



Minnesota Department of Human Services

Commissioner Emily Piper

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March 28, 2017

Representative Matt Dean, Chair

House Health and Human Services Finance Committee

401 State Office Building

100 Rev. Dr. Martin Luther King, Jr. Boulevard

St. Paul, Minnesota 55155

Re: 2017 Health and Human Services Omnibus Bill

Dear Chair Dean:

I want to thank you for all of your efforts so far this session in the Health and Human Services Finance committee. I appreciate the work you are doing for the over 1 million Minnesotans who we serve at the Department of Human Services (DHS). As you review the 2017 Omnibus Health and Human Services (HHS) budget bill today in your committee, I want to take the opportunity to highlight my priorities for DHS and also point out some issues I see in the House budget bill.

First, I want to thank you for including the Governor's proposals for nursing facility value-based reimbursement (partial), child welfare services for sexually exploited youth, funding for Deaf and Hard of Hearing Services, expansion of Integrated Health Partnerships, White Earth Nation child welfare, Child and Adolescent Behavioral Health Services (partial), new employment services for people with disabilities, investments in mental health and implementation of the federal home health care rule. These proposals are clearly priorities for all of us and I appreciate your work to include them. Unfortunately, these are the only provisions that your bill shares with the Governor's proposed Health and Human Services budget.

One of my top priorities this session is the DHS **operating adjustments** and I am very concerned that this funding is not in the House bill. The proposed operating adjustment funding is critical to ensuring that the services we provide to the most vulnerable Minnesotans continue. Without the \$44.4 million in FY2018-19 and \$56.7 million in FY2020-21, we would need to reduce over 300 full-time equivalents (FTEs) across DHS, including a reduction of 210 FTEs in our Direct Care and Treatment (DCT) areas, to care for the more than 12,000 Minnesotans we serve annually. I also want to note that the other investments that are in your bill, such as the funding for CABHS and Deaf and Hard of Hearing Services, would likely be unachievable given the size of the reductions we would be forced to make as a result of not receiving the operating adjustment.

In addition to the operating adjustment, the House bill fails to include critical DCT items from the Governor's budget to ensure the safety of our clients and staff and the financial stability of these direct care programs. The first is \$10.3 million in FY2018-19, and \$3.6 million in FY2020-21, for the **Minnesota State Operated Community Services** program, which serves over 400 Minnesotans with developmental disabilities in 120 homes across the state. This funding, along with the operating adjustment for this area, provides long-term financial stability for this program. In addition, the **Minnesota Security Hospital staffing** investment of \$22.8 million in FY2018-19,

and \$35.4 million in FY2020-21, is critical to DHS' need to improve safety for our clients and staff and assure quality, clinically sound care. We have worked with staff at the Minnesota Security Hospital, legislators, stakeholders, union leadership, and many others for nearly two years to bring this proposal forward for the second time and we need your support.

Last year you asked me to bring forward reforms and new ways to deploy services and optimize funding. I am happy to see a similar substance use disorder reform and the new employment services for people with disabilities included in your bill, but the Governor's budget included many reform items that I am disappointed you did not include. In Community Services, we proposed reforms to **home and community based services** and in the **housing** area to allow more people with developmental disabilities to live independently. In addition we proposed important **health care reforms**, including dental changes to ensure more children receive dental care. All of these proposals have savings for the State and rethink how we invest in services for the people we serve. I hope you will reconsider including them in your bill.

I would be remiss if I did not also point out that the Governor's budget included many federal compliance items that are not included in your bill. One key proposal is the **Child Care Assistance Program** changes to expand access to affordable child care services and increase provider rates in addition to important child care integrity measures. This proposal makes it easier for families to receive assistance, updates rates paid to child care providers, supports working parents, and ensures that children are safe. Many of these provisions are required under federal law. It is imperative that these changes move forward to achieve compliance and our goal of making the program work for Minnesota families and caregivers.

Health care is a topic that has received a great deal of attention recently at both the state and federal level. The Governor included a **MinnesotaCare buy-in** option and also a **repeal of the sunset of the provider tax** as part of his proposed budget. These proposals would help ensure the future financial stability of the health care system in Minnesota. Neither of these proposals are included in your bill and none of the federal compliance proposals are funded. Instead the House bill removes the Medical Assistance inflation from the forecast without including a mechanism to reduce spending by this amount in the language. This will impact the providers and over 1 million people who rely on Medical Assistance for their health care. As the Governor noted in his March 13, 2017, letter to House and Senate leadership, we will need information on what service or eligibility reductions you want us to make to achieve this reduction.

I appreciate the time you took to hear many bills related to personal care attendants. You heard first hand the stories of how hard it is for this group of direct care providers and the people they care for to find the services they need. But the House bill does not include the Governor's proposal for the **self-directed workforce** initiative. Our goal is to begin to address some of the workforce shortages across the state for direct care workers, who our most vulnerable citizens depend on every day. I hope you will reconsider this important investment.

The House bill did not include any funding for **child protection, foster care or permanency programs**. We worked together on the Governor's Task Force on Child Protection and I was hopeful that you would include these important investments for children and families in your bill. By not providing funding for these initiatives, children under 6 will continue to wait longer than necessary for a permanent home and we will be limited in the support we can provide to counties. The House bill also does not include any funding for **systems modernization**. I am disappointed that there is no funding to maximize the federal revenue that is available now and ensure that our systems can continue to serve the many providers, counties, tribes and individuals who depend on them.

Below, I highlight additional provisions in the House bill that are problematic for my agency and the people we serve.

- **Hospital and managed care organization outcomes program** – This House proposal requires us to issue a proposal meant to incent hospital providers to improve health outcomes, which is duplicative of our existing efforts. The bill requires DHS to maintain budget neutrality with hospital payments and there are no other mechanisms in the bill to actually create savings. We agree with improving outcomes for our clients and are working hard to do that, but the savings tracked for this proposal will not be realized.
- **Health care delivery systems pilot project** – This proposal includes over \$144 million per biennium in savings for a program very similar to our Integrated Health Partnerships. This bill was never heard in committee and we do not see how the savings will be realized. The provision requiring DHS to disenroll recipients who do not verify managed care enrollment will likely result in many people losing their health care coverage. In addition, this includes a withhold of two percent of MCO capitation payments which may prohibit DHS from getting actuarially certified rates and operating a managed care program.
- **Implement eligibility verification/MA audit activities** – This proposal includes \$170 million in MA savings, with an assumption of actionable audit findings. DHS has drafted a fiscal note for this bill and we articulated that no savings could be booked. This is of great concern to me.
- **Competitive bidding reform** – The House bill includes \$50 million in each biennium in new savings related to unspecified competitive bidding reforms. We have worked very hard in recent years to realize savings in this area and we have been successful working together. DHS was not asked to work with you on this and we did not provide a fiscal note, and we have significant concerns about the underlying policy. We also believe there will be costs related to this based on our recent discussions with our actuaries. I will follow up with a more specific letter on this issue soon.
- **Contingent rate reduction** – This provision requires DHS to reduce MA provider rates if the \$204 million in savings from competitive bidding reform, health care delivery pilots, and hospital outcomes program savings is not achieved. Our analysis of these proposals suggests that such savings will not materialize. As highlighted in the Governor's proposal regarding the **access monitoring plan**, we are required to monitor access to services when Medical Assistance rates are decreased or restructured. If Medical Assistance enrollees' access to care is adversely impacted by this decrease, Centers for Medicare and Medicaid Services (CMS) may not approve the changes in rates or may require a corrective action plan for the state to increase rates in the future, both of which could impact our federal funding related to these services. With this rate reduction, I am concerned that we will negatively impact our enrollees and providers and put in jeopardy the health care system we have all worked hard to build for Minnesotans.
- **MinnesotaCare premiums**: This proposal increases premiums on 86,000 lower income Minnesotans enrolled in MinnesotaCare. As the House is considering tax reductions for many Minnesotans, including the wealthiest people in our state, I find it very disturbing that you included a premium increase for some of the lowest income Minnesotans.
- **Managed care payment delay** – In current law, we have three shifts related to managed care payments. The House bill continues one of these payment shifts which was implemented during deficit years. Doing this now undermines the managed care purchasing strategy that we have all worked on in recent years. This proposal is of serious concern to me.
- **DHS Technology and Operations for MNSure** – The House bill removes over \$40 million per biennium from the DHS budget which is currently allocated to MNSure for IT and business operations. This includes \$3 million per year for navigator incentives and funding for many supports including call centers, provider resources and other services that support public program clients. This funding is needed for DHS and the counties to support our eligibility system and provide needed support to the over one million people who are on our public health care programs.
- **Establishment of Federally Facilitated Marketplace (FFM)** – This proposal would undo years of systems and operations work which resulted in a one-stop place for people in Minnesota who need health care.

This will likely cause delays and gaps in coverage for people. The fiscal tracking that is included in the House bill does not include the FTEs requested in the fiscal note for the additional work created to process FFM data, creating a shortfall for HCA administrative budget.

- **Children's Institute for Mental Disease (IMD) funding** – I very much appreciate the investment you have made in this area but I also need to point out that this proposal overall does not support maximizing federal match and also does not facilitate needed reforms, which I believe we all want to do. I look forward to working together on this in conference committee.
- **Positive supports rule exemption for child care** – This provision does not align with the terms of the Jensen Settlement Agreement and would put us at risk in meeting the requirements of the courts and the people we serve.
- **Legislative notice and approval for some waivers** – This provision will dramatically slow down the process for HCBS waiver approvals and implementation and could have many unintended consequences.

This is a long list of items that I have serious concerns about. In the health care area, I am concerned that all of the above listed reductions and changes will negatively impact our enrollees and providers and put in jeopardy the health care system we have all worked hard to build for Minnesotans. In addition, there are many proposals included in your bill that either never had a fiscal note requested or do not reflect the proper funding or savings based on the fiscal notes provided. We have had over 300 fiscal notes assigned by the House and Senate this session. When the process does not use these numbers or even request a fiscal note for key items in the bill it undermines the process and puts the numbers into question.

I have been spending time looking at the reductions made in the 2011 shutdown. That was a difficult time for our state with a significant deficit, which forced us to make many reductions to key programs. We are still trying to remedy issues caused by some of the reductions in 2011. We reduced adult mental health grants, made Child Care Assistance Program and other child care rate reductions, reduced general operating funds, and limited payment for some PCA care. We have worked together to get more funding for many of these items since 2011, and in a year when we have a large surplus in the state, I would hate to see us move backward again for the vulnerable people we serve.

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 the coming weeks.

Sincerely,

A handwritten signature in black ink, appearing to read "Emily Piper". The signature is fluid and cursive, with a large initial "E" and a stylized "P".

Emily Piper
Commissioner

cc: Governor Mark Dayton

Representative Erin Murphy, Minority Leader, House Health and Human Services Finance Committee
Lauren Gilchrist, Senior Policy Advisor, Office of the Governor