



Minnesota Department of Human Services
Commissioner Emily Piper
Post Office Box 64998
St. Paul, Minnesota 55164-0998

April 26, 2017

Senator Michelle Benson, Chair
Health and Human Services Conference Committee
3109 Minnesota Senate Building
95 University Avenue West
St. Paul, Minnesota 55155

Representative Matt Dean, Chair
Health and Human Services Conference Committee
401 State Office Building
100 Rev. Dr. Martin Luther King, Jr. Boulevard
St. Paul, Minnesota 55155

Re: 2017 Health and Human Services Conference Committee Bills

Dear Chair Benson and Chair Dean:

I appreciated the invitation to present in your Committee last week. Thank you for the opportunity to highlight my primary concerns regarding the House and Senate Omnibus Health and Human Services bills and also share some of my priorities for the Department of Human Services (DHS). As you start to assemble a conference committee bill, I wanted to take a moment to clarify my main goals and concerns for DHS and the over one million Minnesotans we serve.

Protect core services. The most basic responsibility I have as Commissioner is to ensure DHS can meet our daily obligations to provide critical services for some of the most vulnerable Minnesotans while meeting all compliance standards and ensuring integrity in our programs. The DHS operating adjustment in the Governor's budget is necessary to meet these obligations. Without this funding, DHS will be required to reduce over 300 full-time equivalent positions (FTEs) across our agency, including a reduction of 210 FTEs in Direct Care and Treatment (DCT). The Senate bill goes further and cuts our administration by 7-10 percent. This would impact all areas of DHS, providers, partners, counties and, most importantly, the people we serve. It impacts our ability to address audit findings, a topic I highlighted in my testimony last week and detail further below. All of the improvements we made together last session, outlined below, including full staffing for the Community Behavioral Health Hospitals (CBHHs), would be in jeopardy if I am forced to make cuts as a result of not receiving the operating adjustment. Also, I want to make it clear that if we do not receive an operating adjustment, many of the reports and other work requested in the finance bills that we are directed to do within existing resources will not be completed.

Protect and build on recent improvements in direct care services. In addition to damage that will occur to DCT by not funding an operating adjustment, House and Senate budget bills for human services do not make investments that DHS and the Legislature recently have identified as critical. DCT serves over 12,000 people who

are civilly committed to my care from all areas of Minnesota in many different types of facilities, including the Minnesota Security Hospital (MSH), where people who are mentally ill and dangerous in our state live and are treated; Anoka-Metro Regional Treatment Center (AMRTC), where hospitals and jails all across our state send patients with the most challenging and complex mental health needs; the Minnesota State Sex Offender Program (MSOP), which houses and treats 720 of our state's civilly committed sex offenders in two secure campuses; our Minnesota State Operated Community Services program (MSOCS), which includes 120 group homes and day treatment programs for people with developmental disabilities who cannot be served by private providers; chemical dependency programs for those who struggle with severe addiction; community behavioral health hospitals spread throughout Greater Minnesota to serve people with severe acute mental illness; and many more.

Last session, I came before you and asked for a crisis package including deficiency funding for the MSOCS program for people with developmental disabilities. The 2016 Legislature provided one-time funding for that deficiency and, at that time, I promised to return this legislative session with a long-term solution to provide more funding stability based in sound programmatic fiscal management for the benefit of the state taxpayer and the over 1,200 vulnerable people we serve in this program. Holding true to that commitment, not only does the Governor's budget include the pathway we have sought, but DHS has also taken great steps throughout the interim to improve our operations, including converting six intermediate care facilities to adult foster care, and establishing additional plans to increase revenue and control costs while serving the people most in need over the next several years. In addition to this promise, last session the Governor's supplemental budget included funding necessary to address the chronic understaffing at MSH. The 2016 Legislature included none of the funding the Governor requested and, although we have made some gains, the persistent and significant problems that are a result of understaffing remain. Speaker Daudt visited MSH last summer and the legislature has had many hearings highlighting the impacts of this chronic underfunding on our staff and patient care, as well as the jeopardy this underfunding creates in our ability to continue to be a statewide secure treatment resource for people who are mentally ill and dangerous in Minnesota.

Also at risk in the current House and Senate positions, with no operating adjustments and other cuts, are our investments to increase access to needed safety net treatment beds at both our CBHHs and AMRTC. Over the last year, we have worked hard to advance our strategy of increasing access to CBHH treatment beds, including hiring 193.5 full-time equivalent staff this fiscal year. Additionally, we opened the Community Competency Restoration Program, which added 32 much-needed beds in our state's mental health system, freeing up critical capacity at AMRTC and CBHHs, as well as providing the proper treatment setting for clients who do not need hospital level of care, which reduced cost to the counties. These investments are critical to our need for stability and to improve safety for our staff and clients, and assure quality, clinically sound care.

Finally, the Governor recommended funding to staff a recent 30-bed expansion (Phase 1) of MSOP Community Preparation Services (CPS). CPS serves clients who have been court ordered by the Supreme Court Appeal Panel to a less restrictive setting (outside of the secure perimeter) on the St. Peter campus. Phase 1 immediately filled and CPS continues to operate at full capacity (89 clients) with a waiting list of 10. We have a bonding proposal to add another 50 beds as part of Phase 2 to keep pace with the number of clients who are progressing through treatment and have been court ordered into the program, as well as accommodate future growth. I'm sure you are all aware of January's ruling by the Eighth Circuit Court of Appeals that MSOP is constitutional. This was a welcome development, though it does not mean we are free of our obligation to maintain the current programming. State courts order MSOP clients to CPS; we have an obligation to provide additional program capacity. We do not have adequate staff to provide the services, programming, vocational work, and medical

services that are required to supervise and treat 89 clients in CPS. In order to continue to staff and operate the program safely, move clients through treatment effectively, and transition clients who have completed treatment into the community in a timely way, funding of this staffing request will be required.

Ensure quality of services and compliance. At your Committee, I discussed findings from the Office of the Legislative Auditor and my concern that House and Senate budgets would negatively impact our ability to address these findings. It is my responsibility to ensure that we have the resources to address the issues identified by the OLA and other audits. In the attached document, you will find details on some of the more significant recent audit findings and a comparison of what the Governor, House and Senate did to address them. (See attachment A). I want to highlight a couple of key initiatives that the Governor proposed to address audit issues. The Child Care Assistance Program (CCAP) changes will expand access to affordable child care, increase provider rates and bring Minnesota into compliance with federal law. This will ensure children are receiving consistent, stable child care so children are well cared for and are ready for school, and their parents can work and support their families.

The Governor's budget also seeks to increase DHS oversight of county licensing work and proposes increased staff so that all licensed child care providers are visited and inspected at least once per year – something more than 40 other states are already doing. Surely, Minnesota cares enough about the safety of our children to provide that same level of oversight. Parents who rely on licensed child care, like many of us do, deserve the peace of mind that comes from knowing their provider is subject to annual inspections. In addition, licensed family child care providers have repeatedly testified that more consistency among county licensors is needed to help stop the loss of providers throughout greater Minnesota. This is a high priority for the Governor and for me.

Improve technology infrastructure. Our technology systems provide the infrastructure counties and other business partners use to deliver services to the people we serve, and are a fundamental component of program compliance and integrity. The Governor's budget includes funding for systems modernization to maximize federal revenue that is available now and support the transition to delivering holistic services to individuals. The ability to leverage enhanced federal funding, up to 90 percent of development costs, for many programs is set to expire on December 31, 2018, which underscores the need to invest in these efforts now. These systems, in many cases, are over 20-years-old and are critical for the many providers, counties, tribes and individuals who depend on them. The House and Senate do not include **any** investment in our aging IT infrastructure, which is at the root of many audit findings; rather the House bill goes a step further and eliminates all of our funding to run one of our largest systems- METS, the main eligibility system for the one million people who receive health care through our public programs. DHS, along with counties and tribes across Minnesota rely on METS to support complex eligibility requirements as established in federal and state law. The elimination of this funding will not only make it impossible to make necessary improvements to the system, but also results in a loss of \$28 million in federal funds, defunds our ability to run the program as it exists today and will have a significant impact on counties across the state.

Other critical needs - workforce and child protection. The House and Senate bills do very little to address two other critical needs for children and people with disabilities: the workforce shortage that is impacting people with disabilities and our child protection system. We have all heard about the strain on the lives of many people with disabilities because they cannot find staff to help them meet their daily needs. The Governor's budget proposes a significant increase in wages for personal care assistants, providing relief and stabilization for this workforce. It is disheartening that the House and Senate do so little to address one of most critical gaps in our current system. Likewise, we are only two years removed from our collective work on the Task Force on the

Protection of Children. Improving the system that serves our most vulnerable children requires our continuing attention. The Governor's budget invests in equalizing foster care payments for young children and building our capacity to oversee and support county child protection services. Although I am thankful that both the House and Senate fund the Governor's proposals related to the American Indian Child Welfare Initiative planning process, White Earth Nation's Child Welfare Program, and Child Welfare Services for Sexually Exploited Youth, the bills do not include funding for the larger improvements needed in Minnesota's child protection and foster care system at a time when the number of children entering the child protection system increased by 25 percent over the last year.

Fiscal integrity. In regard to budget proposals initiated by the Legislature, I have grave concerns about their fiscal integrity. First, there are a number of proposals that push significant costs beyond the budget horizon. These include delaying hospital rebasing, Elderly Waiver modifications, disability waiver rate setting methodology modifications and removing the Medical Assistance inflation from our economic forecasts. The removal of the forecast inflation not only pushes costs to future years but impacts elderly, disabled, children, and families across Minnesota. All of this combined puts an enormous burden on the state in future years and are irresponsible fiscal practices. In addition, both the House and Senate bills propose to continue and even expand the managed care payment shifts that were implemented in deficit years and are set to expire. This is irresponsible in a time with a surplus and is a gimmick rather than a true change to how we do business. I want to make sure you know that the Governor and I will not support a budget that is not fiscally sound.

Relatedly, there are many parts of the budget where it is clear to me that you are asking DHS to make changes to the work we do. Achieving savings in human services programs requires specificity: who is losing eligibility, whose rates are being reduced or what benefits are being eliminated. There are no shortcuts or painless ways to make these reductions. As always, I am open to this discussion but you must define what it is you want us to change and how you want to adjust, reduce or reform the services we provide to achieve the intended savings. For example, in the Senate bill there is a significant reduction to MnCHOICES without specificity on what should be cut. MnCHOICES was developed to assure that people are assessed for the right level of service that meets their own individual needs. With timely and comprehensive assessments and support planning, people are more likely to utilize not just formal publicly paid services, but also informal supports through family and community resources. Additionally, we know that over 75 percent of people have changing service needs each year and MnCHOICES is a foundational reform to achieve efficiencies over time for people to get needed services, but not more than they need. We agree it is a work in progress as we continue to evaluate and adapt the tool and our processes over time. We stand ready to work with you but you must make the tough decisions related to achieving these savings.

Another area of concern for me is the contingent rate cut included in the House bill. This proposal will reduce medical assistance payment rates if savings do not materialize from the Health Care Delivery Pilot project, Hospital and Managed Care Outcomes project and competitive bidding proposals in the House bill. These proposals do not track estimates on the associated fiscal notes and we anticipate there will be costs and not savings for this. Therefore, a \$205 million rate cut, which excludes nursing homes, would result in a 7.3 percent cut. This is a significant cut that will impact hospitals, providers and people in Minnesota. Again we need you to specify what services and eligibility rules should change to achieve the \$205 million in savings.

Additionally, there are a few items in the bills that strike me as very inconsistent. First, legislative leadership has recently made public statements highlighting the desire to limit the number of Minnesotans who access health insurance through Medical Assistance (MA). At the same time, the Senate bill increases the MA spenddown

percentage, which will allow more people to enroll in our programs and increase costs in the future. Second, although the Governor proposed a critical increase to the Minnesota Adult Abuse Reporting Center, a successful reform which supports a common entry point for reporting maltreatment of a vulnerable adult, this critical investment is not included in either legislative bill. Instead there are investments in Elderly Waiver with significant costs pushed to future years. Third, and finally, there are a number of proposals in your bills that were brought at the direction of the health plans, including changes which would undermine competitive bidding of our public healthcare contracts, a process which, to date, has saved taxpayers over \$1 billion dollars in Minnesota.

Savings and reform. One area where I believe we should be able to agree are proposals that effectuate important changes that also save money for Minnesota taxpayers. I do not understand why some of the savings proposals are not included in your bills. Specifically, the House bill does not include the proposal to expand the Return to Community program, eliminate duplicative home care nursing interpreter services, limit billable days for residential services, and increase fraud investigations for Medical Assistance and child care, and increase fines for maltreatment in DHS licensed facilities. I want to work with you to include these savings proposals.

There are also many reform proposals that save money and represent areas where we have common goals. I look forward to working with you in the coming weeks to make sure key elements and reforms are included. One of these is the substance use disorder reform. This proposal provides increased, earlier, and streamlined access to expanded treatment options and recovery support services, will help continue Minnesota's tradition as a leader in the treatment of substance use disorder, and will play an essential role in the state's response to the opioid epidemic. We know that people who complete treatment show considerable improvement in many areas of their lives. Unfortunately, while about 1 in 10 Minnesotans live with a substance use disorder, only about 10 percent of those who need treatment get it. This proposal will help decrease barriers to treatment and provide increased access to upstream services, resulting in fewer readmissions to higher-intensity levels of care, which saves lives and decreases spending. Timely access to services can literally mean the difference between life and death for an individual with opioid or other substance use disorder.

Other areas where we have common ground include: home- and community-based services reforms, including new employment services for people with disabilities; housing changes to allow more people with disabilities to live independently; and important health care reforms, including expanding integrated health partnerships and leveraging the savings to improve access to dental care, which is a critical need given that nearly two thirds of children living below the poverty line in Minnesota did not see a dentist last year.

As the person who is held accountable for maintaining and improving our state's human services system, which each month serves over one million Minnesotans, I will continue to insist that the DHS budget is financially sound and includes the key items to ensure federal compliance, address audit issues, provide proper staffing for safe, quality care of the 12,000 people who use our direct care services each year, and provides the resources needed for us to do this important work. We have a large surplus in the state, and I would hate to see us move backward to the detriment of children, the elderly, people with disabilities and the poor across Minnesota.

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Thank you for your consideration of these comments. As always, please do not hesitate to contact me or my staff for any additional information or assistance you may need in these last weeks of session.

Sincerely,

A handwritten signature in black ink that reads "Emily Piper". The signature is written in a cursive, flowing style.

Emily Piper
Commissioner

cc: Governor Mark Dayton
Health and Human Services Conference Committee Members
Lauren Gilchrist, Senior Policy Advisor, Office of the Governor