Issue Paper: Mental Health

2015/2016 King County Executive Proposed Biennial Budget

King County

In Brief:

- **Insufficient inpatient involuntary psychiatric beds and insufficient funds to pay for access to the available beds have been problematic.**
- **The State of Washington dramatically reduced funding for mental health and substance abuse services in the 2013-15 State Budget in anticipation of Medicaid reimbursement.**
- **The Department of Community and Human Services (DCHS) supports the recent Washington Supreme Court ruling on "boarding." The stay that was granted will provide sufficient opportunity to plan for the deployment of additional State resources and bring additional inpatient involuntary capacity online.**
- **DCHS is working with multiple State and community partners to develop strategies to address these issues and provide necessary mental health treatment to King County residents, with a particular focus on preventing mental health crisis in the first place.**

King County has an important role in Crisis and Commitment Services

Under state law, King County's Crisis and Commitment Services evaluates individuals to determine if the individual should be involuntarily detained for inpatient mental health treatment. This function is intended to protect the rights of individuals while assuring prompt evaluation and treatment for persons with serious mental disorders who pose a danger to themselves or others, thus assuring public safety. Anyone who is within the boundaries of King County can be referred for involuntary treatment services. Under Washington law, the County, as the Regional Support Network, is legally obligated to evaluate individuals within statutorily defined timeframes and detain anyone who

meets the statutory criteria for involuntary commitment and whose needs cannot be met by any less restrictive alternative. Furthermore, the County is required to detain the person in a facility in which the person can receive adequate psychiatric care. These are Evaluation and Treatment (E&T) facilities certified by the State. The County risks significant liability if the person who has been determined to be a danger to him/herself or others is not detained.

The challenge the County faces is twofold: an insufficient number of inpatient involuntary psychiatric beds and insufficient funds to pay for admission to the available beds. The strategies the department is undertaking and proposing are discussed in detail below.
Prior to the implementation of the Affordable Care Act and Washington State's expansion of Medicaid,

STATE BUDGET CUTS REDUCED FUNDING FOR INPATIENT PSYCHIATRIC BEDS

the State of Washington paid for mental health and substance abuse treatment services for many low-income people who were ineligible for Medicaid. To date, there are over 101,000 newly eligible individuals in King County. Recognizing that there is now a federal funding source for mental health and substance abuse treatment for the previously ineligible individuals, the State of Washington dramatically reduced funding for mental health and substance abuse services in the 2013-15 State Budget.

One challenge presented by State funding cuts is how to replace funding reductions with expanded Medicaid reimbursements. When Medicaid regulations were written in 1965, there was an exclusion for payment for services in federally defined "Institutions for Mental Diseases" to prevent states from shifting their state hospital costs to Medicaid. This is referred to as the "IMD exclusion." Currently, any facility with more than 16 beds is considered an IMD. The inpatient E&T facilities in King County each have over 50 beds so are not eligible for Medicaid reimbursement. As a result, any admission to facilities with more than 16 beds must be paid for with state-only (non-Medicaid) funds – the same fund source the State significantly reduced. Despite State funding reductions, the County is still obligated to pay for treatment, which can be over $800 per bed a night.

SUPREME COURT "BOARDING" DECISION INCREASES THE NEED FOR INPATIENT PSYCHIATRIC BEDS NOW

In August, the Washington Supreme Court ruled that a person can be detained only in a facility where the individual is receiving appropriate psychiatric care. Prior to the ruling, when open psychiatric beds were not available, individuals were detained in hospital emergency rooms or medical beds where they were not receiving psychiatric care. The practice was referred to as psychiatric "boarding." The Court has temporarily stayed its order to allow time to respond.

The State announced that it is allocating $30 million to address the "boarding" crisis. King County was notified that DCHS would receive $825,000, which would address the boarding issue for approximately

3.5 months. In the meantime, the State has issued a plan detailing additional inpatient involuntary psychiatric beds statewide that will come online through 2015. Many of these beds are already in existence and not being used due to lack of state resources.

CURRENT STRATEGIES FOR MITIGATING THE BED CAPACITY AND FUNDING ISSUES

King County DCHS is mitigating the challenge of insufficient funding for inpatient psychiatric beds and insufficient funding for admissions through a combination of the following number of strategies.

Additional 16-bed Facilities. DCHS has received permission from the State to construct two 16-bed free-standing mental health inpatient emergency and treatment facilities. These facilities will be eligible for Medicaid reimbursement. The State appropriated start-up operational dollars ($1.1 million) in the last legislative session for one King County E&T which will cover things like permits and land acquisition. However, since the Legislature did not pass a capital budget, no dollars for the construction of the facilities were appropriated and County waits for additional state action. The two facilities are expected to be operational by the end of 2015 or first quarter of 2016.

Special Task Force. Executive Dow Constantine and Governor Jay Inslee have co-convened a special task force to address this problem. Among the outcomes expected from the Task Force are an agreement from some hospitals to add psychiatric beds, which would be Medicaid-eligible, and certification to provide services to individuals who are involuntarily committed. The task force will also look at an expansion of prevention-focused community alternatives to hospitalization, and additional legislative strategies, including funding. The first meeting of the Task Force is scheduled for September 24, 2014.

Expand Community Alternatives to Hospitalization. If a person can be appropriately and safely served in a community-based resource, involuntary commitment can be avoided. Among the resources that DCHS currently provides through limited available funds include hospital diversion beds, immediate access to outpatient crisis and stabilization services, or the Crisis Solutions Center created with MIDD funding. More community-based services will result in reducing the need for inpatient services.

Increase Hospital Bed Capacity. King County is working with the Washington State Hospital Association to increase inpatient involuntary psychiatric capacity. Harborview Medical Center will add seven new beds this year, and Swedish Hospital has proposed the addition of 16 new inpatient involuntary hospital-based beds at its Ballard campus.

MIDD Contingency Funds. As a contingency plan, DCHS is requesting budget authority to use MIDD fund balance, if necessary, to pay for inpatient psychiatric beds.[1] In the long run, the goal is not to use MIDD resources. However, King County needs to be prepared to meet its statutory obligations in the event that State resources fall through or new beds do not materialize in a timely manner. Use of MIDD funds for this purpose is consistent with the goals of the program.

1 DCHS received notice in September that Washington State was successful in receiving a waiver from the Federal government that facilities with over 16 beds would now be eligible for Medicaid reimbursement for acute care. The waiver is effective October 1, 2014 and expires in two years. The waiver should allow DCHS to collect Medicaid reimbursements for services which should help address the inpatient psychiatric funding challenge. However, because the waiver is temporary, and DCHS does not yet know how CMS is defining "acute care," the agency will continue its efforts to develop additional 16-bed facilities, and believes it is still prudent to keep MIDD contingency funds available for in-patient psychiatric treatment.