

# ORANGE COUNTY, VIRGINIA

## OFFICE ON YOUTH

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DIRECTOR

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**To:** Orange County Board of Supervisors  
**From:** Alisha Vines, Office on Youth Director *AV/st*  
**Through:** R. Bryan David, County Administrator *RD*  
**Date:** October 5, 2015  
**Subject:** CSA Monthly Report – October

Attached, please find the CSA report for expenses and projections through August 2015 for FY16. Currently, we are under budget for FY16; however, the fiscal year has just begun and we are already working with more families compared to the same reporting period in FY15. Our teams are aware of the challenges ahead for this year and will remain vigilant in serving our community as well as remaining fiscally responsible.

I would like to make you aware of the recent work of two (2) state workgroups affecting the CSA programs. The first workgroup has been charged with forming recommendations regarding the State Executive Council (SEC), the current governing body for CSA. Among the items to be evaluated by the workgroup is: whether or not the SEC should be a supervisory council or a policy council; the appropriate composition of the SEC; and the SEC role in regards to decisions relative to funding streams. Overall, there are five (5) items that must be reported on. I have attached the first two (2) meeting reports from this workgroup for your review and will keep you up-to-date on future meetings and findings.

The second state workgroup is tasked with examining options and making recommendations for funding specific educational costs. These educational costs are for students whose placement in or admittance to a state or privately operated psychiatric treatment facility for non-educational reasons has been authorized by Medicaid. The attached report gives a background of this issue as well as three (3) recommendations from the SEC. This report will be going to the Chairman of the House Appropriations and Senate Finance Committees for their review. As it will become a legislative issue, we will keep an eye on the process and may ask the Board to reach out to our state legislators in support of deferring costs from the localities. I will provide more information as it becomes available.

Please read over the attached documents and let myself or Letitia know if you have any questions. As always, thank you for your continued support.

### Recommended Action:

**For the Board of Supervisors' information. No action needed.**

cc: Letitia Douthit  
File

Attachments as noted.

October 2, 2015



COMPREHENSIVE SERVICES FOR AT-RISK YOUTH AND FAMILIES  
ORANGE COUNTY COMMUNITY POLICY & MANAGEMENT TEAM  
ORANGE COUNTY FAMILY ASSESSMENT & PLANNING TEAM  
Letitia Douthit  
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## Comprehensive Services Act Program Report – July and August, 2015 – FY16

FY16 County budget: \$1,900,000.00

FY 16 YTD Expenses as of 08/31/15 (which are expenses thru July):

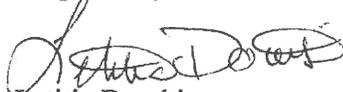
	<u>Expenses</u>	<u>Projections</u>	<u>Total Projected</u>	<u>FY16 Budget</u>
43270 Residential Congregate Care		\$140,730	<b>\$140,730</b>	401,852
43275 Foster Care	13,640.93	\$148,138	<b>\$161,778</b>	350,000
43276 Congregate Care ED Serv		\$140,664	<b>\$140,664</b>	175,000
43277 SpEd (IEP) Priv Day Placement		\$469,782	<b>\$469,782</b>	400,000
43280 Community Based Serv	5,591.68	\$152,448	<b>\$158,040</b>	519,428
43285 Sp ED Wrap - CBS		\$12,462	<b>\$12,462</b>	25,443
43290 Non-Mandated - CBS		\$15,840	<b>\$15,840</b>	28,277
	<b>\$19,232.61</b>	<b>\$1,080,063</b>	<b>\$1,099,296</b>	1,900,000

Thank-you for your continued support, as of August 31, 2015, the projections so far are under budget for Fiscal Year 16. Going forward into the Fiscal Year, we will continue to provide the much needed services to our At Risk families and Youth of Orange County while staying within our budget.

As of August 31, 2015, we have provided services to 72 At Risk Youth/Families compared to 64 Youth/Families at this same time in 2014.

Thank-you

Respectfully Submitted,

  
Letitia Douthit

Orange County CSA Coordinator

2015

# STATE EXECUTIVE COUNCIL FOR CHILDREN'S SERVICES WORK GROUP

## FIRST MEETING SUMMARY REPORT



PERFORMANCE MANAGEMENT GROUP • VIRGINIA COMMONWEALTH UNIVERSITY  
P.O. BOX 843024 • 1014 W. FRANKLIN STREET • RICHMOND, VA 23284 • 804.828.8845 • WWW.PMG.VCU.EDU

## OVERVIEW

The Work Group convened to consider and make recommendations regarding the governance of the State Executive Council (SEC) for Children's Services met on August 26th, 2015 at the Twin Hickory Library meeting room for a facilitated two-hour meeting.<sup>1</sup> The members attending, or those who had attending representatives, were as follows:

- Hon. Bill Hazel, Secretary of Health and Human Resources
- Pam Kestner, Special Advisor on Families, Children and Poverty, SHHR
- Wanda Barnard-Bailey, Deputy City Manager, Chesapeake (represented by Michelle Cowling, Director of Human Services)
- Mary Bunting, City Manager, Hampton
- Hon. Woodrow Harris, City Council, Emporia
- Hon. Charlotte Moore, Board of Supervisors, Roanoke County
- Hon. Steven Walker, Board of Supervisors, Culpeper County
- Hon. Brenda Ebron-Bonner, Board of Supervisors, Dinwiddie County
- Debra Ferguson, Commissioner, DBHDS (absent)
- Margaret Schultze, Commissioner, DSS
- Cindi Jones, Director, DMAS
- John Eisenberg, Assistant Superintendent, DOE (also representing the Hon. Anne Holton, Secretary of Education)
- Andy Block, Director, DJJ (represented by Angela Valentine, Chief Deputy Director)
- Scott Reiner, Interim Director, OCS
- Sandra Karison, Asst. Director of Legal Research, OES – SCV
- Bob Hicks, Deputy Commissioner, VDH

Jim Burke, Director, and Linda Pierce, consultant from the Performance Management Group at Virginia Commonwealth University (PMG), facilitated the meeting while Greg Brittingham and Chyrelle Dorinsky from PMG attended to observe.

This meeting was the first of four to deliberate charges made to the work group and to develop recommendations – this report summarizes the progress from the initial meeting.

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<sup>1</sup> The Appendix contains the meeting agenda and supporting materials

## Work Group Charge

The charge to the work group is as follows:

To provide recommendations regarding the structure and function of the State Executive Council for Children's Services regarding:

1. Should the Council be a supervisory council or a policy council?
2. What is the appropriate composition of the Council?
3. What is the role of the Council regarding decisions relative to funding streams?
4. What is the appropriate relationship between the Council and the executive branch of state government?
5. Should the Council have authority to promulgate regulations in accordance with the Administrative Process Act?

## Supervisory vs. Policy Boards and the Administrative Process Act

Al Wilson, J.D. from the Office of the Attorney General for the Commonwealth of Virginia led a discussion on the roles, responsibilities and differences between supervisory versus policy boards. He explained that the board type dictates several important governance issues including whether or not the board/council has authority to promulgate regulations and input and decision making on the operations of the relevant agency (in this case, the Office of Children's Services) as well as the employment of the agency's executive leadership.

Simply stated, only a policy board can promulgate regulations whereas a supervisory board governs operations, hires an Executive Director, and makes funding decisions.

For policy boards the agency executive leadership is appointed by the Governor as are citizen members of the board. Al continued to walk the group through illustrative differences between the two board types and explained that the Board of Education is the only hybrid board in the commonwealth with both supervisory and policy authority. There was discussion regarding the Administrative Process Act, most specifically the dispute resolution process, which is utilized by most boards that operate under the Administrative Process Act. This is a formalized process which typically includes the use of hearing officers appointed by the Supreme Court of Virginia to resolve disputes between the state agency and a regulated locality or individual. Many supervisory boards employ unique dispute resolution processes, which can mimic many of the aspects of the Administrative Process Act, as seen in the Children's Services Act Policy Manual.

There was also discussion on the role of and process for obtaining and responding to public comment. For policy boards operating under the Administrative Process Act, that process is dictated whereas supervisory board can define a similar or different process and state it in their policies and/or operations handbook.

## Discussion on Governance

Jim and Linda facilitated a discussion on governance asking two questions for the groups to discuss, review and report out on. The prompts were:

1. Discuss and assess how well the State Executive Council is fulfilling its supervisory council responsibilities.
2. Using the information from above, discuss the pros and cons of staying a supervisory board or recommending a change to a policy board.

The groups were formed and their consolidated responses are as follows:

- Timeline perspective - Promulgating regulations through the Administrative Process Act can sometimes several months or years. It may be possible that as a supervisory board, implementing new policies in response to emerging issues could be done more nimbly and potentially quicker.
- Collaboration, especially between state agencies and local governments → better now but not as good in the beginning.
- There is a need to increase collaboration/communication between state agencies on issues.
- Currently the structure allows for an open and thoughtful process.
- Need to improve the notice of meetings and agendas and develop an improved mechanism to notify the public.
- The current structure generally works well and provides a healthy balance between state and local representation.
- Current mix is important to focus on issues — don't want to lose this balance.
- Political perspective may drive agenda if this if changed to a policy board.
- Need to improve the trickle down of information to the local partners.
- Need a formal mode of communication and feedback.
- Consider changing the code to better clarify the board structure.

### Supervisory vs. Policy Board

<b>POLICY BOARD PROS</b>	<b>POLICY BOARD CONS</b>
Town hall process	APA Process itself
Oversight OCS—but more specific/define	Lose local/state voice → collaborative model
Maybe okay—representation of the SEC	Less informed, involved board
	Less local impact
	Political perspective drives agenda
	Concern about local participation input (representation on the SEC)
	No established specific process—objectives/goals need to be defined
	Change Code to be more structured
	APA Process—Delays
	Communication
	Concern about local participation input (representation on the SEC)

Generally each group seemed to agree that a supervisory structure provides the best balance between local and state partners. Each group expressed that certain processes need to be tweaked to improve operations, for example, coordination and communications between and among state and local units, agency to agency, and council to public - the dispute resolution and public input and feedback processes.

### Next Steps

The next meeting of the work group will be held Thursday, September 17, 2015 from 1:00 PM to 4:00 PM at the Virginia Department of Taxation on 1957 Westmoreland Street in Richmond, VA. Lunch will be provided. It was requested that every substitute attendee brief their council member or meeting representative on the results of this meeting so that we can move on to other work group charges next time.

## APPENDIX

# State Executive Council for Children's Services Work Group

Convened by the Secretary of Health and Human Resources and  
Secretary of Education

August 26, 2015 10:00 AM – 12:00 PM

Twin Hickory Library Meeting Room, 5001 Twin Hickory Lane, Henrico, VA

## Agenda

10:00 AM	Welcome, Introductions and Charge	William Hazel, Jr., M.D. Secretary of Health and Human Resources Commonwealth of Virginia
10:10 AM	Overview and Outcomes	James Burke, Ph.D. Linda L. Pierce, M.B.A. Performance Management Group Virginia Commonwealth University
10:15 AM	Supervisory vs. Policy Boards and the Administrative Process Act	Al Wilson, J.D. Office of the Attorney General Commonwealth of Virginia
10:45 AM	Facilitated Discussion on Governance	PMG/Small Groups
11:30 AM	Report Out	Small Groups
11:55 AM	Next Steps	PMG/Secretary Hazel
12:00 PM		Adjourn

## Workgroup Charge:

To provide recommendations regarding the structure and function of the State Executive Council for Children’s Services regarding:

1. Should the Council be a supervisory council or a policy council?
2. What is the appropriate composition of the Council?
3. What is the role of the Council regarding decisions relative to funding streams?
4. What is the appropriate relationship between the Council and the executive branch of state government?
5. Should the Council have authority to promulgate regulations in accordance with the Administrative Process Act?

## Meeting Schedule:

Wednesday, August 26, 2015	10:00 AM – 12:00 PM	Twin Hickory Library 5001 Twin Hickory Rd. Henrico, VA 23059
Thursday, September 17, 2015	1:00 PM – 4:00 PM (lunch provided)	Virginia Department of Taxation 1957 Westmoreland Street Richmond, VA 23230
Tuesday, October 13, 2015	9:00 AM – 11:00 AM	Richmond Room 1604 Santa Rosa Road Henrico, VA 23229
Tuesday, November 17, 2015	1:00 PM – 3:00 PM	Tuckahoe Library 1901 Starling Drive Henrico, VA 23229

2015

# STATE EXECUTIVE COUNCIL FOR CHILDREN'S SERVICES WORK GROUP

## SECOND MEETING

### SUMMARY REPORT



PERFORMANCE MANAGEMENT GROUP • VIRGINIA COMMONWEALTH UNIVERSITY  
P.O. BOX 843024 • 1014 W. FRANKLIN STREET • RICHMOND, VA 23284 • 804.828.8845 • WWW.PMG.VCU.EDU

## OVERVIEW

The Work Group convened to consider and make recommendations regarding the governance of the State Executive Council (SEC) for Children's Services on September 17, 2015 at the Virginia Department of Taxation multi-purpose meeting room for a facilitated two-hour discussion.<sup>1</sup> The members attending, or those who had attending representatives, were as follows:

- Hon. Bill Hazel, Secretary of Health and Human Resources
- Pam Kestner, Special Advisor on Families, Children and Poverty, SHHR
- Wanda Barnard-Bailey, Deputy City Manager, Chesapeake
- Hon. Woodrow Harris, City Council, Emporia
- Hon. Charlotte Moore, Board of Supervisors, Roanoke County
- Hon. Steven Walker, Board of Supervisors, Culpeper County
- Hon. Brenda Ebron-Bonner, Board of Supervisors, Dinwiddie County
- Margaret Schultze, Commissioner, DSS
- Cindi Jones, Director, DMAS
- John Eisenberg, Assistant Superintendent, DOE
- Jennie O'Holleran, Deputy Secretary of Education, representing the Hon. Anne Holton, Secretary of Education
- Scott Reiner, Interim Director, OCS
- Sandra Karison, Asst. Director of Legal Research, OES – SCV

Greg Brittingham, consultant from the Performance Management Group at Virginia Commonwealth University (PMG), facilitated the meeting with assistance from colleague Matthew Reinaker.

This meeting was the second of four to deliberate charges made to the work group and to develop recommendations – this report summarizes the progress from the second meeting.

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<sup>1</sup> The Appendix contains the meeting agenda and supporting materials

## Work Group Charge

The charge to the work group is as follows:

To provide recommendations regarding the structure and function of the State Executive Council for Children's Services regarding:

1. Should the Council be a supervisory council or a policy council?
2. What is the appropriate composition of the Council?
3. What is the role of the Council regarding decisions relative to funding streams?
4. What is the appropriate relationship between the Council and the executive branch of state government?
5. Should the Council have authority to promulgate regulations in accordance with the Administrative Process Act?

Greg began the meeting by providing a summary of the previous meetings discussion on the first charge. Namely, that the current structure of supervisory board is preferable and avoids concerns regarding the politicizing of gubernatorial appointments if the structure were changed to a policy board. All in attendance agreed.

## Appropriate Composition of the Council

Scott Reiner provided a brief overview of the evolution of Council membership. In 1995, the Council comprised seven members and has grown steadily to its current 19, of which all are voting members except the Juvenile and Domestic Relations Court judge. Secretary Hazel noted budget concerns may lead to the group shrinking in the future, and that an excessively large group becomes unwieldy. In addition, the current board has functioned well in part due to its makeup and membership. One member suggested removing a provider position, or turning it into a non-voting position. Several in attendance voiced disagreement and the suggestion was dropped.

Scott Reiner observed that a recent National Alliance on Mental Illness report suggested practices including a youth representative on the council. John Eisenberg expressed support, noting that providing a voice to the end user of the group's services would offer unique insights and that an articulate student could provide a powerful and relevant perspective. Oftentimes the recipients have a wholly different opinion of the services than the provider. One member questioned how difficult it would be to find such a student. Scott and John agreed: not hard. The representative could be a youth in foster care or a special education student graduate of a private educational program funded through the Children's Services Act. Some communication with local government would be necessary as well as coordination with the school (to avoid unexcused school absence for a student missing class to attend SEC meetings) but there was general agreement that any practical concerns could be overcome.

Another member suggested adding a CSA Coordinator representative to the council. A brief discussion was held with most members generally agreeing that the CSA Coordinator voice is best served through local government representation.

The Honorable Charlotte Moore suggested adding the State and Local Advisory Team (SLAT) chairperson to the SEC. One member suggested the addition be as a non-voting member; general consensus was that the SLAT chairperson should have a vote.

After significant discussion on these and a few other points, Greg summarized the recommendations as follows:

1. The council should add a voting youth consumer representative to the SEC. A companion addition of youth representation should be made on the SLAT.
2. The SLAT chairperson should be added to the SEC as a voting member.

## Council's Role Regarding Funding Streams

Having summarized the group's recommendations on the second charge, Greg moved on to Charge #3: the council's role regarding decisions relative to funding streams. Secretary Hazel began the discussion by noting that if the SEC is restricted on what it can do fiscally, the power of the group is significantly compromised. Additionally, the Council has limited authority with regard to funding and expenditures as these are determined by the state budget process. One potential area of improvement however, is in evaluating the impacts of its decisions. Scott Reiner suggested that a "policy on policy-making" could formalize the process and lend itself to greater organizational accountability. One member suggested the group could solicit public comment on some of its recommendations with significant fiscal impacts; another member noted there is no way to demand compliance.

After additional discussion, Greg summarized the group's opinion that no major changes were necessary in this regard, however, the SEC should become more involved with issues of fiscal impact with the assistance of local government partners. These issues would be situational but the SEC could indicate its intent and formalize its policy-making process. The group will also continue its efforts to reach out to VML and VACo regarding the fiscal impacts of its decisions.

## Council Authority to Promulgate Regulations

Greg jumped briefly to Charge #5 regarding whether the Council should have the authority to promulgate regulations in accordance with the Administrative Process Act. Because the group decided to keep its status as a supervisory board, this question is essentially answered in the

negative. He did note that the group's recommendation is to formalize a system of principles and procedures in making future policy decisions. All in attendance agreed.

## Appropriate Relationship between Council and Executive Branch

Having discussed all other matters, the group turned its attention to the final charge: what is the appropriate relationship between the Council and the executive branch of state government. Secretary Hazel noted that appointing the Secretary of Health and Human Resources the chair of SEC provides an inherent tie to the executive branch and that CSA funding comes from the state budget as a component of the Health and Human Resources (HHR) cabinet portfolio. The group discussed whether a different method of selecting a chair would be appropriate. Most agreed that if the Chair changes on a regular basis, it could become a "bureaucratic nightmare" chasing funds through the system. The direct access between the Council and the executive branch provided by the chairperson is very beneficial.

Other members noted that the group has been functioning better over the past five plus years under the leadership of Secretary Hazel than it has previously. The culture of the current membership and its active participation plays a heavy role in this success. Even with specific appointments, it is impossible to guarantee an active and involved group. Members agreed that the current arrangement is appropriate.

## Next Steps / Solicitation of Additional Public Input

Scott suggested a three-pronged approach to soliciting public input: 1) Post notes and meeting summaries online, requesting emailed comments. PMG will create a separate email box to receive comments, facilitate the discussion and compile notes from emails received. 2) The October meeting will result in a draft set of recommendations that will be published for public comment either through the designated email box or through in-person public comment at the (final) November meeting of the work group; 3) At the November meeting, the group will open the discussion for public comment. All agreed.

The next meeting of the work group will be held Tuesday, October 13, 2015 from 9:00 AM to 11:00 AM at the Richmond Room, located at 1604 Santa Rosa Road, Henrico, VA 23229. It was requested that every substitute attendee brief their council member or meeting representative on the results of this meeting so that the group can move on to other matters next time. The primary objective of the third meeting is to review all recommendations that have been discussed to date and reach consensus on final recommendations.

# State Executive Council for Children's Services Work Group

Convened by the Secretary of Health and Human Resources and  
Secretary of Education

September 17, 2015 1:00 PM – 4:00 PM

Virginia Department of Taxation – 1957 Westmoreland Street, Richmond VA

## Agenda

1:00 PM	Welcome	William Hazel, Jr., M.D. Secretary of Health and Human Resources Commonwealth of Virginia
1:10 PM	Review of Initial Meeting and Public Input: Consensus on Board Structure Recommendations	Greg Brittingham, M.A. Performance Management Group VCU
1:30 PM	Background and Current Composition of the Council	Scott Reiner Interim Executive Director Office of Children's Services
2:00 PM	Facilitated Discussion: What is the Appropriate Composition of the Council?	PMG/Small Groups
2:45 PM	Report Out and Discussion	Small Groups
3:30 PM	Soliciting Public Input	PMG/Council Discussion
3:45 PM	Next Steps and Adjourn	Secretary Hazel

## Workgroup Charge:

To provide recommendations regarding the structure and function of the State Executive Council for Children's Services regarding:

1. Should the Council be a supervisory council or a policy council?
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Office of the  
**Secretary of Health and Human Resources**

**Funding Educational Costs for Students Placed  
in Psychiatric or Residential Treatment  
Facilities for Non-Educational Reasons**

**Report to the Chairmen of the House Appropriations and  
Senate Finance Committees pursuant to Item 279 (N) of  
Chapter 665 of the 2015 Acts of Assembly.**

**September 21, 2015**

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**COMMONWEALTH of VIRGINIA**  
*Office of the Governor*

William A. Hazel, Jr., MD  
Secretary of Health and Human Resources

September 21, 2015

The Honorable Charles J. Colgan  
Co-Chairman, Senate Finance Committee

The Honorable Walter A. Stosch  
Co-Chairman, Senate Finance Committee

The Honorable Christopher S. Jones,  
Chairman, House Appropriations Committee

Dear Legislators:

Item 279 (N) of Chapter 665 of the 2015 Virginia Acts of Assembly (the Appropriation Act) directs the State Executive Council for the Comprehensive Services Act to convene a workgroup to “examine options and make recommendations for funding the educational costs for students whose placement in or admittance to state or privately operated psychiatric or residential treatment facilities for non-educational reasons has been authorized by Medicaid.”

This work is now complete and the State Executive Council has approved the recommendations at its September 17, 2015 meeting. This report is respectfully submitted for your review.

Please contact my office should you have any questions regarding any aspect of the information contained in the report.

Sincerely,

A handwritten signature in black ink, appearing to read "William A. Hazel, Jr." with a stylized flourish at the end.

William A. Hazel, Jr., M.D.

## **Authority**

This report has been prepared and submitted to fulfill the requirements of Item 279 (N) of Chapter 665 of the 2015 Acts of Assembly. This provision requires the State Executive Council for the Comprehensive Services Act to convene a workgroup to “examine options and make recommendations for funding the educational costs for students whose placement in or admittance to state or privately operated psychiatric or residential treatment facilities for non-educational reasons has been authorized by Medicaid. The work group shall include representatives of the Office of Comprehensive Services, the Department of Education, the Department of Medical Assistance Services, the Department of Behavioral Health and Developmental Services, local school divisions, and public and private service providers. The State Executive Council shall report on its recommendations to the Chairmen of the House Appropriations and Senate Finance Committees by September 1, 2015.”

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## Executive Summary

The 2015 Appropriation Act required the State Executive Council (SEC) for the Children's Services Act (CSA) (formerly the Comprehensive Services Act<sup>1</sup>) to "examine options and make recommendations for funding the educational costs for students whose placement in or admittance to state or privately operated psychiatric or residential treatment facilities for non-educational reasons has been authorized by Medicaid."

The circumstances leading to this situation have evolved over the past 15 years as the state Medicaid plan allowed for children with significant behavioral health difficulties to be placed in Level "C" psychiatric residential treatment facilities through authorization and reimbursement by Medicaid without involvement of local CSA structures and processes. The provision of educational services for children placed in these facilities is required by licensing regulations. Medicaid does not allow payment for educational services. A "disconnect" therefore exists between the required educational services and the availability of public funds to support that service. In FY2015, 524 children were placed in residential treatment through Medicaid outside of the CSA process and without any state funding for educational services.

Both the General Assembly and the SEC have identified this issue as needing resolution. Several task forces and work groups have attempted to address the issue over the past year and public comment has been solicited. The problem is complex and potential solutions have significant fiscal and administrative impacts on the state, but especially the local government level.

This report summarizes the work and provides recommendations endorsed by the SEC as called for by the Appropriation Act. These recommendations include short term fiscal measures and suggestions for areas needing additional consideration toward a longer term solution to these complex issues.

The recommendations are as follows:

1. State general funds should be allocated to cover the full cost (no local match) of educational services for children placed through Medicaid without CSA involvement in a PRTF. This should be a short-term solution (beginning no later than FY2017) while additional work is completed to fully integrate "Medicaid-only" placements into the CSA system or to determine another funding mechanism.
  - a. The estimated fiscal impact of this recommendation is \$10.7 million per year based on the average costs for FY2013 and FY2015 (FY2014 data is not available due to the transition in December 2014 to Magellan as the behavioral health services administrator for DMAS and discontinuity in that year's data). A more detailed fiscal impact analysis is provided in Appendix A.

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<sup>1</sup> Effective July 1, 2015 the Comprehensive Services Act is renamed as the Children's Services Act and the Office of Comprehensive Services (OCS) as the Office of Children's Services. The new naming will be used throughout this report except where the use of the prior name is more historically accurate.

- b. The recommended mechanism for administering this funding is through the Department of Medical Assistance Services and its Behavioral Health Services Administrator, Magellan. This would be distinct from a Medicaid funded service.
- 2. The General Assembly, DMAS, the SEC, local governments and other interested parties should consider elimination or recalculation of the local Medicaid match requirements for children placed through CSA in PRTFs.
- 3. The Office of Children's Services, DMAS, Community Services Boards, parent representatives and local CSA staff should develop and implement a practical, short-term data collection project that will provide necessary information about the process of accessing residential treatment. Such data would include, but not be limited to, what entity is issuing the Certification of Need required by Medicaid, time frames for accessing an assessment by the local CSB, and time frames for accessing the local FAPT and CPMT for case planning and service implementation.

## Background

Children placed under a physician's order in a psychiatric residential treatment facility (PRTF) for non-educational reasons are required by licensing regulations of the Department of Behavioral Health and Developmental Services (12VAC 35-46-970) to receive educational services while in placement. Prior to 2000, all public funding for the placement of a child in a PRTF required a parental agreement through the Comprehensive Services Act (CSA, §2.2-5200 et seq, COV), with the involvement of the local Family Assessment and Planning Teams (FAPT) and Community Policy and Management Teams (CPMT) organized under the CSA. Placement through the CSA provided funding for the full range of costs for the placement (including education) through a combination of CSA state pool funds, local CSA matching funds, and parental contributions.

To draw down federal matching funds for these services and to reduce the fiscal impact on state and local government budgets, the state Medicaid plan was amended in 2000 to include coverage for PRTF placements for Medicaid-eligible participants. Additionally, provisions for Medicaid eligibility for children (regardless of prior Medicaid eligibility) after 30 days in placement (the "family-of-one" income provision) was implemented in the same year (2000). Placement through the Medicaid process does not require any CSA involvement. However, without a CSA parental agreement, there is no available public funding for educational services as federal Medicaid rules do not permit coverage of educational costs. In these instances, the only source of funding for the required educational services in a PRTF placement is parental payment or waiver of the fees by the PRTF providers. For some time, many providers have absorbed these costs.

The current circumstance is that there are two "tracks" for children to be placed in a PRTF:

1. The "CSA and Medicaid track" provides the benefits of locality-based multi-disciplinary case planning and funding for education, which is covered by CSA, while the treatment services are reimbursed by Medicaid. Children placed through this process trigger local matching fund obligations for treatment and education.
2. The "Medicaid-only track" does not provide the benefit of locality-based multi-disciplinary case planning and eliminates access to funding for the educational services. No local matching funds are required if a child is placed outside the CSA process.

Potential problems inherent in this two track approach were identified by the State Executive Council (SEC) for the Children's Services Act in its biennial Strategic Plan in September 2012. In support of the "implementation of a singular, unified system of care that ensures equal access to services for at risk youth across the Commonwealth", the SEC adopted a strategy to:

*Examine and address inadvertent fiscal incentives for residential placement, parental placement, avoidance of FAPT/MDT process, e.g.:*

- *Medicaid match*
- *Family-of-one eligibility*
- *Education costs*

The inclusion of this strategy acknowledged that the “Medicaid-only” track could potentially result in local CSA (local government) avoidance of local matching share for educational services and the local match for Medicaid-eligible children. In addition to the local CSA matching share on educational services in the “CSA and Medicaid” track, when the state Medicaid plan was amended to cover PRTF placements, localities were held partially responsible for the 50% state Medicaid match requirement. The exact amount varies and is based on a locality’s specific CSA match rate.

Data through FY2013 indicates that while the total number of children placed in PRTF placements receiving any Medicaid funding (includes the “Medicaid-only” and “CSA and Medicaid” tracks) has remained basically unchanged since 2005, the number of such placements through the “Medicaid-only” track increased from 136 to 556 (an approximately fourfold increase), while those placed through the “CSA and Medicaid track” have declined by a relatively similar number (from 1450 to 1103).<sup>2</sup>

### **CSA Review and Work Groups**

While the State Executive Council studied this issue through the work of the State and Local Advisory Team for the CSA (SLAT), organizations representing private providers of PRTF services initiated dialogue with the SEC. The private providers sought to resolve the dilemma of being required by regulation to provide comprehensive educational services without compensation for children placed via the “Medicaid-only” track.

In April 2014, the SEC directed the Office of Children’s Services to (i) document the lack of public funding for education for children placed via Medicaid in a PRTF outside the CSA process (the “Medicaid-only” track), and (ii) identify potential solutions. At an SEC retreat in June 2014, the issue was discussed in-depth and a task force was appointed to recommend solutions. This task force (see membership in Appendix B) met in the fall of 2014 and reported to the SEC in December 2014. A policy was recommended that would have directed all children and families seeking publicly funded placement in a PRTF through the local Community Services Board to the FAPT and CPMT where the child resides. This would have resulted in CSA involvement with all children placed in a PRTF and accounted for their educational costs through the CSA process.

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<sup>2</sup> While final FY2015 data is available from DMAS, final 2015 CSA placement data was not available at the time of this report as the CSA fiscal year does not close until September 30. FY2014 data on Medicaid placements was split between DMAS and their contracted Behavioral Health Services Administrator (Magellan) which began work on December 1, 2013 and so integrated Medicaid data for the full year is not available.

At its December 2014 meeting, the SEC discussed and verbally received public comment on the proposed policy. It then directed the formation of a broadly representative work group to review the policy and make recommendations for revisions for consideration at its March 2015 meeting. This work group (see Appendix B for membership) met on three occasions and reported to the SEC on March 19, 2015. Concurrently, the General Assembly, through the Appropriation Act, directed the SEC to form a work group to study this issue and make recommendations.

On March 19, 2015, the SEC again heard public comment and voted to place the proposed policy (as revised) out for a 60-day period of formal written public comment prior to its scheduled June meeting. Additionally, the SEC directed the continuance of the work of the (slightly reconstituted) work group to address implementation issues should the proposed policy be adopted. That work group (see Appendix B for membership) meets all of the requirements of the Appropriation Act language authorizing this study.

The work group met on three occasions in May and June 2015, reviewed the written public comments received and offered additional recommendations to the SEC. The group was unable to reach a consensus position about a direct resolution to the issues as they are very complex and there remain significant implementation concerns. At its June 18, 2015 meeting, the SEC reviewed the 116 public comments, took additional testimony, identified areas of consensus from the work of the various task forces and work groups, and discussed in detail various options and recommendations. The SEC deferred action on the proposed policy and directed a small work group of SEC members to complete the report and recommendations required by this study and to present it to the SEC for approval and submission to the chairmen of the House Appropriations and Senate Finance Committees.

### **Core Areas of Consensus**

The following were areas of consensus emerging from the work of the various task forces, work groups and public comments:

- The “status quo” of a lack of funding for required educational services for children placed in a PRTF utilizing Medicaid-only funding was unacceptable and needs resolution.
- There are a variety of reasons why children are placed in a PRTF without CSA involvement and no single reason could be identified as adequately explaining the full scope of the issue. Unfortunately, there is no data to objectively quantify these reasons. Anecdotal information includes parents who do not seek CSA involvement in the placement of a child, localities which might direct Medicaid-eligible children to the “Medicaid-only” track, or admissions to a PRTF directly from an acute psychiatric hospital stay without any CSA involvement, among others.
- Any changes to statute and/or regulation that address this issue must balance the fiscal impact on state and local government with reasonable processes by

which the affected entity plays a significant role in placement decisions having fiscal implications.

- The locally-driven system of care approach exemplified through the CSA was strongly supported and seen as a value added aspect for children, families, and communities.
- The implementation of the proposed “CSA and Medicaid” policy carries with it significant fiscal, procedural and human resource challenges to local CSA operations. For example, movement of all FY2013 PRTF placements from the “Medicaid-only” to a “CSA and Medicaid” track has an estimated local government fiscal impact of over \$11 million (approximately \$3.6 million in the local matching share on CSA funded education services and \$7.8 million in the local Medicaid match on CSA involved PRTF placements). The fiscal impact on the state general fund would be a savings of \$1.4 million (additional CSA state pool funds of \$8.2 million for the educational services and savings of \$9.6 million from local Medicaid matching dollars).

### **Recommendations**

After extensive study, the work of several groups, and broad public comment, the State Executive Council for the Children’s Services Act, at its September 17, 2015 meeting, adopted the findings of this report and the following recommendations:

1. State general funds should be allocated to cover the full cost (no local match) of educational services for children placed through Medicaid without CSA involvement in a PRTF. This should be a short-term solution (beginning no later than FY2017) while additional work is completed to fully integrate the “Medicaid-only” placements into the CSA system or to determine another funding mechanism.
  - a. The estimated fiscal impact of this recommendation is \$10.7 million per year based on the average costs for FY2013 and FY2015 (FY2014 data is not available due to the transition in December 2014 to Magellan as the behavioral health services administrator for DMAS and discontinuity in that year’s data). A more detailed fiscal impact analysis is provided in Appendix A.
  - b. The recommended mechanism for administering this funding is through the Department of Medical Assistance Services and its Behavioral Health Services Administrator, Magellan. This would be distinct from a Medicaid funded service.
2. The General Assembly, DMAS, the SEC, local governments and other interested parties should consider elimination or recalculation of the local Medicaid match requirements for children placed through CSA in PRTFs.
3. The Office of Children’s Services, DMAS, Community Services Boards, parent representatives and local CSA staff should develop and implement a practical,

short-term data collection project that will provide necessary information about the process of accessing residential treatment. Such data would include, but not be limited to, what entity is issuing the Certification of Need required by Medicaid, time frames for accessing an assessment by the local CSB, and time frames for accessing the local FAPT and CPMT for case planning and service implementation.

## Appendix A

### Fiscal Impact Projections

#### Projected Fiscal Impact Funding Non-CSA Medicaid Parental Placements in Psychiatric Residential Treatment Facilities (Level C)

	Level C Non-CSA Placements	Average Educational LOS per Youth (Days)	Average Per Diem Education Cost	Total Educational Cost
FY2013	556	114	\$ 160	\$ 10,141,440
FY2015	524	135	\$ 160	\$ 11,318,400
		Average Annual Cost		\$ 10,729,920

#### Column Descriptors and Data Sources

Level C Non-CSA Placements = Total unique Medicaid-only admissions (FY2013 Data from DMAS; FY2015 data from Magellan via DMAS)

Average Educational LOS = Total length of stay in PRTF x .71 (5 days of 7). (LOS data from Magellan)

Average Per Diem Education Cost (Data derived from average reported residential education fees in the CSA Service Fee Directory for "regular" education, special education, and special education (intellectual disability)).

Total Educational Cost = # of non-CSA placements x average educational LOS x average per diem educational cost

**Note:** Due to the transition on December 1, 2014 of authorizations and claims payment for PRTF placements from DMAS to Magellan. FY2014 data is not fully integrated and is not therefore, reported here.

**Appendix B – Work Group Membership Rosters**  
(Reverse chronological order of group activity)

**Final State Executive Council Review Group (July – August 2015)**

Hon. Robert Coleman, Vice Mayor	City of Newport News
Pamela Kestner, Special Assistant	Office of the Secretary of Health and Human Resources
Cindi Jones, Director	Department of Medical Assistance Services
Greg Peters, Chief Executive Officer	United Methodist Family Services

**Work Group Membership (May 12 – June 2, 2015)**

<b>Participant*</b>	<b>Representing</b>	<b>SLAT Member?</b>
Lesley Abashian*	CSA Coordinators	Yes
Carl Ayers	VDSS	Yes
Sheila Bailey	VCASE	Yes
Brian Campbell	DMAS	Yes
Cristy Corbin*	Parent	No
Bill Elwood	Private Providers	No
Jim Forrester	Magellan	No
Cristy Gallagher*	Parent	Yes
Gail Giese*	Private Providers	No
Pat Haymes* (co-facilitator)	VDOE	Yes
Ryan Ickes	Magellan	No
Mills Jones	CSA Coordinators	No
Jamie Molbert*	Private Providers	No
Angie Neely*	VCASE	No
Bill Phipps	Magellan	No
Karen Reilly-Jones	VACO	No
Scott Reiner (co-facilitator)	OCS	No
Joel Rothenberg	DBHDS	No
Ivy Sager*	VACSB	No
Phyllis Savides*	VML/LSSE	No
Paulette Skapars	VACSB	No
Rebecca Vinroot	VML	No
Tammy Whitlock*	DMAS	No
Amy Woolard	Voices for Virginia's Children	No

*\*member of previous work group that refined proposed policy*

**Work Group Membership (February 12 – March 4, 2015)**

<b>Participant</b>	<b>Representing</b>
Lesley Abashian	CSA Coordinators
Wanda Barnard-Bailey	Virginia Municipal League
Ron Belay	SLAT/Court Service Unit Directors
Sandy Bryant	Virginia Association of Community Services Boards
Susan Clare	Office of Comprehensive Services
Cristy Corbin	Parent
Michael Farley**	Private Provider
Christy Gallagher	Parent
Gail Giese	Private Provider
Paul Gilding	Department of Behavioral Health and Developmental Services
Pat Haymes (co-facilitator)	Department of Education
Lelia Hopper** (co-facilitator)	Office of the Executive Secretary, Supreme Court of Virginia
Karen Kimsey**	Department of Medical Assistance Services
Jamie Molbert	Private Provider
Angie Neely	Virginia Council of Administrators of Special Education
Joe Paxton**	Virginia Association of Counties
Scott Reiner	Office of Comprehensive Services
Ivy Sager	Virginia Association of Community Services Boards
Phyllis Savides	League of Social Service Executives
Amy Walters	Family Advocacy Organizations
Paul McWhinney**	Department of Social Services

*\*\*member of SEC Task force that developed original policy proposal*

**Initial State Executive Council Task force (October 30, 2014)**

Mary Bunting	Local Government, City of Hampton
Michael Farley	Private Provider Elk Hill Farm
Lelia Hopper	Office of the Executive Secretary, Supreme Court of Virginia
Joe Paxson	Local Government, Rockingham County
Paul McWhinney	Virginia Department of Social Services
Susan Clare and Scott Reiner	Office of Children's Services (staff support)
Brad Burdette	League of Social Service Executives (consultant)
Melanie Bond	CSA Coordinator, Chesapeake, VA (consultant)