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Memorandum

To: The Honorable Helio Melo
Chairman, House Finance Committee

The Honorable Daniel DaPonte
Chairman, Senate Finance Committee

From: Thomas A. Mullaney *Thomas A. Mullaney*
Executive Director/State Budget Officer

Date: May 15, 2012

Subject: Amendments to Article 18 of the FY 2013 Appropriations
Act (12-H-7323)

The Governor requests that several amendments be made to Article 18, Relating to Office of Health and Human Services, of the FY 2013 Appropriations Act, which was submitted to the General Assembly on January 31, 2012. As originally submitted, Article 18 expanded the role of the Executive Office of Health and Human Services (EOHHS) with respect to the administration of the Title XIX Medical Assistance program (i.e. Medicaid), mirroring the transfer of appropriations for this program as contained in Article 1. Two related provisions are added in the revised article: the first of these transfers the HIV/AIDS care and treatment programs from the Department of Human Services to the Executive Office of Health and Human Services, while the second retains within the Department of Health all functions and resources associated with the HIV surveillance and prevention programs. The care and treatment programs, being part of the Medicaid program at DHS, should have been included in the original submission of this article, but was inadvertently omitted. A corresponding amendment to Article 1 will follow shortly.

The effective date of the article is also changed from "upon passage" to July 1, 2012. All revised language is shaded in gray.

If you have any questions regarding Article 18, please feel free to call Daniel Orgel at 222-2329.

TAM:12-27
Attachments

cc: Sharon Reynolds Ferland, House Fiscal Advisor
Peter Marino, Senate Fiscal Advisor
Kelly Mahoney, Policy Director, Office of the Governor
Richard Licht, Director of Administration
Gregory Stack

TDD#: 277-1227

REVISED ARTICLE 18 (5/15/12)

RELATING TO OFFICE OF HEALTH AND HUMAN SERVICES

SECTION 1. Sections 42-7.2.1, 42-7.2-2, 42-7.2-4, 42-7.2-5, 42-7.2-6, 42-7.2-6.1, 42-7.2-12 and 42-7.2-16 of the General Laws in Chapter 42-7.2 entitled "Office of Health and Human Services" are hereby amended to read as follows:

§ 42-7.2-1. Statement of intent.- The purpose of this Chapter is to develop a consumer-centered system of publicly-financed state administered health and human services that supports access to high quality services, protects the safety of the state's most vulnerable citizens, and ensures the efficient use of all available resources by the ~~five (5)~~ four (4) departments responsible for the health and human services programs serving all Rhode Islanders and providing direct assistance and support services to more than 250,000 individuals and families: the department of children, youth, and families; ~~the department of elderly affairs;~~ the department of health; the department of human services; and the department of ~~mental health, retardation behavioral healthcare, developmental disabilities~~ and hospitals, collectively referred to within as "departments". It is recognized that the executive office of health and human services and the departments have undertaken a variety of initiatives to further this goal and that they share a commitment to continue to work in concert to preserve and promote each other's unique missions while striving to attain better outcomes for all the people and communities they serve. However, recent and expected changes in federal and state policies and funding priorities that affect the financing, organization, and delivery of health and human services programs pose new challenges and opportunities that have created an even greater need for structured and formal interdepartmental cooperation and collaboration. To meet this need while continuing to build on the achievements that have already been made, the interests of all Rhode Islanders will best be served by codifying in the state's general laws the purposes and responsibilities of the executive office of health and human services and the position of secretary of health and human services.

§ 42-7.2-2. Executive office of health and human services . -There is hereby established within the executive branch of state government an executive office of health and human services to serve as the principal agency of the executive branch of state government for managing the departments of children, youth and families, ~~elderly affairs,~~ health, human services, and ~~mental health, retardation~~ behavioral healthcare, developmental disabilities and hospitals. In this capacity, the office shall:

(a) Lead the state's ~~five~~ four (4) health and human services departments in order to:

(1) Improve the economy, efficiency, coordination, and quality of health and human services policy and planning, budgeting and financing.

(2) Design strategies and implement best practices that foster service access, consumer safety and positive outcomes.

(3) Maximize and leverage funds from all available public and private sources, including federal financial participation, grants and awards.

(4) Increase public confidence by conducting independent reviews of health and human services issues in order to promote accountability and coordination across departments.

(5) Ensure that state health and human services policies and programs are responsive to changing consumer needs and to the network of community providers that deliver assistive services and supports on their behalf.

(b) ~~Supervise the administrations of~~ Administer the federal and state medical assistance programs ~~by acting as in the capacity of~~ the single state agency authorized under title XIX of the U.S. Social Security act, 42 U.S.C. § 1396a et seq., ~~notwithstanding any general or public law or regulation to the contrary,~~ and ~~exereising~~ exercise such single state agency authority for such other federal and state programs as may be designated by the governor. Except as provided for herein, nothing in this chapter shall be construed as transferring to the secretary: ~~(1) The~~ the powers, duties or functions conferred upon the departments by Rhode Island general laws for the ~~administration of the foregoing federal and state programs; or (2) The administrative~~

~~responsibility for the preparation and submission of any state plans, state plan amendments, or federal waiver applications, as may be approved from time to time by the secretary with respect to the foregoing federal and state programs management and operations of programs or services approved for federal financial participation under the authority of the Medicaid state agency .~~

§ 42-7.2-4. Responsibilities of the secretary.-(a) The secretary shall be responsible to the governor for supervising the executive office of health and human services and for managing and providing strategic leadership and direction to the ~~five~~ four (4) departments.

(b) Notwithstanding the provisions set forth in this chapter, the governor shall appoint the directors of the departments within the executive office of health and human services. Directors appointed to those departments shall continue to be subject to the advice and consent of the senate and shall continue to hold office as set forth in §§ 42-6-1 et seq. and 42-72-1(c).

§ 42-7.2-5. Duties of the secretary.-The secretary shall be subject to the direction and supervision of the governor for the oversight, coordination and cohesive direction of state administered health and human services and in ensuring the laws are faithfully executed, notwithstanding any law to the contrary. In this capacity, the Secretary of Health and Human Services shall be authorized to:

(1) Coordinate the administration and financing of health care benefits, human services and programs including those authorized by the Global Consumer Choice Compact Waiver and, as applicable, the Medicaid State Plan under Title XIX of the US Social Security Act. However, nothing in this section shall be construed as transferring to the secretary the powers, duties or functions conferred upon the departments by Rhode Island public and general laws for the administration of federal/state programs financed in whole or in part with Medicaid funds or the administrative responsibility for the preparation and submission of any state plans, state plan amendments, or authorized federal waiver applications, once approved by the secretary and director of the single state agency.

(2) Serve as the governor's chief advisor and liaison to federal policymakers on Medicaid reform issues as well as the principal point of contact in the state on any such related matters.

(3) Review and ensure the coordination of any Global Consumer Choice Compact Waiver requests and renewals as well as any initiatives and proposals requiring amendments to the Medicaid state plan or category ~~one (I)~~ or two (II) or three (III) changes, as described in the special terms and conditions of the Global Consumer Choice Compact Waiver with the potential to affect the scope, amount or duration of publicly-funded health care services, provider payments or reimbursements, or access to or the availability of benefits and services as provided by Rhode Island general and public laws. The secretary shall consider whether any such changes are legally and fiscally sound and consistent with the state's policy and budget priorities. The secretary shall also assess whether a proposed change is capable of obtaining the necessary approvals from federal officials and achieving the expected positive consumer outcomes. Department directors shall, within the timelines specified, provide any information and resources the secretary deems necessary in order to perform the reviews authorized in this section;

(4) Beginning in 2006, prepare and submit to the governor, the chairpersons of the house and senate finance committees, the caseload estimating conference, and to the joint legislative committee for health care oversight, by no later than March 15 of each year, a comprehensive overview of all Medicaid expenditures outcomes, and utilization rates. The overview shall include, but not be limited to, the following information:

(i) Expenditures under Titles XIX and XXI of the Social Security Act, as amended;

(ii) Expenditures, outcomes and utilization rates by population and sub-population served (e.g. families with children, children with disabilities, children in foster care, children receiving adoption assistance, adults with disabilities, and the elderly);

(iii) Expenditures, outcomes and utilization rates by each state department or other municipal or public entity receiving federal reimbursement under Titles XIX and XXI of the Social Security Act, as amended; and

(iv) Expenditures, outcomes and utilization rates by type of service and/or service provider. The directors of the departments, as well as local governments and school departments, shall assist and cooperate with the secretary in fulfilling this responsibility by providing whatever resources, information and support shall be necessary.

(5) Resolve administrative, jurisdictional, operational, program, or policy conflicts among departments and their executive staffs and make necessary recommendations to the governor.

(6) Assure continued progress toward improving the quality, the economy, the accountability and the efficiency of state-administered health and human services. In this capacity, the secretary shall:

(i) Direct implementation of reforms in the human resources practices of the departments that streamline and upgrade services, achieve greater economies of scale and establish the coordinated system of the staff education, cross-training, and career development services necessary to recruit and retain a highly-skilled, responsive, and engaged health and human services workforce;

(ii) Encourage the departments to utilize consumer-centered approaches to service design and delivery that expand their capacity to respond efficiently and responsibly to the diverse and changing needs of the people and communities they serve;

(iii) Develop all opportunities to maximize resources by leveraging the state's purchasing power, centralizing fiscal service functions related to budget, finance, and procurement, centralizing communication, policy analysis and planning, and information systems and data management, pursuing alternative funding sources through grants, awards and partnerships and securing all available federal financial participation for programs and services provided through the departments;

(iv) Improve the coordination and efficiency of health and human services legal functions by centralizing adjudicative and legal services and overseeing their timely and judicious administration;

(v) Facilitate the rebalancing of the long term system by creating an assessment and coordination organization or unit for the expressed purpose of developing and implementing procedures across departments that ensure that the appropriate publicly-funded health services are provided at the right time and in the most appropriate and least restrictive setting; and

(vi) Strengthen health and human services program integrity, quality control and collections, and recovery activities by consolidating functions within the office in a single unit that ensures all affected parties pay their fair share of the cost of services and are aware of alternative financing.

(vii) Broaden access to publicly funded food and nutrition services by consolidating agency programs and initiatives to eliminate duplication and overlap and improve the availability and quality of services; and

(viii) Assure protective services are available to vulnerable elders and adults with developmental and other disabilities by reorganizing existing services, establishing new services where gaps exist and centralizing administrative responsibility for oversight of all related initiatives and programs.

(7) Prepare and integrate comprehensive budgets for the health and human services departments and any other functions and duties assigned to the office. The budgets shall be submitted to the state budget office by the secretary, for consideration by the governor, on behalf of the state's health and human services in accordance with the provisions set forth in § 35-3-4 of the Rhode Island general laws.

(8) Utilize objective data to evaluate health and human services policy goals, resource use and outcome evaluation and to perform short and long-term policy planning and development.

(9) Establishment of an integrated approach to interdepartmental information and data management that complements and furthers the goals of the CHOICES initiative and that will facilitate the transition to consumer-centered system of state administered health and human services.

(10) At the direction of the governor or the general assembly, conduct independent reviews of state-administered health and human services programs, policies and related agency actions and activities and assist the department directors in identifying strategies to address any issues or areas of concern that may emerge thereof. The department directors shall provide any information and assistance deemed necessary by the secretary when undertaking such independent reviews.

(11) Provide regular and timely reports to the governor and make recommendations with respect to the state's health and human services agenda.

(12) Employ such personnel and contract for such consulting services as may be required to perform the powers and duties lawfully conferred upon the secretary.

(13) Implement the provisions of any general or public law or regulation related to the disclosure, confidentiality and privacy of any information or records, in the possession or under the control of the executive office or the departments assigned to the executive office, that may be developed or acquired for purposes directly connected with the secretary's duties set forth herein.

(14) Hold the director of each health and human services department accountable for their administrative, fiscal and program actions in the conduct of the respective powers and duties of their agencies.

§ 42-7.2-6. Departments assigned to the executive office - Powers and duties. -(a) The departments assigned to the secretary shall:

(1) Exercise their respective powers and duties in accordance with their statutory authority and the general policy established by the governor or by the secretary acting on behalf

of the governor or in accordance with the powers and authorities conferred upon the secretary by this chapter;

(2) Provide such assistance or resources as may be requested or required by the governor and/or the secretary; and

(3) Provide such records and information as may be requested or required by the governor and/or the secretary to the extent allowed under the provisions of any applicable general or public law, regulation, or agreement relating to the confidentiality, privacy or disclosure of such records or information.

(4) Forward to the secretary copies of all reports to the governor.

(b) Except as provided herein, no provision of this chapter or application thereof shall be construed to limit or otherwise restrict the department of children, youth and families, ~~the department of elderly affairs,~~ the department of health, the department of human services, and the department of ~~mental health, retardation~~ behavioral healthcare, developmental disabilities and hospitals from fulfilling any statutory requirement or complying with any valid rule or regulation.

§ 42-7.2-6.1. Transfer of powers and functions.- (a) There are hereby transferred to the executive office of health and human services the powers and functions of the departments with respect to the following:

(1) By July 1, 2007, fiscal services including budget preparation and review, financial management, purchasing and accounting and any related functions and duties deemed necessary by the secretary;

(2) By July 1, 2007, legal services including applying and interpreting the law, oversight to the rule-making process, and administrative adjudication duties and any related functions and duties deemed necessary by the secretary;

(3) By September 1, 2007, communications including those functions and services related to government relations, public education and outreach and media relations and any related functions and duties deemed necessary by the secretary;

(4) By March 1, 2008, policy analysis and planning including those functions and services related to the policy development, planning and evaluation and any related functions and duties deemed necessary by the secretary;

(5) By June 30, 2008, information systems and data management including the financing, development and maintenance of all data-bases and information systems and platforms as well as any related operations deemed necessary by the secretary;

(6) By October 1, 2009, assessment and coordination for long-term care including those functions related to determining level of care or need for services, development of individual service/care plans and planning, identification of service options, the pricing of service options and choice counseling; and

(7) By October 1, 2009, program integrity, quality control and collection and recovery functions including any that detect fraud and abuse or assure that beneficiaries, providers, and third-parties pay their fair share of the cost of services, as well as any that promote alternatives to publicly financed services, such as the long-term care health insurance partnership.

(8) By January 1, 2011, client protective services including any such services provided to children, elders and adults with developmental and other disabilities;

(9) [Deleted by P.L. 2010, ch. 23, art. 7, § 1].

(10) By July 1, 2012, the HIV/AIDS care and treatment programs.

(b) The secretary shall determine in collaboration with the department directors whether the officers, employees, agencies, advisory councils, committees, commissions, and task forces of the departments who were performing such functions shall be transferred to the office.

(c) In the transference of such functions, the secretary shall be responsible for ensuring:

(1) Minimal disruption of services to consumers;

(2) Elimination of duplication of functions and operations;

(3) Services are coordinated and functions are consolidated where appropriate;

(4) Clear lines of authority are delineated and followed;

(5) Cost-savings are achieved whenever feasible;

(6) Program application and eligibility determination processes are coordinated and, where feasible, integrated; and

(7) State and federal funds available to the office and the entities therein are allocated and utilized for service delivery to the fullest extent possible.

(d) Except as provided herein, no provision of this chapter or application thereof shall be construed to limit or otherwise restrict the departments of children, youth and families, human services, ~~elderly affairs, health, and mental health, retardation~~ behavioral healthcare, developmental disabilities, and hospitals from fulfilling any statutory requirement or complying with any regulation deemed otherwise valid.

(e) The secretary shall prepare and submit to the leadership of the house and senate finance committees, by no later than January 1, 2010, a plan for restructuring functional responsibilities across the departments to establish a consumer centered integrated system of health and human services that provides high quality and cost-effective services at the right time and in the right setting across the life-cycle.

§ 42-7.2-12. Medicaid program study.-(a) The secretary of the executive office of health and human services shall conduct a study of the Medicaid programs administered by the state to review and analyze the options available for reducing or stabilizing the level of uninsured Rhode Islanders and containing Medicaid spending.

(1) As part of this process, the study shall consider the flexibility afforded the state under the federal Deficit Reduction Act of 2006 and any other changes in federal Medicaid policy or program requirements occurring on or before December 31, 2006, as well as the various approaches proposed and/or adopted by other states through federal waivers, state plan amendments, public-private partnerships, and other initiatives.

(2) In exploring these options, the study shall examine fully the overall administrative efficiency of each program for children and families, elders and adults with disabilities and any

such factors that may affect access and/or cost including, but not limited to, coverage groups, benefits, delivery systems, and applicable cost-sharing requirements.

(b) The secretary shall ensure that the study focuses broadly on the Medicaid programs administered by the executive office of health and human services and all five (5) of the state's ~~five (5)~~ four (4) health and human services departments, irrespective of the source or manner in which funds are budgeted or allocated. The directors of the departments shall cooperate with the secretary in preparing this study and provide any information and/or resources the secretary deems necessary to assess fully the short and long-term implications of the options under review both for the state and the people and the communities the departments serve. The secretary shall submit a report and recommendations based on the findings of the study to the general assembly and the governor no later than March 1, 2007.

§ 42-7.2-16. Medicaid System Reform 2008. -(a) The executive office of health and human services, in conjunction with the department of human services, ~~the department of elderly affairs,~~ the department of children youth and families, the department of health and the department of ~~mental health, retardation~~ behavioral healthcare, developmental disabilities, and hospitals, is authorized to design options that reform the Medicaid program so that it is a person-centered, financially sustainable, cost-effective, and opportunity driven program that: utilizes competitive and value based purchasing to maximize the available service options, promote accountability and transparency, and encourage and reward healthy outcomes, independence, and responsible choices; promotes efficiencies and the coordination of services across all health and human services agencies; and ensures the state will have a fiscally sound source of publicly-financed health care for Rhode Islanders in need.

(b) *Principles and Goals.* In developing and implementing this system of reform, the executive office of health and human services and the ~~five (5)~~ four (4) health and human services departments shall pursue the following principles and goals:

(1) Empower consumers to make reasoned and cost-effective choices about their health by providing them with the information and array of service options they need and offering rewards for healthy decisions;

(2) Encourage personal responsibility by assuring the information available to beneficiaries is easy to understand and accurate, provide that a fiscal intermediary is provided when necessary, and adequate access to needed services;

(3) When appropriate, promote community-based care solutions by transitioning beneficiaries from institutional settings back into the community and by providing the needed assistance and supports to beneficiaries requiring long-term care or residential services who wish to remain, or are better served in the community;

(4) Enable consumers to receive individualized health care that is outcome-oriented, focused on prevention, disease management, recovery and maintaining independence;

(5) Promote competition between health care providers to ensure best value purchasing, to leverage resources and to create opportunities for improving service quality and performance;

(6) Redesign purchasing and payment methods to assure fiscal accountability and encourage and to reward service quality and cost-effectiveness by tying reimbursements to evidence-based performance measures and standards, including those related to patient satisfaction; and

(7) Continually improve technology to take advantage of recent innovations and advances that help decision makers, consumers and providers to make informed and cost-effective decisions regarding health care.

(c) The executive office of health and human services shall annually submit a report to the governor and the general assembly commencing on a date no later than July 1, 2009 describing the status of the administration and implementation of the Global Waiver Compact.

SECTION 2. Chapter 42-7.2 of the General Laws entitled "Office of Health and Human Service" is hereby amended by adding thereto the following section:

§ 42-7.2-17. Statutory reference to the office of health and human services.-

Notwithstanding other statutory references to the department of human services, wherever in the general or public laws, or any rule or regulation, any reference shall appear to the "department of human services" or to "department" as it relates to any responsibilities for and/or to Medicaid, unless the context otherwise requires, it shall be deemed to mean and shall be replaced with "the office of health and human services."

SECTION 3. Section 42-18-5 the General Laws in Chapter 42-18 entitled "Department of Health" is hereby amended to read as follows:

§ 42-18-5. Transfer of powers and functions from department of health. – (a) There are hereby transferred to the department of administration:

(1) Those functions of the department of health which were administered through or with respect to departmental programs in the performance of strategic planning as defined in § 42-11-10(c);

(2) All officers, employees, agencies, advisory councils, committees, commissions, and task forces of the department of health who were performing strategic planning functions as defined in § 42-11-10(c); and

(3) So much of other functions or parts of functions and employees and resources, physical and funded, related thereto of the director of health as are incidental to and necessary for the performance of the functions transferred by subdivisions (1) and (2).

(b) There is hereby transferred to the department of human services the administration and management of the special supplemental nutrition program for women, infants, and children (WIC) and all functions and resources associated therewith.

(c) There is hereby transferred to the ~~department of human services~~ executive office of health and human services the HIV/AIDS ~~direct services programs~~ care and treatment programs and all functions and resources associated therewith. The department of health shall retain the HIV surveillance and prevention programs and all functions and resources associated therewith.

SECTION 4. This article shall take effect as of July 1, 2012.