

Testimony to House Subcommittee for the Michigan Department of Health and Human Services
March 9, 2020



Grass Roots Advocacy Committee for the Lakeshore Region (GRAC)

c/o

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Dear Members of the House Appropriations Subcommittee on Health and Human Services

ATTN: Representative Mary Whiteford, Chair

P.O. Box 30014

Lansing, MI 48909

RE: Written comments regarding the proposed budget for FY 20 as to the Behavioral Health and Developmental Disabilities Administration

Dear Representative Whiteford and Members of the House Appropriations Subcommittee on Health and Human Services:

Thank you for the opportunity to provide public comment to all of you as the state of Michigan considers its budget for FY 2021. We are here today to provide comments regarding the proposed Behavioral Health and Developmental Disabilities Administration (BHDDA) budget. We are concerned, more specifically, with dollars that are allocated to the Prepaid Inpatient Health Plans (PIHPS) and Community Mental Health Services Providers (CMHSPS) that comprise the public mental health system. These entities are funded with taxpayer dollars and serve the most vulnerable Michiganders. The CMHSPS and the PIHPS lack appropriate oversight and monitoring by their funders. We appreciate having the ability to give feedback about the way in which the state of Michigan is planning to use state and federal tax dollars to ensure that the most vulnerable residents of Michigan are provided with behavioral health services.

By way of introduction, the GRAC is a group of parents, family members and network providers whose adult child/loved one or consumer is an individual with an intellectual and/or developmental disability and/or a serious mental illness served by a CMHSP in the Lakeshore Region. We have come together to advocate for all persons served by the community mental health system in West Michigan. To that end, our mission is to inform, educate and advocate for systemic change in the mental health system in Michigan. To accomplish these goals, we make it our mission to remain vigilant and alert as the lakeshore region continues to struggle with mismanagement, a lack of solidarity among its CMHSP members and funding cuts that almost always result in a loss of services for persons served. Many of those persons served happen to be our adult children who are, in a variety of ways, dependent upon the services that are provided by public mental health.

We are grateful for the services that are offered by the public mental health system in Michigan. Many of our kids and loved ones have been in the "system" for many years and have benefited greatly from what is offered. At the same time, we have grave concerns about what we perceive to be the lack of accountability and oversight that seems to be rampant in the "system". We have observed that many of the rules, regulations, contractual requirements and foundational values that are supposed to govern the system, are not enforced by the appropriate entities. In the case of the CMHSPS, the PIHPS and the MDHHS should be

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holding them accountable. In the case of the PIHPS, the MDHHS should be holding them accountable. The master contract between the PIHPS and the state of Michigan is filled with federal regulations and civil rights statutes that are rarely, if ever, enforced. We believe that, if the CMHSPS and the PIHPS were appropriately held accountable, then many of the problems and issues that have arisen over the years would be greatly remediated.

We remain hopeful, for example, that by speaking up at a hearing such as this that we will not be faced with retaliation for having done so. Many of us have experienced retaliation by a CMHSP and/or a PIHP for speaking our minds and for advocating for a person served. Even though it is a potential violation of the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act of 1973 (504) and Section 1557 of the Patient Protection and Affordable Care Act to discriminate against an individual with a disability in healthcare, it does still happen. Even though under the ADA and 504 retaliation against an individual for advocating on behalf of a person with a disability in healthcare is a protected activity, there are many providers, families and loved ones of persons served who have experienced the negative backlash from a CMHSP or PIHP as a result of speaking up.

To that end, these are the items that are required by the public mental health system that need reformation and/or the rules/regulations governing these required activities need to be enforced:

1. Person-Centered Planning, which is the backbone of the services provided to an individual and is also a foundational value, is rarely conducted in a fashion that is "person-centered" or "family and youth-driven." Our experience has been that, even if an individual has a beautifully crafted plan, it is often ripped to shreds by the "utilization management" staff at the CMHSP or PIHP.
2. Use of "assessment tools" such as the Supports Intensity Scale (SIS), the CAFAS, the LOCUS and, in some counties, a point system to determine the "scope, amount and duration of services", are all used to inform the person-centered planning process and are not intended to supplant it. Unfortunately, many CMHSPS use "tools" to set arbitrary limits on services without regard for what is actually determined to be "medically necessary". In the Lakeshore region, this has been brought to the attention of BHDDA and to the LRE, and yet it continues to occur, particularly in Kent County.
3. Notice of rights to "due process", which includes the right to appeal an adverse decision by a CMHSP or a PIHP to deny, reduce, terminate or modify a Medicaid-covered service, is often not given appropriately, timely and sometimes it is not given at all.
4. In the "appeals" process, the deck is stacked against families, persons served, providers and others who choose to challenge an adverse determination. In other words, decisions to reduce, terminate, suspend or deny services are appealed to the PIHP or CMHSP that made the adverse decision. Individuals who choose to appeal have no way of knowing "who" made the decision to deny the appeal and the reasons for the decision are often vague and hard to defend against.
5. If an appeal moves to the Medicaid Fair Hearing process (which it often does), then the process of challenging a decision on the part of a PIHP/CMHSP to modify a service becomes more difficult and significantly more complicated.
6. The lack of access to community mental health services is another longstanding problem that has existed for many years. However, it has gotten significantly worse since the General Fund reductions in 2014 and many individuals, particularly those with

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mental illnesses, who should qualify have been denied access to services because many of the CMHSPS have declared themselves to be "Medicaid only."

Thank you for the opportunity to provide comment on the proposed budget for community mental health in Michigan. Our basic message is simply this: With appropriate oversight, monitoring of the contracts and enforcement of the rules and regulations that inform those contracts by the state of Michigan of the way in which the CMHSPS and the PIHPS operate, administratively and at the service delivery level, many of the problems that you have heard about would significantly diminish.

If you have questions, or if you need additional information, we can be reached via email at graclre540@gmail.com.

Sincerely,

The Grass Roots Advocacy Committee for the Lakeshore Region:

Sally Gallagher, Chair; Rosalie Austin, Barbara Bol, Ann Braford, Helen Cannon, Linda Kristensen; Amy Renda; Sue Renkema; and Caroline Zech;