Annual Report to the Governor
Mental Disabilities Board of Visitors

This report is submitted pursuant to 53-20-104(8), MCA and 53-21-104(8), MCA.

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TABLE OF CONTENTS

1. STATUS OF RESIDENTIAL FACILITIES AND MENTAL HEALTH FACILITIES REVIEWED IN FY 2003: COMPLIANCE WITH REQUIREMENTS OF 53-20 AND 53-21, MCA. 3

2. MENTAL HEALTH SYSTEM ISSUES 4

   A. Post Legislature Trends – September 2003 4

3. DEVELOPMENTAL DISABILITIES SYSTEM ISSUES 6

   A. Admissions to Montana Developmental Center 6

   B. Closure of Eastmont Human Services Center 6

   C. Secure Unit – Montana Developmental Center 6

   D. Certification Surveys Conducted by the Department of Health and Human Services -CMS 6

1. Status of Residential Facilities and Mental Health Facilities Reviewed in FY 2003: compliance with requirements of 53-20 and 53-21, MCA.

FACILITY	(A) DATE BOV SITE REVIEW CONDUCTED	(B) TREATMENT IS HUMANE, CONSISTENT WITH ESTABLISHED CLINICAL AND OTHER PROFESSIONAL STANDARDS? (53-20,21-104[1])	(C) TREATMENT MEETS REQUIREMENTS IN 53-20, 53-21? (53-20,21-104[1])	(D) DO TREATMENT PLANS EXIST? ---------- ARE TREATMENT PLANS BEING IMPLEMENTED? (53-20,21-104[4])	(E) STATUS OF USE OF MECHANICAL RESTRAINTS, LOCKED AND UNLOCKED SECLUSION OR ISOLATION, TIME OUT, OR ANY OTHER PROCEDURE INVOLVING PHYSICAL CONTROL. (53-20,21-104[4])	(F) DID FACILITY CONDUCT EXPERIMENTAL RESEARCH OR EMPLOY HAZARDOUS TREATMENT PROCEDURES? IF SO, APPROVED BY BOV? (53-20,21-104[2])	(G) WERE THERE ALLEGATIONS OF MISTREATMENT OF RESIDENTS? (53-20-104[3])	(H) STATUS OF BOV INVESTIGATIONS OF ALLEGED MISTREATMENT OF RESIDENTS (53-20-104[3])	(I) MEDS ADM TO PTS AGAINST THEIR WISHES? _____ REVIEW PROCESS EFFECTIVE? (53-21-127[2c], 104[8b])
South Central Montana Community Mental Health Center - Livingston	8/20/02	YES	YES	YES / YES	Not used	NO	NO	N/A	NO / NA
Western Montana Mental Health Center - Bozeman	8/21/02	YES	YES	YES / YES	Not used	NO	NO	N/A	NO / NA
Montana Developmental Center - Boulder	10/3,4/02	YES	YES	YES / YES	Not used [1]	NO	YES	Resolved See comment [2]	NA
Western Montana Mental Health Center - Missoula	12/17,18/02	YES	YES	YES / YES	Not used	NO	NO	N/A	NO / NA
AWARE, Inc. - Bozeman Adult Group Home	2/21/03	YES	YES	YES / YES	Not used	NO	NO	N/A	NO / NA
Shodair-Children's Residential Treatment Center	3/20/03	YES	YES	YES / YES	Used appropriately	NO	YES	Resolved See comment [3]	NO / N/A
Western Montana Mental Health Center - Kalispell	4/24,25/03	YES	YES	YES / YES	Not used	NO	NO	N/A	NO / N/A

[1] MDC terminated the use of isolation in 1989 and the use of mechanical restraints in January 1999. MDC operates a secure unit (104-R) that houses residents whose behavior has threatened the safety of other residents in more open units. This unit, by definition, challenges the philosophy of non-use of isolation and physical intervention. In December 2002, BOV hired a specialist in the operation of secure settings to study 104-R. Her conslusions and BOV's recommendations are included in the December 2002 Site Review Report.

[2] MDC responds to a number of allegations of resident abuse and neglect. BOV reviews every investigation report and follows up with MDC on cases for which BOV has concerns.

[3] Shodair routinely reports allegations of resident abuse and investigation reports to BOV. In the course of reviewing these reports, BOV identified shortcomings in staff training relative to reporting allegations and made a recommendation in its March 2003 Site Review Report. Shodair respoded appropriately to BOV's recommendation.

2. Mental Health System Issues

A. Post Legislature Trends – September 2003

The 57th legislature adjourned in April 2003. A number of administrative rule changes were implemented in 2002 (prior to the session) to address the escalating Medicaid and state expenditures (Mental Health Services Plan – MHSP) in the public mental health system. These included stricter utilization review, reduction of the number of reimbursed therapy sessions per year, restriction of access to children's case management services, elimination of "room and board" funding for some children for certain residential services, elimination of adult drop-in center contracts, drastic reduction of funding for non-Medicaid psychiatric medications, elimination of non-Medicaid CHIP services, elimination of the "frontier" rate differential to compensate for higher costs for providing services to consumers in very rural areas, elimination of funding for "full day" day treatment services, and reduction of the rate for therapeutic youth group home services. Additional funding changes were incorporated into the 2004-5 Biennium budget.

The following are trends reported to BOV by a variety of providers of mental health services.

ACCESS TO SERVICES

Adult Services:

- The time a person must wait for an initial appointment with a psychiatrist in the public mental health system ranges from two to four months, with waiting lists of up to 80 people, more than 50% of whom are not on Medicaid at the time of application for service. Provider organizations report that rates do not support hiring psychiatrists at competitive salaries. One mental health center reports an unsuccessful 1-½ year recruitment effort for a vacant psychiatrist position.
- The waiting period to see a therapist is up to seven weeks. Limitations on the number of reimbursed outpatient therapy sessions has resulted in elimination of some therapist positions - despite the continued need for this service - thus reducing access to not only therapist time for individual consumers, but to outpatient therapy as a service overall.
- Where adult group homes are in place, decreased access is due – in part - to overall stress experienced by adult consumers who have reduced access to other services (medications, day treatment, therapy) resulting in the need for higher-lever residential care.
- Mental health centers report growing waiting lists for adult case management services. When a provider opens a MHSP client with case management as a core service, it is predictable that the MHSP funding necessary to serve that client will "run out" before the end of a given fiscal year. Even though Medicaid – as an entitlement – does not "run out", finite state dollars available to secure the federal "match" are inadequate to meet the need. Medicaid reimbursement rates have been reduced in order to make the limited dollars stretch to provide required services. Overall this situation has resulted in larger caseloads, less individualized service, and waiting lists. One mental health center reports that ~ 80% of the people on its adult case management waiting list are not eligible for Medicaid. This situation results in adults with mental illnesses – both Medicaid and MHSP - entering the system in crisis through hospital emergency rooms, or simply going without services.

Children's Services:

- Even though the state's philosophy has been to shift more emphasis toward providing mental health care to children in or nearer to home, this has not happened commensurate with clinical needs of individual children (with the exception of the reduction of out-of-state placements) since community-based services have been targeted for rate cuts (case management, room and board, non-Medicaid Children's Health Insurance Program - CHIP, group home rates). The number of children in in-state out-of-home residential treatment has remained constant.
- Generally, Medicaid-eligible children without Child & Family Services or Department of Corrections involvement are restricted from therapeutic group home and therapeutic foster care services due to having no "room and board" payment source.
- There are long waiting lists for non-Medicaid children needing services. Even when a non-Medicaid child reaches the top of the waiting list, the service array is restricted to a limited number of outpatient therapy sessions and psychiatric medications.

COMPREHENSIVENESS OF SERVICES:

Generally, organizations have worked hard and been creative in maintaining relatively comprehensive service arrays, despite funding challenges. However all providers report that the capacity of each service relative to the need has been reduced.

Adult Services:

- Since MHSP does not pay for private hospital inpatient psychiatric treatment, a growing number of adults with mental illnesses not on Medicaid are either not able to access inpatient treatment when needed, or enter this level of service via escalation to involuntary civil commitment at Montana State Hospital.
- One major private inpatient psychiatric facility has closed an entire wing, eliminating 11 inpatient beds.
- One mental health center has closed one group home, converting it to a less staff-intensive "co-op", eliminating eight group home beds.
- "After Hours" services operating outside of the normal workday during times when consumers need extra support have either been eliminated or greatly reduced statewide.
- Mobile crisis coverage in some communities has continued only with financial assistance from counties and hospitals.
- Services assisting consumers to obtain and keep jobs have been significantly curtailed.

Children's Services:

- As noted above, the array of services available to non-Medicaid children is severely limited.
- Residential Treatment Centers (RTC) report that because of the lack of adequate funding for lower level, community based services, RTC's are forced to either discharge children to inadequate situations that predicate additional future RTC admissions, or to retain children - without funding - past the point where residential treatment is clinically indicated.

ACCESS TO MEDICATIONS:

Adult Services:

- Until recently, the severe limitation on funding available for psychiatric medications for non-Medicaid consumers had created crises for many consumers and an ethical dilemma for psychiatrists. Even though this monthly funding allocation has been increased, it is still significantly below the actual cost for necessary, effective medications that many consumers need. Consumers and psychiatrists continue to rely heavily on drug company samples – and these sources are drying up. Other consumers have been forced to take their medications every other day, or on some other compromised regimen. Still others have had to go back to old medications that have permanent, debilitating side effects.
- Because of the extreme shortage of psychiatrists in many areas of Montana and the large caseloads everywhere, it is extremely difficult for consumers to see psychiatrists for initial appointments when illnesses in acute phase necessitate timely contact with a doctor. Many consumers end up in crisis and go to emergency rooms for contact with a doctor for medications.

Conclusions:

1) **The number of adults with serious mental illness and children with serious emotional disturbance in Montana has not been measured. Funding for the system is based on historical recipient numbers, not on accurate measurement of the actual need. (See BOV Annual Report to the Governor for FY 2000, FY 2001, and FY 2002 for a more in-depth review.)**
2) **Many adults with serious mental illness and children with serious emotional disturbance in Montana are being inappropriately served in higher end, more expensive services because short-term budget strategies cause restrictions that limit access to community-based services.**
3) **Many adults with serious mental illness and children with serious emotional disturbance in Montana are in the corrections system because mental health services are not available.**

RECOMMENDATIONS

1) **DPHHS should establish a statistically valid profile of the number of adults with severe, disabling mental illnesses and children with severe emotional disturbances in Montana.**

2) **DPHHS should measure the difference between the number of people currently receiving services and the actual number of people in Montana with severe, disabling mental illnesses and severe emotional disturbances.**

3) **DPHHS should develop projections – by service category – of the service capacity (including definitions of all types of case load and program capacity) necessary to achieve agreed upon standards of quality.**

4) **DPHHS should extrapolate from (2) and (3) the monetary shortfall in the current mental health system budget and quantify more realistic funding requirement figures.**

5) **DPHHS should articulate these realistic funding requirements to the legislature.**

6) **DPHHS should incorporate recommendations made by the President's New Freedom Commission on Mental Health http://www.mentalhealthcommission.gov/reports/FinalReport/toc.html and the Surgeon General http://www.surgeongeneral.gov/library/mentalhealth/home.html into it's current and long range budget and program planning and policies.**

3. Developmental Disabilities System Issues

A. Admissions to Montana Developmental Center

The Board of Visitors continues to be concerned about the number of admissions to Montana Developmental Center (MDC) and the increasingly complex problems they present (dual diagnosis, criminal and sex offenses).

RECOMMENDATION

7) Services must be developed to effectively support people whose challenging behaviors are currently unmanageable in their communities. This may be accomplished – in part – by the new system of portability that allows a persons "funding" to follow them if they choose to move to another service provider within the State of Montana. This flexibility allows a person to move to another community that can support their needs more appropriately.

B. Closure of Eastmont Human Services Center

The Board of Visitors applauds the decision of the 2003 Legislature to close Eastmont Human Services Center and transfer those individuals to Montana Developmental Center (MDC). The majority of these individuals lived at MDC at some time in their lives and a slow, thorough transition is being planned. The closure of Eastmont is anticipated to save the state $2 million each biennium.

C. Secure Unit – Montana Developmental Center

The "Secure Unit" (104-R) was developed by MDC in April 2002 to allow for individuals whose behavior posed a significant risk to other residents and staff to be treated in a separate, more structured and supervised setting until they could be safely returned to the regular residences. A number of aspects of this unit continue to require development and presents concerns to the Mental Disabilities Board of Visitors. A Site Review conducted in 2002 offered concrete recommendations, some of which have been implemented. Licensure of this unit as an ICF/DD is currently being pursued for the unit.

RECOMMENDATION

8) MDC should continue to refine treatment and management protocols for the secure unit. Necessary changes are on going.

D. Certification Surveys Conducted by the Department of Health and Human Services -CMS

In February 2003, the U.S. Department of Health and Human Services - Centers for Medicare & Medicaid Services (CMS) conducted an onsite survey of the Montana Developmental Center (MDC). The findings indicated that significant improvements in the in the areas of health and safety for clients had been implemented. The survey cited MDC for not conforming with the "active treatment" requirement for certain clients. The State has appealed This citation indicates - for those clients who are not in need of training in personal living skills, and therefore not in need of active treatment - that the State will not receive federal Medicaid funding. The survey does not acknowledge that some developmentally disabled individuals committed to MDC continue to have critical treatment needs in the MDC venue – even if they do not require active treatment for personal living skills.

RECOMMENDATION

9) The State of Montana should continue legal remedies to ensure that federal funding continues for those clients who have a developmental disability and have been committed through the Montana courts.