



Report of the Subcommittee on
Health and Human Resources

(Senate Bills 29 and 30,
as Introduced)

Senate Finance Committee
Virginia General Assembly

February 22, 2004

REPORT OF THE SUBCOMMITTEE ON HEALTH AND HUMAN RESOURCES

Mr. Chairman and Members of the Committee:

The last two years I have had to come before you and say that the subcommittee had struggled with the needs of Virginia's vulnerable and done our best to cobble together a solution to preserve the safety net all the while acknowledging that the needs of the elderly, disabled, and indigent were not fully being met.

It gives me great pleasure this afternoon to say that we did more than simply apply another band-aid to the budget. To the contrary, for the first time in many years, we truly invested in two of Virginia's most important assets -- her HEALTH and her HUMAN RESOURCES.

We restored funding to area agencies on aging, community action agencies, centers for independent living, and Healthy Families Virginia. We reinvested in programs provided through our community services boards such as early intervention services and substance abuse treatment. And we included rate increases for nursing homes, hospitals, and emergency room physicians, just to name a few provider groups.

And we made a substantial – but critical – investment in the mental retardation waiver program. While the term “waiver slot” may not mean much in the abstract, I can guarantee you that a waiver is not abstract but real. And it benefits not only the person receiving services but the caregiver as well. An additional MR waiver is not a nice thing to do it is the RIGHT thing to do.

While we made targeted investments, we were mindful of savings opportunities. To that end, we agreed with the Governor that we can reduce spending at the state's academic health centers without jeopardizing patient care and capture pharmacy savings by implementing a maximum allowable cost program for generic drugs. In addition, we thought it was prudent to increase staff at the Center for Behavioral Rehabilitation at a slower rate than the Governor proposed. General fund savings in this budget total \$58 million.

Mentally Disabled Persons

- *Mental Retardation Waiver Program.*
 - In order to reduce the “urgent or emergency” waiting list – those individuals with mental retardation who are being cared for at home by aging parents – we added \$22 million each year for 880 new slots beginning July 1, 2004.
 - We allocated \$6.7 million to allow 160 individuals that reside in state facilities to be discharged into the community with appropriate albeit intensive services.
 - And we provided \$8.2 million for a 3 percent rate increase on July 1, 2004 for the MR waiver program.
 - These investments will not only result in quality of life improvements but also produce monetary savings in the future -- savings that can be reinvested in the years to come.

- *Day Support Waiver Program.*
 - There is no question that we are making a significant investment in the MR waiver program. But as you know, the waiting list exceeds 2,000.
 - To alleviate the need, we proposed a Day Support waiver program for 600 individuals to receive training and support while providing relief for caregivers.
 - The subcommittee will continue to monitor this initiative closely to determine what additional steps might be necessary to address the remaining unmet need.

- *Community-Based Care.*
 - We agreed that the Commonwealth needs to spend \$27.4 million to invest in community-based services for the mentally disabled to comply with the Supreme Court’s Olmstead Decision.
 - But we also felt it was important to add \$4.2 million for 150 additional developmental disabilities (DD) waivers and \$2.5 million for early intervention services for infants and toddlers.
 - We know that access to prescription drugs remains a problem for low-income Virginians. Therefore, we made investments in the Pharmacy Connect and Rx Partnership Programs, two innovative approaches to acquire and distribute reduced price or free medications, because we know that our return on investment is worth the price.
 - Finally, we added \$5.0 million to exempt antidepressants and antianxiety medications from the preferred drug list in order to inhibit unnecessary and expensive hospitalizations and ensure that individuals with mental illness can live a quality life in the community.

- ***Institutional Care.*** While the subcommittee restored resources for community-based treatment, we recognize the dedicated staff that provide quality care, rehabilitation, and treatment for residents at our state facilities. Accordingly, we agree with the Governor that \$29.6 million is necessary to preserve services at our state facilities.

Infrastructure Improvements

- ***Provider Rate Increases.*** We know that in order to deliver services in Virginia we need providers. But we don't always acknowledge that fact in our reimbursements to providers even though they are caring for our most vulnerable. Therefore, we propose the following rate increases in the second year of the biennium.
 - \$11.5 million for inpatient hospital services in addition to the \$9.1 million contained in the introduced budget;
 - \$6.4 million for assisted living facilities receiving auxiliary grant payments;
 - \$6.0 million for personal care services;
 - \$5.4 million for nursing homes in addition to the \$9.7 million increase contained in the introduced budget; and
 - \$1.5 million to restore 25 cents to the pharmacy-dispensing fee.

Conclusion

In summary, we know this Committee understands the needs of Virginia's elderly, disabled, and indigent and is committed to providing a safety net for the least among us. Mr. Chairman, there should be no question that the investments we make today on behalf of our most vulnerable citizens will yield savings in the future.

Health and Human Resources Subcommittee Report

	Gen. Fund FY 2003-04	Gen. Fund FY 2004-05	Gen. Fund FY 2005-06	Biennium
Department for the Aging				
Restore Funding for Area Agencies on Aging		\$1,000,000	\$1,000,000	\$2,000,000
Provide Funding for Care Coordination Services		\$200,000	\$200,000	\$400,000
Restore Funding for Congregate & Home Delivered Meals		\$400,000	\$400,000	\$800,000
Restore Funding for Pharmacy Connect of SW Virginia		\$70,191	\$70,191	\$140,382
Subtotal	\$0	\$1,670,191	\$1,670,191	\$3,340,382
Department of Health				
Provide Funding for Dental Scholarships		\$25,000	\$25,000	\$50,000
Primary Care Assn/OB Gap Coverage	\$50,000	\$100,000	\$100,000	\$200,000
Restore Funding for Area Health Education Centers (AHECs)		\$200,000	\$200,000	\$400,000
Restore Funds for Regional Health Planning Agencies		\$225,000	\$225,000	\$450,000
Restore GF for CHIP of Virginia		\$100,000	\$100,000	\$200,000
Restore Funding for Physician Scholarship Programs		\$560,568	\$560,568	\$1,121,136
Establish Rx Partnership		\$110,000	\$110,000	\$220,000
Add Staff to Administrative Hearings Officer (COPN)		\$60,000	\$60,000	\$120,000
Add Funding for Tuberculosis Control Division		\$100,000	\$100,000	\$200,000
Statewide Pharmacy Connect Funding		\$250,000	\$250,000	\$500,000
Subtotal	\$50,000	\$1,730,568	\$1,730,568	\$3,461,136

Health and Human Resources Subcommittee Report

	Gen. Fund FY 2003-04	Gen. Fund FY 2004-05	Gen. Fund FY 2005-06	Biennium
Department of Medical Assistance Services				
"Virginia Investment Act" Cigarette Tax Increase		\$21,800,000	(\$76,400,000)	(\$54,600,000)
Provide 10% increase for Personal Care Services		\$0	\$6,000,000	\$6,000,000
Provide 3% Rate Increase for MR Waivers		\$3,992,156	\$4,210,160	\$8,202,316
Provide Start-up Funding for MR Waivers		\$2,000,000	\$0	\$2,000,000
Add 150 Developmental Disabilities Waivers		\$1,638,577	\$2,515,325	\$4,153,902
Add 880 MR Waivers (Urgent List - Community)		\$22,000,000	\$22,000,000	\$44,000,000
Create 600 Day Support Waiver Slots for MR Clients		\$0	\$5,837,400	\$5,837,400
Carve Dental Services From Managed Care		\$638,100	\$638,100	\$1,276,200
Provide 2% Increase for ER Physician Payments		\$280,604	\$297,437	\$578,041
Exempt Antidepressants & Antianxiety Drugs from PDL		\$2,500,000	\$2,500,000	\$5,000,000
Increase Inpatient Hospital Reimbursement to 79% of Cost		\$0	\$11,492,974	\$11,492,974
Establish Managed Care Encounter Data Analysis Unit		\$300,000	\$200,000	\$500,000
Increase Reimbursement to Nursing homes to \$4.66 per resident		\$0	\$5,395,530	\$5,395,530
Restore Pharmacy Dispensing Fee to \$4.00		\$0	\$1,449,104	\$1,449,104
Provide a Rate Increase for High-Volume NICU Hospitals		\$250,000	\$250,000	\$500,000
Add MR Program Staff		\$250,000	\$150,000	\$400,000
TECHNICAL - Add Funding for 160 MR Waivers (from MHMR)		\$2,666,667	\$4,000,000	\$6,666,667
Subtotal	\$0	\$58,316,104	(\$9,463,970)	\$48,852,134

Health and Human Resources Subcommittee Report

	Gen. Fund FY 2003-04	Gen. Fund FY 2004-05	Gen. Fund FY 2005-06	Biennium
Department of Rehabilitative Services				
Provide Core Funding for Centers for Independent Living		\$800,000	\$800,000	\$1,600,000
Provide Brain Injury Services Statewide		\$1,568,750	\$1,568,750	\$3,137,500
Restore Funding for Sheltered Workshops		\$300,000	\$300,000	\$600,000
Subtotal	\$0	\$2,668,750	\$2,668,750	\$5,337,500
Department of Social Services				
Provide 7.5% Increase for Auxiliary Grant Homes		\$0	\$6,363,878	\$6,363,878
Provide GF Support for Community Action Agencies		\$1,000,000	\$1,000,000	\$2,000,000
Provide Funding for Caregivers Grant Program		\$100,000	\$100,000	\$200,000
Supplant TANF With Child Care for TANF Restorations		\$4,300,000	\$2,150,000	\$6,450,000
Domestic Violence Grant Increase (SB 237 - Norment)		\$650,000	\$650,000	\$1,300,000
Provide GF for Healthy Families Virginia		\$100,000	\$100,000	\$200,000
Increased Child Welfare/Foster Care Costs (SB 486 - Obenshain)		\$200,000	\$200,000	\$400,000
Subtotal	\$0	\$6,350,000	\$10,563,878	\$16,913,878

Health and Human Resources Subcommittee Report

	Gen. Fund FY 2003-04	Gen. Fund FY 2004-05	Gen. Fund FY 2005-06	Biennium
Dept. of Mental Health, Mental Retardation & Substance Abuse Svcs.				
Restore Funding for Substance Abuse Services (MOE)	\$1,000,000	\$0	\$0	\$0
Provide Funding for Caseload (Part C Early Intervention Services)		\$1,000,000	\$1,500,000	\$2,500,000
Establish Jail-Based Treatment Pilot		\$200,000	\$400,000	\$600,000
Limit Staff Increase for Center for Behavioral Rehab to FY 2005 Level		\$0	(\$2,200,000)	(\$2,200,000)
Increase MR Waiver Licensing Staff		\$150,000	\$150,000	\$300,000
TECHNICAL - Transfer Funding for 160 MR Waivers to DMAS		(\$2,666,667)	(\$4,000,000)	(\$6,666,667)
Subtotal	\$1,000,000	(\$1,316,667)	(\$4,150,000)	(\$5,466,667)
Virginia Office for Protection and Advocacy				
Administrative Reduction		(\$55,000)	(\$55,000)	(\$110,000)
Subtotal	\$0	(\$55,000)	(\$55,000)	(\$110,000)
GRAND TOTAL	\$1,050,000	\$69,363,946	\$2,964,417	\$72,328,363

Health and Human Resources Subcommittee Report

Language Amendments to SB 30

Secretary of Health and Human Resources

Study of Access to Obstetrical Services

Comprehensive Services Act

Study of Custody Relinquishment to Receive CSA Services

Department for the Aging

Eliminate Contingency for Guardianship Services

Department of Health

Remove Contingency Language for EMS Funding

Mt. Rogers Pharmacy Connect Program

Department of Medical Assistance Services

Emergency Room Usage by Medicaid Clients

Chronic Care Waiver for Elderly and Disabled

AIDS Waiver Program

Improve Medicaid Drug Compliance

Cash & Counseling Demonstration and Evaluation

Dept. of Mental Health, Mental Retardation & Substance Abuse Svcs.

Annual Reporting Requirements

Diversion Assistance for Offenders

Licensing of Methadone Clinics

Eliminate Olmstead Advisory Committee

Eliminate Contingency for MH Discharge Assistance

Eliminate Contingency for Purchase of MH Treatment

Eliminate Contingency for Children's MH Treatment Services

Eliminate Contingency for PACT Funding

Department of Rehabilitative Services

Commonwealth Neurotrauma Initiative Fund

Expedited Disability Determination Process

Health and Human Resources Subcommittee Report

Language Amendments to SB 30

Department of Social Services

Food Stamp Outreach for Legal Immigrants and Their Children
Access for Limited English Proficient Persons
TANF Child Support Supplement
TANF Pre-Employment & Workforce Development
Remove Language Creating Kinship Care Program
Bristol-Washington County Children's Advocacy Center
Lenowisco Children's Advocacy Center
TANF Hard To Serve Grants
Centers for Employment and Training
Dedicate TANF for Domestic Violence Grants
Foster Care and Adoption Workers
Foster Care Services Improvement Plan
TANF Funded Program Changes

Health And Human Resources

Secretary Of Health And Human
Resources

Language

Language:

Page 228, after line 8, insert:

"The Secretary of Health and Human Resources, with agencies assisting as requested, shall study the availability of obstetrical services throughout the Commonwealth. In conducting the study, the Secretary shall: (i) assess the current availability of obstetrical services in the Commonwealth and identify any areas of the Commonwealth where there is inadequate access to such services; (ii) identify the main reasons why there are areas of the Commonwealth where there is inadequate access to obstetrical care; (iii) identify any specific problems regarding access to obstetrical care for Medicaid and FAMIS enrollees; (iv) evaluate the current availability and affordability of malpractice insurance for obstetricians and assess the degree to which this may be contributing to the lack of access to obstetrical care in certain areas of the Commonwealth; and (v) recommend actions that can be taken to improve access to obstetrical care throughout the Commonwealth. The Bureau of Insurance shall assist the Secretary in conducting this study and provide support and information regarding the availability of malpractice insurance and the trends in such premiums over the last ten years and future projections. The Secretary shall report the findings of the study to the Governor, and to the Chairmen of the House Appropriations Committee and Senate Finance Committee by November 1, 2004."

Explanation:

(This amendment requires the Secretary of Health and Human Resources to conduct a study of obstetrical services in the Commonwealth in order to determine what future course of action is prudent.)

Health And Human Resources

Department Of Medical Assistance
Services

Language

Language:

Page 248, after line 17, insert:

"G. The Department of Medical Assistance Services shall study the degree to which

hospital emergency rooms are being used by Medicaid fee-for-service clients for non-emergency care, and identify actions that could be taken to limit inappropriate use of this treatment setting. In conducting its review, the Department shall: (i) assess recent trends in emergency room use by Medicaid fee-for-service enrollees; (ii) estimate the incidence of Medicaid clients using the emergency room for non-emergency care; (iii) identify effective actions taken by the HMOs participating in the Department's managed care program as well as other state Medicaid programs to limit inappropriate use of the emergency room; (iv) consult with physicians and hospitals in assessing and developing programs that direct patients to primary care settings; and (v) recommend actions that can be taken to ensure emergency room usage by Medicaid fee-for-service clients is appropriate and medically necessary. The Department shall report its findings and recommendations to the Governor, and the Chairmen of the Senate Finance and House Appropriations Committees by November 1, 2004."

Explanation:

(This amendment requires the Department of Medical Assistance Services to assess the extent to which fee-for-service Medicaid clients are using emergency rooms for routine clinic services and recommend appropriate measures if necessary.)

Health and Human Resources Subcommittee

Item 326 #10s

Health And Human Resources	FY 04-05	FY 05-06	
Department Of Medical Assistance	\$2,500,000	\$2,500,000	GF
Services	\$2,500,000	\$2,500,000	NGF

Language:

Page 250, line 37, strike "\$4,057,098,577" and insert "\$4,062,098,577".

Page 250, line 37, strike "\$4,428,632,619" and insert "\$4,433,632,619".

Page 258, line 59, strike "\$18,000,000" and insert "\$15,500,000"

Page 259, after line 12, insert:

"7. The Department of Medical Assistance Services shall make available under the Medicaid Preferred Drug List Program, without prior authorization, antidepressants and antianxiety medications used for the treatment of mental illness."

Explanation:

(This amendment exempts antidepressants and antianxiety medications used for the treatment of mental illness from the PDL program, resulting in a loss of general fund savings of \$2.5 million each year.)

Health And Human Resources

Department Of Mental Health,
Mental Retardation And Substance
Abuse Services

Language

Language:

Page 268, after line 50, insert:

"L.1. Notwithstanding the Commissioner's discretion to grant licenses pursuant to this chapter or any Board regulation regarding licensing, no initial license shall be granted by the Commissioner to a provider of treatment for persons with opiate addiction through the use of the controlled substance, methadone, or other opioid replacements, if such provider is to be located within one-half mile of a public or private licensed day care center or a public or private K-12 school, except when such service is provided by a hospital licensed by the Board of Health or the Commissioner of the Department of Mental Health, Mental Retardation or Substance Abuse Services or owned or operated by an agency of the Commonwealth.

2. Further, upon receiving notice of a proposal for or an application to obtain initial licensure from a provider of treatment for persons with opiate addiction through the use of the controlled substance, methadone, or other opioid replacements, the Commissioner shall, within 15 days of such receipt, notify the local governing body of and the community services board serving the jurisdiction in which the facility is to be located of such proposal or application and its proposed location.

Within 30 days of the date of the notice, local governing bodies and community services boards shall submit to the Commissioner comments on such proposals or applications. The local governing body shall notify the Commissioner within 30 days of the date of the notice concerning the compliance of the applicant with this section and any applicable local ordinances.

3. No license shall be issued by the Commissioner to such provider until the conditions of this section have been met, i.e., local governing body and community services board comments have been received and the local governing body has determined compliance with the provisions of this section and any relevant local ordinances.

4. No existing provider that has made application for licensure and obtained a certificate of occupancy or has received a license in accordance with the law and

regulations in effect on January 1, 2004, shall be required to comply with the provisions of this section.

5. The provisions of this act shall not apply to the jurisdictions located in Planning District 8."

Explanation:

(This amendment imposes restrictions on the location of methadone clinics.)

Health and Human Resources Subcommittee

Item 349 #8s

Health And Human Resources

FY 04-05

FY 05-06

Department Of Rehabilitative
Services

\$1,568,750

\$1,568,750 GF

Language:

Page 276, line 37, strike "\$83,939,471" and insert "\$85,508,221".

Page 276, line 37, strike "\$83,939,471" and insert "\$85,508,221".

Page 277, line 23, after "D." insert "1."

Page 277, line 24, strike "\$1,119,926" and insert "\$2,688,676".

Page 277, line 24, strike "\$1,263,638" and insert "\$2,832,388".

Page 277, after line 27, insert:

“2. Of this amount, \$1,568,750 from the general fund each year shall be used to provide a continuum of brain injury services to individuals in unserved or underserved regions of the Commonwealth. Up to \$250,000 each year shall be awarded to successful applicants. Organizations currently receiving more than \$250,000 each year are ineligible for additional assistance under this section. To be determined eligible for a grant under this section, organizations shall submit plans to match 50 percent of general fund support with non-state funding each year.

3. Beginning November 1, 2005, grant recipients shall submit annual reports to the Chairmen of the Senate Finance and House Appropriations Committees documenting the number of individuals served, services provided, and success in attracting non-state resources.”

Explanation:

(This amendment provides up to \$1.6 million each year from the general fund to ensure that access to brain injury services is provided statewide. Eligible applicants must submit plans to match at least one-half of estimated spending with non-state resources. Recipients are required to submit annual reports beginning November 1,

2005."

Health and Human Resources Subcommittee

Item 349 #9s

Health And Human Resources

Department Of Rehabilitative
Services

Language

Language:

Page 277, after line 43, insert:

“H.1. For grants awarded after July 1, 2004, the Commissioner shall require applicants to submit a plan to achieve self-sufficiency by the end of the grant award cycle in order to receive funding consideration.

2. Notwithstanding any other law to the contrary, the Commissioner may reallocate up to \$500,000 from unexpended balances in the Commonwealth Neurotrauma Initiative Trust Fund to fund new grant awards for research on traumatic brain and spinal cord injuries.”

Explanation:

(This amendment requires applicants for grant awards from the fund to have a plan for self-sufficiency at the end of the two- or three-year grant cycle. Also, it allows the Commissioner to redistribute unspent grant awards from prior years for new research activities.)

Health and Human Resources Subcommittee

Item 350 #1s

Health And Human Resources

Department Of Rehabilitative
Services

Language

Language:

Page 277, after line 49, insert:

"The Department of Rehabilitative Services, in cooperation with the Department of Social Services and local social services agencies, shall develop an expedited process for transitioning disabled persons in hospitals to rehabilitation facilities. As part of this expedited process, the Department of Rehabilitative Services shall make Medicaid disability determinations within seven business days of the receipt of referrals from local departments of social services.”

Explanation:

(This amendment requires an expedited determination of Medicaid eligibility for disabled persons in hospitals waiting for placement in rehabilitation facilities.)

Health and Human Resources Subcommittee

Item 362 #3s

Health And Human Resources

Department Of Social Services

Language

Language:

Page 291, line 5, after "fund", insert:

"and \$1,062,500 from the federal TANF grant".

Page 291, line 6, after "fund", insert:

"and \$1,062,500 from the federal TANF grant".

Explanation:

(This amendment restores the earmark of \$1,062,500 from the federal TANF block grant for domestic violence grants that are used to fund Family Violence Service Programs. A companion amendment restores funding for the program.)

Health and Human Resources Subcommittee

Item 365 #4s

Health And Human Resources

Department Of Social Services

Language

Language:

Page 292, line 49, strike "\$4,838,528" and insert \$4,857,697"

Page 292, line 50, strike "\$12,887" and insert "\$51,225"

Page 292, delete lines 51 through 59 and insert:

"2. Unless otherwise set out in this Act, federal TANF block grant funding will be provided to state agencies and other provider organizations in the first and second year at the same level as provided in fiscal year 2004."

Page 293, delete lines 1 through 7.

Explanation:

(This amendment eliminates the TANF-funded competitive grant program that was included in the Governor's introduced budget, restores funding for state agencies and provider organizations that was reduced, and adjusts the projected TANF reserve balances.)