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REPORT TO THE LEGISLATURE

TO: Joint Standing Committee on Health and Human Services
FROM: Maine Department of Health and Human Services
DATE: February 2024
RE: Progress report pursuant to Resolve 2023 Ch. 78, *Requiring Progress Reports from the Department of Health and Human Services Regarding the Implementation of Secure Children's Psychiatric Residential Treatment Facility Services*

The Maine Department of Health and Human Services (DHHS) is submitting this report, pursuant to Resolve 2023, Ch. 78, *Resolve, Requiring Progress Reports from the Department of Health and Human Services Regarding the Implementation of Secure Children's Psychiatric Residential Treatment Facility Services*. This Resolve requires the Department to submit a report to the Joint Standing Committee on Health and Human Services in January 2024, and a follow-up report in July 2024 describing the progress the Department has made in establishing increased rates for secure children's psychiatric residential treatment facilities and amending department rule Chapter 101: MaineCare Benefits Manual, Chapters II and III, Section 107.

Progress Report

Background

Psychiatric Residential Treatment Facilities¹ (PRTF) are non-hospital-based facilities delivering inpatient psychiatric care to youth under age 21. These facilities must be certified by the Centers for Medicare & Medicaid Services (CMS) and are allowable under 1905(a)16 of the Social Security Act². PRTFs additionally must be accredited³ and meet requirements under 42 CFR 441.151-441.182. Services in a PRTF include: active treatment; intensive psychiatric monitoring; rehabilitative therapies including individual therapy, group therapy, and family therapy; medical supervision seven days per week and twenty-four hours per day. PRTFs are designed for youth who require intensive inpatient psychiatric care: their needs cannot be met at a lower level of residential, therapeutic foster care, or community-based care. Examples of youth who may benefit from PRTF services include those youth needing non-hospital psychiatric treatment; youth needing a step-down from inpatient hospitalization; youth currently receiving or seeking treatment in out of state PRTFs; youth in other settings that may meet medical necessity for a PRTF level of care.

Starting in 2017, the Department began work to develop the policies and procedures necessary to establish PRTF services under 10-144 C.M.R. Ch. 101, MaineCare Benefits Manual. This was a collaborative effort between multiple offices within DHHS, including the Office of Child and Family Services (OCFS), the Office of MaineCare Services (OMS), the Division of Audit,

¹ <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/PRTFs>

² https://www.ssa.gov/OP_Home/ssact/title19/1905.htm

³ <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/CertificationandCompliance/Downloads/WhatisPRTF.pdf>

and Maine Professional and Financial Regulation along with representatives from the Department of Education and Department of Corrections. Following promulgation of the initial MaineCare rules in 2018, DHHS held three informational sessions on PRTF services, with one provider moving forward to submit a proposal to establish a PRTF. The Department worked with that provider over the course of 15 months to review plans, the PRFT model, and proposed financing, which ultimately resulted in the provider determining the rate established was not adequate for them to support the delivery of the service. OCFS then continued to meet with three additional providers interested in discussing PRTF services, but ultimately all four providers reached the same conclusion about the rate, prompting DHHS to review not only the rate methodology, but the service delivery model as well.

Following this feedback, DHHS began reviewing its model and seeking feedback from in-state and out-of-state providers to better understand the pressure points that were barriers to implementation. To aid in this effort, in summer of 2022, OCFS issued an informal request for information from potential providers to get feedback. Twelve providers responded to the request for information and provided valuable feedback on the challenges within the current model. Of note, of the twelve respondents, nine noted that would have a potential interest in establishing one or more PRTFs upon DHHS updating the rate methodology and service delivery model considering their feedback. Feedback on the original model included the following:

- The original 20 bed model was not aligned with national programs, which are often made up of 8-bed units;
- The Maine staffing ratio of 1:2 is too high;
- Salary cap for administrator may be too low;
- The number of certain administrative staff may be consistent regardless of facility size;
- Nursing is necessary but Maine's staffing ratio of 1:10 is too high; and
- Providers are challenged by the stringent requirement of physician ordering for restraint. Federal law prohibits DHHS from making modifications.

This feedback and additional research and information was used to update the service delivery model which has informed the draft rate methodology that was then presented to stakeholders in summer of 2023.

Rate Determination

The Department held the Rate Determination stakeholder discussion, supported through MRS Title 22, §3173-J, to present the proposed model and rate updates to stakeholders on June 15, 2023. Seventeen stakeholders from the provider community joined staff from DHHS and MDOE in the public presentation and engaged in discussion on the service model and assumptions driving the changes in the rates. Following the conclusion of the stakeholder meeting, the rate model and presentation materials were posted to DHHS's website⁴, and a comment period was opened through July 7, 2023. During the comment period, three stakeholders submitted a total of twenty comments and questions. The comments and questions addressed a variety of topics, including start-up costs, staffing challenges, model questions, fixed costs assumptions, and occupancy rate adjustments. The Department reviewed these comments carefully through September and began making revisions to the model based on the comments. Rate model revisions were made considering best practices and standards of

⁴ <https://www.maine.gov/dhhs/oms/about-us/projects-initiatives/mainecare-rate-system-reform#CurrentRateDeterminationsinProgress>

reimbursement for similar services across the country. Throughout the Fall and Winter of 2023, the models have been reviewed for process consistency, with a goal to publicly publish the final rate models this Winter (prior to April 2024).

Model and Policy Development

A group of internal stakeholders from the Office of MaineCare Services, the Office of Child and Family Services, and the Division of Licensing and Certification met between the beginning of October through December to draft the 10-144 C.M.R. Ch. 101, MaineCare Benefits Manual, Chapters II and III, Section 107, policies. This iterative and collaborative approach has worked well, with all parties making comments and edits and then convening to discuss substantive changes and identify areas where additional research is required. This work has been informed by the 2022 stakeholder survey, the MRS Title 22, §3173-J comments, individual outreach with national PRTF service providers, and internal decision-making. So far, draft changes include adding and updating definitions, adding detail to documentation requirements, requiring a new level of care assessment, altering minimum service times, clarifying reimbursement provisions based on audit processes, adding discharge summary requirements, adding a provision on emergency preparedness, and many others. The Department has finalized most of the necessary changes and expects that the remaining outstanding questions can be resolved without an additional meeting. Of note, finishing the draft policies is dependent on finalizing the rate model.

Provider Interest in PRTF

Following the 2022 survey of providers, nine of the fourteen respondents noted they could be interested in establishing PRTF services following the service model and rate methodology update efforts by the Department. Additionally, DHHS met with a local provider to talk about their potential interest in this model. Following the rate reform and rulemaking work, DHHS will engage providers further to garner interest and discuss potential next steps toward establishing a Psychiatric Residential Treatment Facility in Maine. Of note, the Department has a limited ability to discuss the service while rulemaking is in formal APA process; therefore, a stakeholder group will be scheduled when the rule is finalized. Please note the projected workplan below including activities and anticipated timeline.

Projected DHHS Workplan on PRTF

Timeframe	Activity Benchmark	
June 2023	DHHS held a Rate Determination stakeholder meeting on June 15, 2023. The Comment period active from June 15, 2023, to July 7, 2023. August /September comments were reviewed, and written responses worked on.	
July – September 2023	Public comment process closed. DHHS reviewed comments, worked on written responses, consulted with a national PRTF provider on model and rate recommendations.	
Fall 2023	DHHS finalizes service model following feedback from local stakeholders and national experts. Draft rate model being reviewed for process consistencies and to see where/if any changes can be made on the draft rate model based on comments from stakeholders.	
November 2023 – February 2024	DHHS rule drafting, including senior management internal review	Ongoing
Winter 2023-24	DHHS finalizes rates based on feedback from rate determination. Publishes result of Rate Determination.	Ongoing
February – March 2024	OAG pre-review of proposed rule drafts; DHHS final revisions to proposed rule drafts; Commissioner review of proposed rule drafts	
May 2024	DHHS proposes the Chapters II and III, Section 107, policies. APA public engagement process begins.	
July 2024	DHHS provides a written progress report to the Joint Standing Committee on Health and Human Services	
Fall/Winter 2024	Section 107 policies are adopted	