities.
- Over 80% of the Human Services workforce is female and over 45% are women of color.
- 60% of the Human Services workforce qualifies for some sort of public assistance.

Message: The Human Services sector is an essential compliment to traditional institutional healthcare that supports patients "social determinants of health" and leads to better health outcomes and reduced healthcare costs. Continued access to effective human services begins with investment in the organizations that provide them. These organizations deserve adequate reimbursement that covers costs and allows them to recruit and retain staff. They must be able to keep their focus on client care rather than on how to keep the lights on.

REQUEST:

- *Fund a 3% increase on all human service contracts and rates during each of the next 5 years.*
- *Be a Legislative Champion for the Human Services 3FOR5 Campaign. (See handout.)*

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PRIORITY: ADDRESS THE UNMET NEEDS OF NEW YORK'S CHILDREN WITH MENTAL HEALTH AND/OR SUBSTANCE USE DISORDER ISSUES

The current behavioral health system for children is underdeveloped and unable to respond to the mental health and substance use disorder challenges facing New York's children and youth. We must enhance timely access to effective and comprehensive care for our most vulnerable citizens, and reduce the reliance on emergency care for children and families.

- Suicide is the second leading cause of death for New York children age 15-19, and the third leading cause of death for children age 5-15.[1]
- 54.5% of children ages 3 through 17 with a mental/behavioral condition in New York don't get the treatment they need, including 55% of young people with major depression.[2]
- 1 in 5 children in New York have at least one emotional, behavioral, or developmental condition. Yet more than half of them don't get the care they need.
- This crisis demands NY State invests, not cuts funds for children's behavioral health care.

REQUESTS:

- *Place a moratorium on cuts to children's behavioral health (mental health and SUD) services.*
- *Hold health plans accountable for contractual obligations and enforce parity laws.*
- *Support the 'Campaign for Healthy Minds Healthy Kids', a statewide campaign on a mission to restore the mental health and wellbeing of some of our most vulnerable citizens.*
- *Dedicate a portion of the Governor's Workforce Investment Initiative funds to address staffing shortages in the children's behavioral health sector.*

[1] New York State Department of Health. "Leading Causes of Death, New York State, 2008-2016." https://apps.health.ny.gov/public/tab-vis/PHIG_Public/lcd/reports/#state

[2] Child and Adolescent Health Measurement Initiative. 2016-2017 National Survey of Children's Health (NSCH) data query. Data Resource Center for Child and Adolescent Health supported by Cooperative Agreement U59MC27866 from the U.S. Department of Health and Human Services, Health Resources and Services Administration's Maternal and Child Health Bureau (HRSA MCHB). Retrieved from www.childhealthdata.org. CAHMI: www.cahmi.org.; Mental Health America. "Mental Health in America – Access to Care Data: Access to Care Rankings 2020." https://www.mhanational.org/issues/mental-health-america-access-care-data

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PRIORITY: ENHANCE SURVEILLANCE & ENFORCEMENT OF MH/SUD PARITY LAWS AND CONTRACTUAL REQUIREMENTS ON HEALTH PLANS

There are numerous barriers that prevent or delay access to and continuity of care for New Yorkers seeking mental health and/or substance use disorder/addiction care. Demand continues to increase as we struggle to address the Opioid Epidemic and increasing rates of suicide completion in many age groups. The states failure to implement cost-based reimbursement for behavioral health providers coupled with insurers and other payers that do not follow state laws and guidance is a recipe for disaster.

Violations of federal and state parity along with wrongfully denied claims and violations of timely and full payment laws dramatically impede access to necessary care. *Access delayed is access denied.*

- Health Plans are required to follow all state & federal parity laws and abide by terms of their contracts with the state, and yet some continue to violate these legal requirements.
- Some Medicaid Managed Care (MCO) plans continue to wrongfully deny claims for many reasons. In addition, they often fail to pay Medicaid Government Rates as required by law.
- In May 2019, 20 Plans of Correction were issued to various MCOs to address regulatory and model contract violations but to date *no fines have been issued*
- The Governor's proposal to establish the Behavioral Health Parity Compliance Fund will help to ensure compliance and enforcement of critical federal and state laws.

REQUESTS:

- *Support the executive budget proposal to develop a regulatory framework for parity enforcement.*
- *Support the executive proposal to create a Behavioral Health Parity Compliance Fund.*
- *Step up enforcement on health plans that continue to violate parity and timely payment laws.*
- *Require DoH and DFS to reform antiquated 'network adequacy' requirements that reinforce narrow networks and permit health plans to use outdated information detailing their provider networks.*

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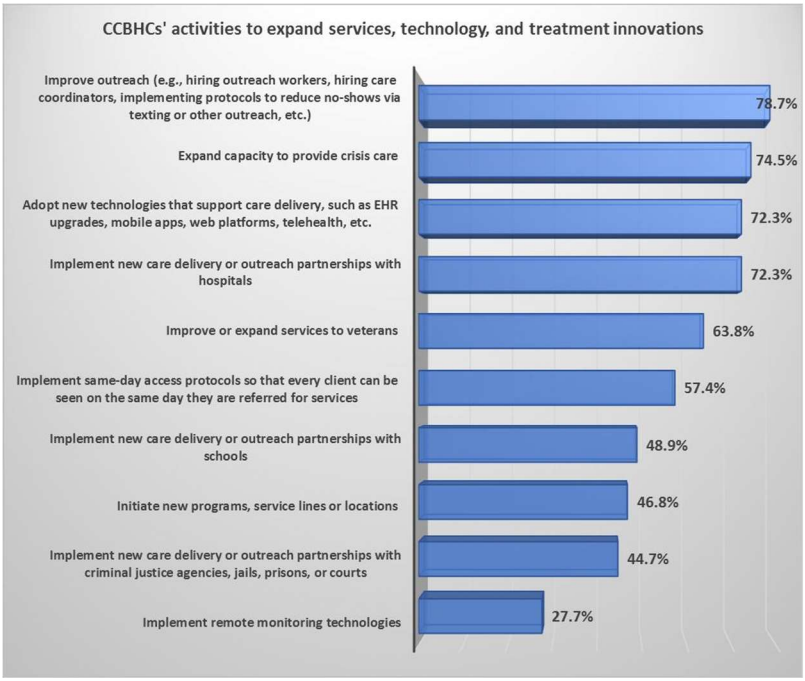
PRIORITY: EXPAND THE CCBHC DEMO IN NYS

Certified Community Behavioral Health Clinics (CCBHCs) were created and adequately funded to increase timely access and availability of care in communities across the state. There are currently 13 CCBHC's across New York that are paid (via federal and state resources) close to the actual costs of care. The result is that these 13 clinics have been able to increase access to care but there are not nearly enough of them situated across the state.

- Early results show major workforce expansions at CCBHC locations across all states, with 100% of CCBHCs nationwide reporting they have hired new staff, with a total of **1,160** new staff hired. These newly hired staff include **72 psychiatrists** and **212 staff with an addiction specialty or focus.**



REQUESTS:

- *Support and expand NEW YORK'S ORIGINAL CCBHC Demo Program*
- *Ensure SAMHSA continues its Expansion Grants Program*
- *Ensure all behavioral health providers are paid for the actual costs of care.*

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PRIORITY: REQUIRE DFS TO ENSURE PRIVATE HEALTH INSURERS PAY ADEQUATE RATES

Mental health and substance use/addictions care agencies provide treatment and support to over **one million New Yorkers** each day. Current rates paid by all payors are below cost, and the *disparity between Medicaid rates (which themselves have not kept up with expenses) and commercial (private) health insurance rates is significant for the same exact service delivered by the same person*. Accordingly, *New Yorkers with private health insurance benefits have different access to care than those with Medicaid benefits*. The commercial rates in behavioral healthcare are well below the Medicaid rate (set by the state) for the same exact care and many providers cannot afford to take commercial (private) health insurance contracts.

- The Department of Financial Services maintains it does not have the authority to require private insurers it regulates to pay rates that are on par with Medicaid rates that the Department of Health has set.
- There is a two-tiered system of care in which clients with commercial insurance may be denied care by a provider that cannot afford to accept such low rates from the insurer.
- Private health insurance rates are often 1/3-1/2 less than Medicaid rates.

REQUESTS:

- *Lawmakers must require the Department of Financial Services to take responsibility for setting actuarially sound rates that private insurers must pay to ensure they are adequate to meet provider costs for care.*
- *Ensure that, regardless of the type of insurance benefits the individual has, he or she has the same likelihood of accessing care.*
- *Ensure provider is reimbursed the same amount for a service regardless of insurance.*

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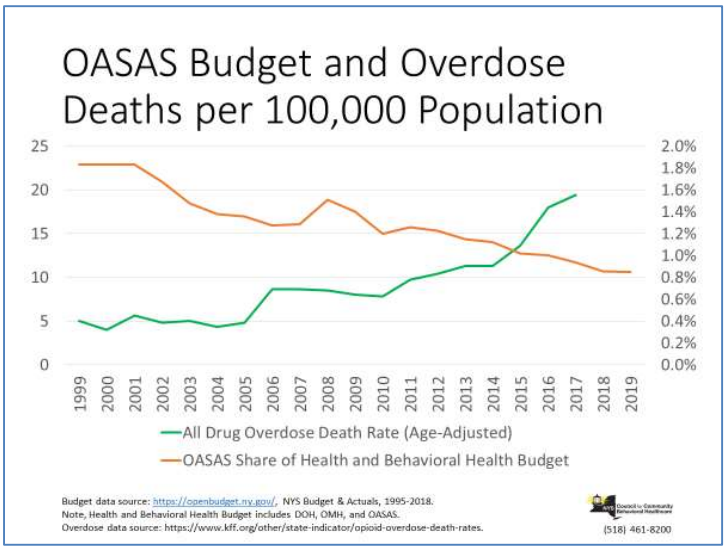
PRIORITY: RE-INVEST OPIOID SETTLEMENT AND OTHER FUNDS IN SUD/ADDICTIONS AND CO-OCCURING DISORDERS TREATMENT PROGRAMS AND SUPPORT SERVICES

As the state continues to fight the Opioid Epidemic and other substance use crises, proceeds from various conversions, settlements and lawsuits must go toward treating the very epidemic the lawsuits were meant to address. Resources and funding should be directed back to the communities that have suffered disproportionately from these crises to meet the demands for prevention, treatment, recovery and harm reduction services. It is predicted that nationally, $50 billion could be reconciled in settlement lawsuits. If New York State were to reconcile $1 billion, $40 million would be just .04% of this settlement – a drop in the bucket the value is exponential.

- We support the Governor's proposal banning fentanyl analogs.
- We urge the Governor to drop all restrictions on prior authorization of Medication Assisted Treatment (MAT) in the Medicaid Program.
- We support the Governor's efforts to obtain drug rebates for prescribed Medication-Assisted Treatment in the Medicaid Program *BUT our families and communities cannot wait for this dispute to be resolved.*
- There continues to be serious shortages of motivated and qualified prescribers to meet the demand for MAT.



- State government must prioritize solutions to the Opioid Epidemic and other public health crises impacting the mental health and wellbeing of our families and communities across the state.

REQUEST: *Opioid Settlement funds and new state revenues associated with (proposed) legalization of marijuana should be allocated to enhance the availability of prevention, treatment, recovery and harm reduction services for New Yorkers with SUD /addiction and co-occurring disorders.*

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PRIORITY: INVEST IN COMMUNITY-BASED ORGANIZATIONS

There is an overwhelming need for an immediate infusion of additional resources in the community-based provider sector (*see NYS Council charts book*). Compelling evidence shows that state government has failed to adequately invest in the community-based sector *over the last twenty years*. The 2018-2019 enacted budget language establishing the State's Health Care Transformation Fund (HCTF) account directs the state to use these funds to support all areas of the healthcare delivery system. It does not delineate that only one area of the healthcare system should benefit from these funds.

- Despite statutory language to the contrary, to date, 100% of disbursed HCTF funds have been directed to *hospitals and nursing homes*, with additional new funds (CVS/Aetna merger, etc.) continuing to come into the state. Funds have not been allocated to community-based care.

REQUEST:

- *Set aside at least 25% from any future disbursements from this or any other account/s holding funds realized from settlements or business transactions in the healthcare sector for community-based providers and care.*

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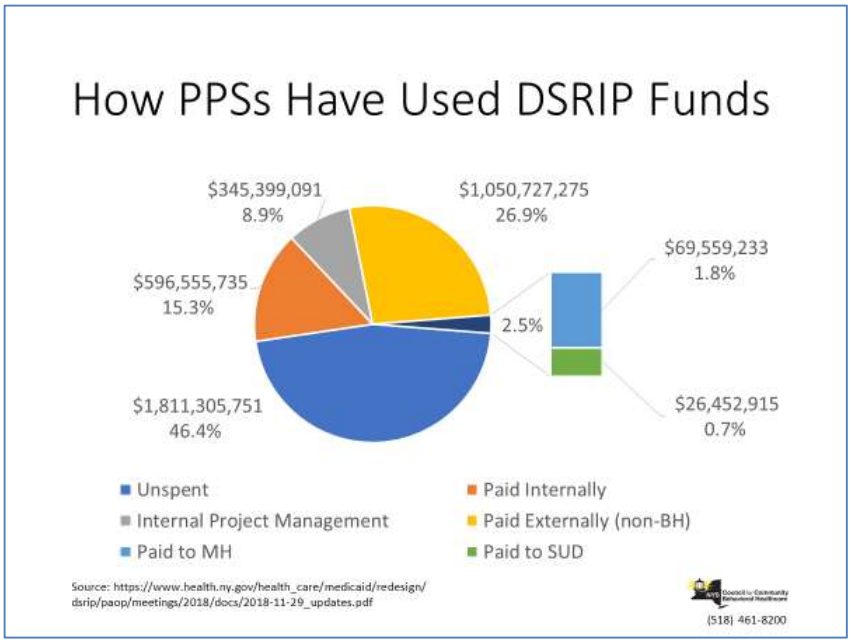
PRIORITY: ENSURE DSRIP 2.0 FUNDS ARE DISTRIBUTED FAIRLY AND REACH COMMUNITY-BASED ORGANIZATIONS

Community-based health care services are a vital support to the acute care system. They improve population health and outcomes, save lives and money, and are a lower-cost alternative to institutional care. However, only a fraction of the first round of DSRIP funds made its way to community-based providers of care. Without a more direct invest in community-based care, the State cannot achieve a true value-based system that improves health outcomes and reduces costs.

- Over the last twenty years, New York has failed to invest in community-based care including new initiatives such as DSRIP.
- Mental Health and Substance Use /Addiction portion of the healthcare sector received just 2.5% of the total funding.
- The DSRIP 2.0 waiver application still relies excessively on hospitals for the delivery of waiver funds.



REQUEST: *Forty (40%) percent of all incoming DSRIP 2.0 funds must be set aside and allocated for the community-based care sector.*

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PRIORITY: STUDY IMPACT OF ADULT USE MARIJUANA BEFORE LEGALIZATION

Before New York legalizes adult use marijuana, there should be a serious and thoughtful investigation of the consequences. This applies to adult use marijuana and the increased availability to all individuals with mental health and/or addiction issues, as well as those at risk for these problems and the secondary victims who may be more likely to acquire marijuana as result of the overall availability.

- According to the Substance Abuse and Mental Health Services Administration (SAMHSA), "Approximately 1 in 10 people who use marijuana will become addicted. When they start before age 18, the rate of addiction rises to 1 in 6."
- Scientific research strongly suggests that regular use of marijuana in developing youth and young adults all the way to age 26+ can have serious and negative consequences for the individual.
- Given the already epidemic penetration of opioid addiction and use of other drugs across the state, the potential impact of legalization will have serious consequences for the treatment system that is currently ill-prepared to address increased use of illicit and other drugs.
- If adult use is legalized, the majority of taxes placed on marijuana and marijuana product sales should be devoted to public education about addiction; prevention of addiction; addiction treatment; health effects of cannabis and synthetic cannabinoid use on all New Yorkers; prevention of initiation of cannabis and cannabinoid use by youth; and research on the health risks and potential benefits of marijuana, “natural” cannabinoids, and synthetic cannabinoids.

REQUESTS:

- *Fully fund a broad-based public education campaign akin to New York's "Combat Heroin" initiative to educate the public about the potential health consequences with cannabis use with an emphasis on vulnerable populations, including minors, pregnant women and those with mental health conditions.*
- *Fund the development of low-threshold models of care and psycho-educational services, while also providing additional support for prevention/treatment providers already overwhelmed by current demand for services.*
- *Develop a complete approach to preventing impaired driving, especially in suburban and rural areas.*
- *Ensure that tax revenues are properly and fairly reinvested in prevention, treatment and recovery services statewide.*
- *Ensure that mental health and substance use disorder professionals, as well as people in recovery and their families are included in relevant policy discussions.*

Behavioral Health Care Collaboratives /
Behavioral Health Independent Practice Associations
(BHCC / BH IPAs)

History – In late 2017, OMH and OASAS announced $60M in funding for Behavioral Health Care Collaboratives (*BHCCs*) to form networks of BH providers that would support the sector's move to Value Based Payment. Nineteen BHCCs were tasked with improving outcomes and increasing cost-effectiveness by establishing shared infrastructure to support contracting, data / IT, billing, quality management, and network governance. Each BHCC network is made up of 10 or more individual behavioral health providers. The key grant deliverable was a Level 1 (upside-only risk) value-based contract with a level 2 or higher contractor or a managed care plan. The second goal was to encourage VBP payors (*MCOs, hospitals, and primary care groups*) to work with BH providers as part of an integrated system of care.

Outcome – Although BHCCs have been successful with building infrastructure and supporting BH providers through the formation of Behavioral Health Independent Practice Associations (*BH IPA's*), Payors have broadly avoided contracting with these new entities. There are a few exceptions, particularly one or two MCOs that have initiated BH pilots while other MCOs have publicly stated that they will not contract with BH IPAs. Other potential VBP contractors like hospitals and physician groups have followed the NYS VBP Roadmap and focused moving primary care into VBP arrangements.

Why this poor outcome? – The current administration continues to prioritize investing in managed care and ever-growing hospital systems over less expensive and often more effective community-based solutions. For example, early versions of the VBP Roadmap failed to prioritize or even include community behavioral health. It is likely potential payors either believe they can achieve adequate results without BH providers, believe they can do it themselves, or have not yet realized that the BH population is a significant medical and BH expense.

Requests:

1. Create alternative payment models that support the inclusion of community-based solutions that address behavioral health and social determinants of health (*SDH*).
2. Access to appropriate behavioral healthcare inside of state-approved contracts must be measured and determined adequate. Although increasing access may increase costs of BH services, it will simultaneously reduce cost in more acute settings like hospitals.
3. To ensure mutual effectiveness in value-based contracting and alternative payment models MCOs must be required to provide community-based partners including BH and SDH IPAs with timely and accurate data on financial performance and quality outcomes.
4. Provide regulatory relief that clears barriers to community-based organizations providing less expensive interventions such as peer supports for complex populations. This includes creating viable paths for community-based BH providers to participate.
5. In places where BH networks are stronger support BH attribution over primary care attribution for specific populations.

Why BH IPA's

1) BH IPAs have diverse and robust networks of mental health and substance use agencies providing treatment, recovery, rehabilitation, integrated physical and behavioral health care, care coordination, social determinants of health and support services in every county of New York State.
2) BH IPAs provide a single-point to manage quality and accountability of large groups of community-based providers.
3) BH IPAs support the implementation of innovative interventions at lower costs with better outcomes.

For more information, please contact Lauri Cole at lauri@nyscouncil.org or at (518) 461-8200.

NYS Council for Community Behavioral Healthcare

THE NYS COUNCIL URGES SUPPORT FOR THE FOLLOWING LEGISLATION AND CAMPAIGNS

The NYS Council vigorously supports the following legislation and we encourage the NYS Legislature to do the same. (Please note this is not an exhaustive list of bills we support.)

LEGISLATION

(Awaiting Bill #) - Sponsors: Assemblyman Gottfried and Senator Gustavo Rivera
Related to DSRIP 2.0 Funding
An act to amend the social services law in relation to supporting community-based providers in the delivery system reform incentive payment ("DSRIP") program. The purpose is to designate at least 40% of the federal funds awarded to the State as part of the second phase of DSRIP for the benefit of community-based health care providers.

A7977B - *Related to the Health Care Transformation Fund account enacted as part of 2018-2019 state budget*
An act to amend the state finance law in relation to the state's Health Care Transformation Fund account where Centene Fidelis acquisition funds and other windfalls realized by the state are located. The purpose of this bill is to create a 25% set aside from all future disbursements from this account for community-based organizations.

A9538 - Would require the Department of Health to include the NYS MH/SUD Ombudsman (CHAMP) Helpline Number to appear on all Explanation of Benefits (EOB) Notices sent by health plans to beneficiaries.

S5046 - Requires the Office of Mental Health to establish a training program for the diagnosis and treatment of PTSD.

A.03333 - Creates the *Community Opioid Rehabilitation Program Services Act* and the *Opioid Dependency Services Fund* from savings due to prison closing. Many of these individuals have been incarcerated due to their Substance Use Disorder Offenses and often return without the needed support to sustain a Substance free life in the community.

A.03390 - Provides for the reinvestment of funds generated by savings due to declines in the state prison census into community-based services for persons suffering from chemical dependence and for the establishment of the *Chemical Dependence Reinvestment Fund*. *Similar proposal to A03333.*

A06349 Establishes the Addiction Prevention and Recovery Act of 2019.
Increases taxes on alcohol by fifty percent and allocates the increased revenue to a special fund to be used for the purposes of alcohol and substance abuse addiction prevention and recovery.

S04648 Establishes the Addiction Prevention and Recovery Act of 2019
Increases taxes on alcohol by fifty percent and allocates the increased revenue to a special fund to be used for the purposes of alcohol and substance abuse addiction prevention and recovery.

CAMPAIGNS

The NYS Council is a member of the 3FOR5 Campaign, a statewide campaign seeking an investment of desperately needed resources for a variety of critical issues facing all areas of the human services sector including (but not limited to) mental health and substance use/addiction prevention, treatment and recovery organizations.

This investment would provide desperately needed resources in a flexible manner to allow us to address emergency-level workforce shortages but also steeply rising costs associated with operations and administrations of critical programs and services. Costs for mandatory and other health insurance benefits, rising energy costs, rising food costs, recruit and retention advertising costs, etc.

The NYS Council is a member of the *Healthy Minds, Health Kids* Campaign, a statewide effort to protect and enhance resources to address the needs of New York's children and youth who require behavioral health services.

The Campaign seeks:

- a moratorium on all cuts (effective 12/31/2019) to children's mental health and substance use disorder program and services throughout SFY2021
- resources to ensure all children and youth seeking behavioral health and substance use disorder services are able to access timely and appropriate care in their local communities
- continuation of the first Children's Behavioral Health MRT sub-committee (even as MRT 2.0 gets underway, and a commitment from government that further reform of the children's behavioral health system of care will be 'on hold' until such time as the work of the Children's 1.0 sub-committee has concluded and we are assured children & youth are getting services as intended.