

Statement on Inadequate Comparable Education Services for Children Admitted to Residential Facilities for Non-Educational Reasons

State Executive Council Comprehensive Services Act for At Risk Youth and Families

March 24, 2014

Mr. Chair and members of the State Executive Council, I am here today on behalf of both the Virginia Coalition of Private Provider Associations (VCOPPA) and the Virginia Association of Independent Specialized Education Facilities (VAISEF) to discuss and ask for your assistance on an issue that has risen to critical importance within our system of care for children who have been admitted to residential treatment facilities for non-educational or mental health reasons.

There currently exists a gap in our system that does not provide funding for appropriate comparable educational services for children with a diagnosed mental illness and who are admitted into a licensed residential treatment facility under a physician's order for non-educational reasons. While their mental health treatment services can be funded through Medicaid, there is no consistent funding source to pay for their educational services while they are in a facility for mental health reasons.

These students have been admitted by medical necessity under a physician's order for non-educational reasons, and the parents have not waived the child's right to a free and appropriate public education (FAPE). Although they have been placed in residential facilities that offer Virginia DOE fully licensed 5 hour a day educational programs, often in these cases because the child was not placed through the FAPT process, the children's home locality is only willing to authorize "homebound" educational services, which only provides one hour of daily instruction. Those students coming from regular education settings without an IEP are most often not offered any educational services from the locality and the treating facility is being expected to "scholarship" the cost of the child's education while they are in residence.

During the last three years, we have been working to bring this to the attention of decision makers and policy leaders throughout state government. During the 2014 Session, your SEC colleague Delegate Bell introduced legislation in an attempt to solve the problems with this issue. As we have worked through this process, there has been no disagreement that these educational services are vital to the eventual successful mental health outcome for the child and essential to their educational progress when they return to their home school division. Unfortunately, these children seem to have fallen through a gap in the service delivery and funding system. At question are multiple funding sources that cross several state agency jurisdictional boundaries, as well as impacting local school divisions. We have worked and met with all of these entities (including many of the agencies represented here today) and are encouraged that we are headed in the right direction to find a solution that solves the problem, does it in the right way and is equitable to all, especially to these children and their families.

But we need your help collectively and as individual entities to make sure this happens. Even as we speak, the practice of asking our facilities to absorb or “scholarship” the educational services costs for these children is increasing. As new mental health placements are being made, referral entities are asking our members to waive educational fees and in some cases parents with Medicaid approval of their child’s mental health treatment services are being discouraged from working through the FAPT process, again putting more pressure on facilities to provide educational services for free.

We are not sure why educational services are being viewed as the service to be discounted or devalued. Certainly, if you took the situation in reverse, it would be unconceivable to ask a facility treating a child for educational reasons to then also provide needed mental health treatment services at a discount or for free. Comparable educational services are vitally essential to the success of appropriate mental health treatment and to the eventual successful return of the child to the local school division in the least restrictive environment, therefore educational services should not be treated as a “throw in” to other services.

As we explored this issue during the 2014 Session with the many numerous stakeholders, it appeared the most desirable outcome was to find a way for these children to become eligible for CSA funding as soon as possible for their educational services. That is where we need your help collectively and individually. We implore the SEC to explore all avenues open to you administratively to help make this a reality. As in the case last year when you clarified your policy on the use of state pool funds for services ***not*** approved by Medicaid, it would seem logical that if mental health services ***are*** approved by Medicaid, there should be some mechanism to get these children deemed eligible for CSA funding for their educational services as soon as possible. It is our hope that you will take this issue on for further discussion, study and possible administrative action as soon as possible.

Thank you for your time and consideration of this important issue.

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