

April 18, 2011

The Honorable Mike Milburn
Speaker of the House
State Capitol
Helena, MT 59620

Dear Speaker Milburn:

In accordance with the power vested in me as Governor by the Constitution and the laws of the State of Montana, I hereby return with amendments House Bill No. 565 (HB 565), **"AN ACT PROVIDING CHILDREN WITH MENTAL HEALTH NEEDS WITH IN-STATE SERVICE ALTERNATIVES TO OUT-OF-STATE PLACEMENT; REVISING DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES PROCEDURES FOR DETERMINING PLACEMENT OF CHILDREN IN OUT-OF-STATE SERVICES; REQUIRING THE DEPARTMENT TO DIFFERENTIATE BETWEEN MODERATE AND INTENSIVE NEEDS FOR HIGH-RISK CHILDREN; EXPANDING REPORTING REQUIREMENTS; PROVIDING RULEMAKING AUTHORITY; AND AMENDING SECTIONS 52-2-308, 52-2-310, AND 52-2-311, MCA."**

House Bill 565 addresses the important public policy of prioritizing placement of high-risk children with complex multiagency service needs in-state. I have proposed amendments to the bill for purposes of ensuring conformity with federal Medicaid law, to remove requirements regarding "performance standards" where no objective standards are available, and to make the current law more meaningful in a manner consistent with the sponsor's, Representative Noonan's, intent.

In its current form, HB 565 would require the Department of Public Health and Human Services (DPHHS) to establish a performance-based system for assigning in-state providers to cases. This provision in the bill conflicts with federal Medicaid requirements that any willing provider must be allowed to participate in the program if the provider meets established licensure and certification requirements. Additionally, HB 565 would require DPHHS to adopt rules establishing measurable performance standards and demonstrated successful outcomes for providers. While a laudable goal, no widely accepted performance standards exist, and it is extremely difficult to measure performance outcomes due to limited sample sizes and the inability to control for the vast differences between children with emotional disturbances.

My proposed amendments address these problems in the bill and also clarify current law consistent with DPHHS' experiences. For example, the amendments delete current requirements that DPHHS differentiate in definition and reimbursement rates between therapeutic settings that provide a moderate level of service and those providing an intensive level. For many years, the children served by DPHHS have required intensive level of services, so the amendments remove the distinction in statute that has proven unnecessary. Most other proposed amendments should be self-explanatory.

I share with the Legislature endorsement for the policy reflected in the law and in the improvements to the law contained in HB 565 that, to the extent possible, our state must prioritize treating children with complex and serious mental health needs close to home. We have made great strides in the past four years reducing the number of out-of-state placements of children requiring mental health treatment by 40%. We must continue in our efforts.

Representative Noonan has indicated his support for my amendments, and I respectfully ask you to join him with your support as well.

Sincerely,

BRIAN SCHWEITZER
GOVERNOR

cc: Legislative Services Division

Amendments to House Bill No. 565
Reference Copy

Requested by the Governor

For the House Committee of the Whole

Prepared by Susan Byorth Fox
April 18, 2011 (5:10pm)

1. Title, line 4.

Following: "ACT"

Insert: "CLARIFYING REQUIREMENTS FOR"

2. Title, line 7 through line 8.

Strike: "REQUIRING" on line 7 through "EXPANDING" on line 8

Insert: "REVISING"

3. Page 1, line 26.

Following: "children"

Insert: "have decreased by 40% in the last 4 years but still"

4. Page 2, line 7 through line 8.

Strike: "and a" on line 7 through "providers" on line 9

5. Page 2, line 13.

Strike: " and"

6. Page 2, line 14.

Following: "care"

Insert: "and planning process; and

(d) using criteria established by the department to address the specialized needs of high-risk children with multiagency service needs"

7. Page 2, line 15 through line 27.

Strike: subsections (2) and (3) in their entirety

Renumber: subsequent subsections

8. Page 2, line 28.

Strike: "establish" through "assigning a"

Insert: "allow any willing and"

9. Page 3, line 1.

Following: "(b)"

Strike: "The"

Insert: "Prior to contracting with a provider for the delivery of in-state services, the department must determine that the plan of care submitted by the in-state provider is both cost-effective and in the best interests of the child.
(c) If a qualified in-state provider proposes a plan of care for providing in-state services to the child, the"

10. Page 3, line 3 through line 4.

Strike: subsection (5) in its entirety

11. Page 3, line 12 through line 22.

Strike: "efforts the department made"

Insert: "process used"

Following: "placements"

Strike: "; including:" on line 12 through line 22

Insert: "; and

(e) the number of in-state providers participating in the pool."

12. Page 3, line 23.

Strike: "the department"

Insert: "medicaid"

13. Page 3, line 24.

Following: "indicating"

Strike: "the"

Insert: "other"

Strike: "program"

Insert: "programs"

- END -