

Good afternoon, Senator Coash and members of the Developmental Disabilities Special Investigative Committee. My name is Courtney Miller (C-O-U-R-T-N-E-Y M-I-L-L-E-R), Director of the Division of Developmental Disabilities with the Nebraska Department of Health and Human Services.

Though you have my entire testimony, I will speak to the key points.

When I first came in as interim director, CEO Courtney Phillips asked me to reach out to all stakeholder, both internal and external, to take an inventory of what is working and areas needing improvement. Since I last appeared before this committee in October, Lori Harder, the Deputy Director of Community Based Services, and I traveled the State to engage stakeholders in the delivery of Developmental Disabilities services. We had honest and frank conversations with families, friends, providers and advocates – critical voices associated with the programs that serve Nebraskans with Developmental Disabilities.

At each of the nine town hall-style forums, interest in the future of community based services, as well as the transition of BSDC residents to

community services, were popular topics. Participants are justifiably interested in the progress of the operation and the future of services.

Before I jump into BSDC updates I would like to provide a quick clarification to the per resident cost figure discussed in October. A figure of \$450,000 was used as the cost to serve each resident at BSDC. This figure represents the budget allocated to BSDC divided by its census. However, this is not an accurate reflection of the costs to operate that facility.

For example, this budget also accounts for shared services at Bridges, as well as the medical and behavioral support teams for consultation with community-based individuals. Also, the Medicaid payment methodology for an intermediate care facility (ICF) is a per diem, which includes the individual's pharmaceuticals, medical, and dental care. We converted an existing position and are recruiting for a finance administrator to assist with a deep dive for an accounting of those costs that are specific to BSDC. This will allow for a clearer cost per individual at BSDC to compare against the cost in a community-based setting.

I am pleased to report to you that gains made over the past several years at the Beatrice State Developmental Center have been sustained and improvements continue. The 116 individuals who reside at BSDC receive high-quality services and supports from our caring staff. Three residents from BSDC are actively transitioning into community based programs. We continue to recruit for a CEO for BSDC to provide the leadership and managerial skills needed to ensure that our most vulnerable citizens continue to thrive at BSDC. While working on this critical first step, my team is exploring opportunities for cost efficiencies while ensuring the quality of care of the individuals we serve in a parallel process.

The Plan

We have begun looking for innovative ideas other states have implemented for state operated facilities. We will complete an analysis of Bridges and BSDC to determine our best options for moving forward. We anticipate that this plan, formulated with team and stakeholder input, will be available by this time next year. The committee will be provided with updates on its progress.

Overtime

Direct care staff overtime and vacant positions remain a challenge at BSDC, but active efforts in recruitment and retention have produced positive momentum. Our human resources and ICF Administrators meet weekly to discuss overtime hours and coordinate staffing levels.

These efforts have, in part, resulted in a year-over-year reduction of 3,343 hours (January 2014 to October 2014 vs. January 2015 to October 2015).

Progress has accelerated in the last six month comparable period (April 2014 to October 2014 vs. April 2015 to October 2015) with a greater than 3 percent reduction in proportional overtime hours, or 3,096 overtime hours.

We will continue these efforts.

Because this committee also focuses on the community system supporting Nebraskans with developmental disabilities, I will now focus on our efforts in that area.

As promised during the Committee hearing on October 22, 2015, we have an inventory and status update of our home and community-based services.

This inventory represents a review of our service system and provides a road map to necessary improvements that we are committed to implementing.

The federal Medicaid program expects states to engage in a continuous quality improvement cycle that has three elements: discovery, remediation and improvement.

This inventory represents our progress in the discovery aspect of this cycle.

Through this process of discovery, the Division has been able to identify areas requiring immediate remediation that do not require statutory or regulatory change, nor do they jeopardize our federal Medicaid program.

These remedies do improve the quality of access and services for our citizens.

Customer service is very important to us. We have been vigorous in putting changes into place. I will detail these changes momentarily. Discovery has also allowed us the opportunity to identify deeper, much-needed systemic improvements. We are working closely with our state and federal partners to effect those improvements as well.

The Registry

All individuals determined eligible for DD services are entered into the Registry database. To this point, we have not reached out to individuals and explored assistance opportunities that may be available from other department programs, such as the Medicaid Aged and Disabled Waiver, Medicaid Personal Assistance Services or the Medicaid PACE program. This will be done in the near future.

As of December 7, 2015, a total of 4,002 individuals are listed on the Registry.

- 1938 have a date of need in the past
- 2064 have a date of need or a date of entitlement that is in the future

Enrollment. The Division has immediately enrolled graduates who fit within the scope of the Developmental Disability Act statute in the Medicaid DD Waivers. We currently do not have approved prioritization in the Medicaid DD Waiver application with the Centers for Medicare and Medicaid Services (CMS). We have begun to explore obtaining CMS waiver approval for federal funding to continue this practice.

Transitioning Youth. We have reached out to our partners in the educational system to create an effective collaboration that ensures a smooth transition process for students with developmental disabilities and the best use of state dollars. In previous years, Division service coordinators routinely attended IEP meetings, with special attention given to students approaching graduation. This afforded the students and their families the opportunity to learn about the adult service system and begin planning for transition to adult services. This practice was eliminated some time ago. We have already begun to restructure service coordination responsibilities in order to increase their direct contact with people with disabilities and their families, including transitioning youth. This revitalized coordination between DD and the public school system is much needed to support our youth during this critical period of their lives.

Bridges

Bridges is licensed as a Center for Developmentally Disabled (CDD), administered by a Bridges administrator with oversight by the CEO of BSDC. Eight individuals currently reside in the three homes. While this program is

a community-based service, it is being operated like an extension of BSDC, which is an Intermediate Care Facility for individuals with Developmental Disabilities (ICF/DD). Restructuring of this relationship is imperative to ensuring our compliance with federal HCBS regulations by 2019 and continued federal funding. We began work this week to conduct the evaluation of the program.

Provider surveys

To assure an independent community-based DD provider survey process within DHHS, all DD surveyor positions and functions are moving to the Division of Public Health where all other survey functions within DHHS reside. DD and DPH leadership are dedicated to ensuring a seamless transition and have established weekly meetings until the transition is complete.

State Ward Permanency Pilot Project

Legislative Bill 905, passed in 2014, created the State Ward Permanency Pilot Project as of July 1, 2014, providing \$1.5 million in general funds for developmental disability services to state wards in order to provide optimal habilitative supports and promote permanency. The Pilot was intended to serve state wards who are eligible for DD services but do not qualify for priority state-only funding as set forth in the Developmental Disabilities Services Act.

Due to having no prioritization approval, all children covered in the Pilot who were initially placed in the Medicaid DD Children's waiver have been transferred to state-funded services to ensure compliance with the federally approved waiver and statute. They will see no service interruption. The state will be required to pay back approximately \$966,000 to the federal Centers for Medicare and Medicaid Services as well as determine what steps, if any, are needed to fix any compliance issues regarding use of the waiver to supplement a state-funded project. The Division has also requested \$450,000 of state general funds to serve those children for the remainder of the pilot. Again, these individuals will experience no change in service provision, just a change to the appropriate funding. Ultimately, we

want to investigate the viability of identifying appropriate priority waiver funds for these children in order to achieve funding permanency once they are no longer state wards.

Transition Plan

In January 2014, the Center for Medicaid and Medicare Services (CMS) announced a requirement for states to review and evaluate current Home and Community-Based Service (HCBS) settings, including residential and non-residential settings, and to demonstrate how Nebraska's HCBS programs comply with the new federal HCBS rules. The intent of this HCBS regulation is to ensure that individuals receiving HCBS are integrated in, and have access to, supports in the community including opportunities to seek employment, work in competitive integrated settings, engage in community life, and control personal resources.

CMS has now reviewed every state's transition plan and to date none have been approved. The state submitted a draft Transition Plan on March 9, 2015 and CMS requested additional information on September 24, 2015.

We are in the process of re-writing the Plan, including surveying our

residential and day services provider community, and will be seeking public comment from our stakeholders upon completion of a draft.

We are scheduled to submit the revised Plan no later than May 31, 2016.

Upon its approval by CMS, the transition plan will provide assurance that individuals receiving HCBS have the same degree of access as individuals not receiving Medicaid HCBS. The transition plan will outline the proposed process that Nebraska will be utilizing to ensure implementation of the new HCBS requirements.

Medicaid Waiver Approval

Two of the Division's Medicaid adult waivers are in the renewal process and negotiations are underway with CMS to ensure that the waivers are in compliance with all federal regulations and afford optimal services for Nebraskans with developmental disabilities.

We have received an extensive series of questions from CMS, approximately 220 questions, and we have requested an extension in order to respond to these questions, address the gaps in the waiver applications and re-submit

waiver applications that meet the terms and conditions of the federal regulations. For example, individuals ordered into a placement through Nebraska's DD Custody Act are not eligible for funding through current waivers, as is current practice. Along with changes to the adult waivers, this will necessitate the division to submit an amendment to the DD children's waiver application to ensure consistency in administration of the waiver programs.

Division of Medicaid Oversight

The federal mandate is that the state Medicaid Agency retain ultimate administrative and financial authority and responsibility for the operation of the waiver program by exercising oversight of the performance of waiver functions by other state and local/regional non-state agencies (if appropriate) and contracted entities. Medicaid oversight was not occurring. We're correcting this in actual practice within DHHS and this will be documented in the waiver application.

One critical example of the lack of oversight is that the DD Division has closely managed the utilization and corresponding financial performance of its waivers with little-to-no oversight.

I will be working closely with Medicaid leadership to tighten the fiscal management of the waivers and ensure that we maximize our Medicaid program to benefit Nebraskans with developmental disabilities.

Due the delay in CMS' approval of the DD rate methodology that was implemented in July 2014, but not approved by CMS until July 2015, the division has a shortfall in the current state fiscal year driven by a \$5.8 million reimbursement to return federal dollars paid out in the prior year. Further, the cost of reimbursing federal funds in FY2014-15 drove general fund spending over budget, leaving \$5.5 million of encumbrances unfunded.

In summary, the Division of Developmental Disabilities is committed to a transparent, inclusive approach to addressing the challenges presented to you today. Our reform efforts are directed at the basic principles of improving access and service availability while assuring basic safeguards,

improving accountability and performance, honoring individualization, and promoting consumer choice and self-determination.

I look forward to working closely with you, my incredible team members, the people we serve, their families, our providers and advocacy organizations, and our state and federal partners to ensure that Nebraska's citizens with developmental disabilities receive the best possible services we can provide.

Thank you for the opportunity to provide this information. I'm happy to answer any questions you might have.