

**Appropriations Committee**  
**Budget Hearing – Department of Health and Human Services**  
**March 16, 2015**

**Joseph M. Acierno, Acting CEO**  
**Department of Health and Human Services**

Good afternoon, Senator Mello and members of the Appropriations Committee. For the record, I am Joseph Acierno (J-O-S-E-P-H A-C-I-E-R-N-O), Acting Chief Executive Officer of the Department of Health and Human Services and Division Director of the Division of Public Health.

I am joined today by Matt Clough, Chief Operating Officer for the Department and the Division Directors: Calder Lynch, Director of the Division of Medicaid and Long-Term Care; and John Hilgert, Director of the Division of Veterans' Homes. The other directors will be before the Committee tomorrow.

Before we begin, we would like to thank you and your staff for your work on behalf of the Department. We also thank you for reflecting many of the Governor's budget recommendations in the Committee's preliminary recommendations. We will not address those requests unless you have additional questions for us.

**Clarifications to previous testimony**

Before I begin budget testimony, I would like to take a moment to respond to comments made during the Supreme Court's Appropriations Hearing on Tuesday, March 10<sup>th</sup> regarding services to the Office of Juvenile Services youth who transferred from DHHS to Probation. The appropriate directors are here to respond to any questions you may have. I'll cover comments related to Medicaid, Title IV-E funding, dollars transferred to Probation, payment for services provided at the Hastings Regional Center, and status of the budget at YRTC-Kearney.

**Medicaid Reimbursement**

First, I would like to address the issue that Probation youth are not receiving Medicaid coverage. There are three things that impact Medicaid reimbursement for services: the person must meet eligibility requirements, the service must be a covered service and it must be medically necessary.

Currently, and prior to any of these youth transitioning to the Office of Probation Administration, Medicaid eligibility was and is based on income. If a state ward is placed in out of home care, their income as a family of one is generally used for Medicaid eligibility determination and in most cases they will be eligible for Medicaid. If a state ward remains in

the home, the family's income must be considered for eligibility. Because this is based on the income of the household, some are eligible for Medicaid while others are not. In addition, even if the youth is Medicaid eligible, the service or level of treatment must be determined to be medically necessary in order to be reimbursed by Medicaid.

These criteria are the same for everyone: the general population, DHHS state wards, and youth served by Probation. Medicaid cannot make payment solely because it is court ordered. The services must meet all eligibility and medical necessity criteria. This is true for DHHS as well as Probation.

#### Title IV-E

The Department has met on various occasions with the Office of Probation as it relates to Title IV-E claiming. These conversations began prior to LB 561 being signed into law and continued thereafter. The Department is the single state agency in charge of administering Title IV-E.

On November 20, 2013 the Department brought in consultants from Casey Family Programs to provide stakeholders with an overview of Title IV-E and its stringent federal requirements, which staff from the Office of Probation and the Legislative Fiscal Office attended. In addition, the Department has had ongoing discussions, including with our federal partners at Administration for Children and Families (ACF), regarding entering into an agreement with the Office of Probation for Title IV-E.

The Department briefed the Appropriations Committee and the Health and Human Services Committee on November 14, 2014 regarding issues with bundling Title IV-E foster care payments. The Department recently restructured the Title IV-E foster care maintenance requirements due to this 'bundled' payment issue, now issuing two separate payments to the Agency Supported Foster Care providers, one for the maintenance of the child and one for the administrative payment to the agencies. The Office of Probation would need to follow this same protocol as other providers in order to ensure Nebraska does not receive any additional disallowances as it relates to Title IV-E claiming.

The Department has offered to enter into such agreement with the Office of Probation which would require the Department's involvement with them relating to reasonable amounts being paid, the basis for the rates, administrative oversight and obtaining source documentation for Title IV-E claiming purposes. The Department remains willing to enter into such agreement with the Office of Probation once their rate methodology can be substantiated and is approved by our federal partners.

### Transferred Funds

The Department has collaborated with the Supreme Court as it relates to costs and continues to provide requested information pertaining to the costs incurred by the Department. This began during the 2013 legislative session in which LB561 passed as there are costs covered by the Department that the Supreme Court would not pay. The Department provided a list of the services and treatment DHHS provided, amounts spent, information about the OJS population, and the mandated staffing levels that the Department has to comply with. This was the basis for the calculation of the fiscal note for LB561, which in turn was used by the Legislative Fiscal Office to construct the transfer of funds contained in LB561A. All funds for this population have transferred to Probation as required by LB 561.

### HRC Program

I also want to address the payment for services received at the Adolescent Residential Substance Abuse Treatment program at the Hastings Regional Center. When these services were used by DHHS, the youth were either eligible for Medicaid or, if not, the Division of Children and Family Services paid for the services at the Medicaid rate. Medicaid continues to pay costs for Medicaid eligible youth. Probation is being invoiced the Medicaid rate, at \$397 per day, for any non-Medicaid eligible youth. This is actually less than the current Medicaid rate of \$401. The rate changed on August 1, 2014 from \$397 per day to \$401, however the invoices sent to Probation were rejected by Probation based on the rate change. HHS is currently billing at the \$397 per day rate. In a February, 2015 meeting with Probation, an offer was made to work with them to review the processes for and related to Medicaid coverage for youth to be served at HRC.

### YRTC-Kearney Program

The decrease in the census at the Youth Rehabilitation and Treatment Center in Kearney was also mentioned. Because of the decrease in the census, the direct care staffing levels have improved and we now feel confident we'll be able to meet federally-mandated staffing levels required by Federal Law found in 29 C.F.R. Part 115 that will become effective in 2017. Even though the census has gone down, we must continue to provide all supportive services such as the school, food service, mental health and overall operations. For these reasons, we believe the funding levels for the YRTC at Kearney should not be adjusted.

Thank you for your consideration of these items. We're happy to answer any questions you have prior to proceeding with the remainder of our budget testimony.

I will now proceed with our budget testimony.

## **Reappropriation**

The most notable variance between the appropriation bill introduced on behalf of the Governor and the Appropriation Committee's recommendation is the reappropriation of June 30, 2015 unexpended and unencumbered funds. The need for these funds vary within DHHS programs. In our testimony these needs will be addressed in individual programs.

## **Division of Public Health and Operations**

We appreciate the work of the Committee on the budget for the Division of Public Health and Operations. There are no significant variances between the Governor's and Committee's recommendations in these areas.

I am asking; however, that \$1,000,000 General Funds be reappropriated for the Nebraska Health Initiative in Program 033 to continue our efforts with respect to electronic health records.