



## 2021 State News

produced by the

### National Association of State Head Injury Administrators

November 18, 2021

Dear NASHIA Member,

Welcome to **2021 State Legislative News, November Edition**, which you receive as a NASHIA Member. This issue contains information on State legislation that has passed in States since June 4, our last issue, or was not included in the June issue. States have also been involved with other initiatives as highlighted in this issue, including provisions of State Spending Plans for the enhanced federal match (FMAP) authorized by the American Rescue Plan (ARP) Act that address home and community-based services for people with brain injury. If you have legislation, appropriations or activities to report, please do not hesitate to contact us, as we will be happy to share. You may send to Susan Vaughn, Director of Public Policy at [publicpolicy@nashia.org](mailto:publicpolicy@nashia.org).

As a reminder, NASHIA is still updating its 2005 "Guide to State Government Brain Injury Policies, Funding and Services" and is missing information from most States. If you have a question whether your information was sent or you have not received a request for information, please contact Susan. This is the only information available with regard to State definitions, data collection capabilities, revenue streams and services provided. Once completed, this valuable resource will be available to States and our national and federal partners.

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- CDC State Injury & Violence Prevention Update
- Medicaid Update: New Section 1115 Waivers; ARP FMAP Spending Plans; Medicaid Expansion

## State Legislative Roundup . . .

### *Appropriations and Funding . . .*

On October 7, **Michigan** Governor Gretchen Whitmer signed **H.B. 5094** into law, providing full funding for Michigan's statewide trauma system. H.B. 5094 would amend the Crime Victims Rights Services Act to provide funding to the Michigan Statewide Trauma System for the next year,

### *Sports-related Injuries Cont.*

It strengthens New Jersey's law that has applied for eleven years in that a child who sustains a concussion may not return to competition prior to returning to regular school activities. The new law applies to both cheerleaders and high school student-athletes to ensure that they can safely

without compromising the crime victims fund's ability to pay for crime victim's rights services and compensation, including compensation to minor crime victims. The administration is committed to working with the legislature to identify a long-term funding source for the Michigan Statewide Trauma System.

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On July 15, 2021, **Michigan** Governor Gretchen Whitmer approved **S.B. 28** to establish a \$25 million Post-Acute Care Auto Injury Provider Relief Fund to temporarily reimburse health care providers whose businesses might be severely impacted by the 2019 auto no-fault insurance reforms. The fund is to be administered by the Michigan Department of Insurance and Financial Services, who will develop "application and review processes" for the fund for rehabilitation facilities and in-home providers who help people catastrophically injured in car crashes.

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**Kansas** Governor Laura Kelly recommended \$1.5 million in State funds for this year and \$8 million for next year to cover increased enrollment for the Medicaid Home and Community-based Services (HCBS) waiver due to the State changing the definition of brain injury to include children and acquired brain injury in 2018. The increase was passed by the legislature to avoid a waiting list and to increase capacity.

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The **Ohio** legislature increased State funding for the Ohio Brain Injury Program administered by the Ohio State University Wexner Medical Center from \$126,567 to \$550,000 annually.

### ***Employment . . .***

On October 10, **Delaware** Governor signed **H.B. 122**, called the Jamie Wolfe Employment Act, requiring that subminimum wage paid to people with disabilities be phased out by July 1, 2023. Delaware became the 10th State to enact legislation to end the practice of paying people with disabilities less than the federal minimum wage.

### ***Sports-related Injuries . . .***

**New Jersey** Governor Phil Murphy signed **S. 225** on September 24, that provides for the Department of Education to revise the athletic head injury safety training program to include information on the graduated, six step Return to Play Progression

return to academic and sports activities after sustaining a concussion.

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**North Carolina** Governor signed **H.B. 6534** on June 28 to require nonpublic schools to develop and implement an emergency action plan for responding to serious and life-threatening sports-related injuries that occur during interscholastic and intramural athletic events.

### ***Rights and Protections . . .***

On June 20, the **Maine** legislature enacted **L.D. 559**, "An Act to Improve the Rights and Basic Protections of Persons with Acquired Brain Injuries," which became law by way of an emergency provision passed with the required two-thirds vote by the legislature. The Maine Department of Health and Human Services is to adopt rules regarding this Act, including, but not limited to: the rights and basic protections of persons with acquired brain injuries (ABI); procedures for the annual instruction for persons receiving brain injury services, service provider staff and others on the rights and basic protections of persons with ABI; procedures for hearing grievances of persons with ABI; and procedures for the filing and resolution of complaints regarding acquired brain injury services for persons with ABI.

The department had already adopted rules regarding the rights and basic protections of persons who receive adult mental health services and adult developmental services and children who receive behavioral health services, but had not adopted rules regarding the rights and basic protections of adults with acquired brain injuries.

### ***Vetoes . . .***

**OK Governor Vetoes Bill for Advisory Council**  
By way of a pocket veto on June 12, **Oklahoma** Governor John Kevin Stitt vetoed H.B. 1010, which would have established the Advisory Council on Traumatic Brain Injury to be responsible for an annual summary of recommendations; registry, surveys and reporting. The council would have been established within the State Department of Health until December 31, 2027.

**Editor's Note:** Please feel free to share any legislative accomplishments by sending to public [policy@nashia.org](mailto:policy@nashia.org).

recommendations developed by the Centers for Disease Control and Prevention.

## States Tackle Criminal and Juvenile Justice Issues

### NDBIN Starts New Program to Help Persons with Brain Injury in the Criminal Justice System

**North Dakota** Rebecca Quinn, Program Director for the North Dakota Brain Injury Network (NDBIN) has announced a new program that started in the spring called "Positive Outcomes for Individuals with a History of Brain Injury and Involvement Within the Criminal Justice System." The program is geared towards helping survivors of brain injuries deal with the judicial system. Through Screening, Identification, and Assessment," this program allows NDBIN to develop a comprehensive implementation plan to improve outcomes for people with brain injury within the criminal justice system. The project is funded with a \$15,000 Community Innovation grant from Consensus Council and the Bush Foundation. The NDBIN also participated in NASHIA's Leading Practices Academy on Criminal and Juvenile Justice and Brain Injury (LPA CJJ).

NDBIN is funded by a contract with the North Dakota Department of Human Services to provide information and support to individuals with brain injury and family members, and to assist them with navigating the services system. The NDBIN program office is located at the Center for Rural Health within the University of North Dakota School of Medicine & Health Sciences.

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In addition to North Dakota, States that participated in the current NASHIA's LPA CJJ session include **Arizona, Iowa, Nebraska, and West Virginia**. Each State has approached the goal to better address the needs of individuals with brain injury involved in the criminal justice system differently, however, most have provided training to staff in correctional systems regarding brain injury screening; collecting data; and are targeting their efforts to certain populations, such as women in a correctional facility, youth in juvenile justice systems or individuals with brain injury who are in community re-entry programs. Iowa is unique in that the State is focused on child welfare and screening parents in hopes of reducing out of home placement.



**Did you know that the National Association of State Head Injury Administrators offers the Leading Practices Academy on Criminal and Juvenile Justice and Brain Injury (LPA CJJ)?**

NASHIA provides strategic and customized technical assistance to States to explore, develop, or continue to develop/implement protocol and practices improving outcomes for justice-involved individuals with brain injury. States interested in preventing youth and/or adults with brain injury from becoming justice-involved and/or improving outcomes for justice-involved youth or adults with brain injury may apply. The next session starts in January.

Click [here](#) for more information. or you may contact Judy Dettmer at [jdettmer@nashia.org](mailto:jdettmer@nashia.org).

## Other State News

### CDC State Violence & Injury Prevention News

The following are snippets from the Centers for Disease Control and Prevention's (CDC) "State Violence & Injury Prevention: States in Action" newsletter and

### ADRS Provides Update on Mental Health and Substance Use Project

The **Alabama Department of Rehabilitation Services (ADRS)** Traumatic Brain Injury Program concluded a two-year Administration for Community Living TBI State Partnership Program grant, partnering with the Alabama Department of Mental Health (ADMH) to screen, identify and customize treatment interventions for individuals with TBI within the State

webpage. To learn more about State violence & prevention efforts go to CDC's [website](#).

#### **Pediatric Concussion Survey**

**Oklahoma (OK)** Core State Violence & Injury Prevention (SVIPP) conducted a survey and policy review concussion prevention policies from school districts in 2019 and has since published the results. Read the report [here](#).

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#### **TBI Training for Homeless Shelters**

**Utah** Core SVIPP, known as Core VIPP, and the Utah Brain Injury Council (UBIC) train homeless shelter staff on traumatic brain injury (TBI) 101. The TBI 101 training brings together community professionals to learn about the prevalence of TBI, signs and symptoms of a TBI, and what to do if you suspect someone has a TBI. Utah VIPP co-facilitated the initial training along with another member of UBIC.

behavioral health and substance use disorder programs. The 2021 TBI/ADMH dissemination report showed 1 in 3 individuals within the mental health system screened positive for a TBI, those with a suicide attempt were 2.6X likely to have a TBI and those diagnosed with a trauma disorder were 1.14X more likely to have a history of TBI. The Alabama Brain Map to Resources will be uploaded virtually along with a new short cut training video on TBI and Behavioral Health. In addition the TBI program developed a handout on the project's work. You may view the handout developed [here](#). For more information, contact April B. Turner, MS, CRC, State Head Injury Coordinator and Director of Traumatic Brain Injury Services at [april.turner@rehab.alabama.gov](mailto:april.turner@rehab.alabama.gov).

Other achievements in FY21 reported include the new 5-year TBI State Plan that was developed with 5 new TBI Priority areas: 1) Education and Awareness 2) Community Re-integration 3) Infrastructure 4) Service Access and 5) Pediatrics. A Task Force TBI Advisory/Survivor's Council was also created this past year. More than 4500 individuals with TBI were contacted and/or served in this fiscal year within the TBI program at ADRS. Read the ADRS Trust Fund report [here](#).

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#### **NC P&A Investigate State Services**

The Disability Rights North Carolina (DRNC) issued an investigative report on TBI services in North Carolina entitled "Shamefully Inadequate." While noting that North Carolina has created a TBI Medicaid waiver pilot program, the pilot serves only four of the State's 100 counties. The report report found that there are inadequate provider networks; lack of knowledge in the provider community about TBI and its long-term effects; and shortage of appropriate community-based services and support. Read the report [here](#).

## **State Medicaid Updates**

### ***New Section 1115 Waivers . . .***

#### **Oregon Submits New Waiver to Support Family Caregivers**

The Oregon Health Authority recently submitted an 1115 Medicaid waiver application to the Centers for Medicare and Medicaid for approval to support a five-year demonstration for a family caregiver assistance program. The Family Caregiver Assistance Program is targeted to older adults and people with disabilities who do not get publicly-funded services, have incomes at or below 400% of poverty, and rely on family caregivers and other unpaid caregivers to remain living at home.

The program will provide a budget of no more that \$500 per month, with an annual increase in the monthly benefit tied to inflation. Eligible individuals and their caregivers will be able to design a consumer directed benefit that supports and sustains the caregiving relationship. Services may include caregiver respite, adult day services, transportation, assistive technology, caregiver training and education, or other services that the consumer finds compatible with the caregiving relationship they have with their caregiver.

#### **Alabama Receives Approval for 1115 Demonstration Waiver for HCBS**

The Centers for Medicare and CMS has approved Alabama's earlier application for a section 1115 demonstration, entitled "Community Waiver Program." The 1115 demonstration will operate concurrently

with a home and community-based services 1915(c) waiver in Alabama, a new opportunity in the State's Medicaid program to meet the needs of additional individuals who prefer to get long-term care services and supports in their home or community rather than an institutional setting. Together, Alabama's 1115 demonstration and 1915(c) waiver will increase access to home and community-based services for many Alabamans who are currently on a waiting list.

The State will now be able to redesign its home and community-based services delivery system to address concerns, such as long waiting lists, high use of residential services and out-of-home placements, and low integrated community employment rates among its residents. CMS will also provide the authority needed for Alabama to create a new program that supports individuals with intellectual disabilities who choose to work, live with family, or live independently. The Community Waiver Program focuses on serving individuals with intellectual disabilities before they are in crisis and is a partnership between the Alabama Department of Mental Health and the Alabama Medicaid Agency to integrate these individuals in the community, giving them a better chance to develop skills to work and live independently." To view Alabama's section 1115 demonstration approval and the new 1915(c) waiver, visit [here](#).

### ***ARP Enhanced FMAP Spending Plans . . .***

On September 24, the Center for Budget and Policy Priorities issued a report after it reviewed 37 States' plans for spending one-time American Rescue Plan (ARP) Act funds for Medicaid home and community-based services (HCBS). The report indicates that most States are including measures to provide immediate relief to HCBS providers, direct support workforce, and to address social determinants of health. Twenty-one States will increase supports for family caregivers. [Read the report](#). To view State Spending Plans, go to the [CMS website](#). With regard to HCBS for persons with brain injury, many HCBS proposals with regard to increasing provider rates and training apply across all HCBS waiver programs including brain injury waivers. States have also reported the following:

**California's** proposal includes funding to expand capacity of six existing TBI sites and to award up to six additional TBI sites in unserved/underserved areas. The Department of Rehabilitation's (DOR) Traumatic Brain Injury (TBI) Program provides five core services designed to increase independent living skills to maximize the ability of individuals with TBI to live independently in a community of their choice.

**Connecticut** plans to improve service delivery for members with acquired brain injury (ABI) by contracting with a consultant to provide training and workforce development recommendations that span the scope of services for HCBS, including ABI waiver, mental health waiver, and the Connecticut Housing Engagement and Support Services initiative. Training will be provided both from a structural/physical aspect of the brain and effects of an injury, to the cognitive/emotional/ behavioral ramifications resulting from brain damage.

**Iowa** proposes a HCBS Employee Training and Scholarship Grant Program Activity to assist qualified HCBS providers to fund employee training and scholarships that will enhance the quality of direct services provided and/or cover the costs related to a course of study that is expected to lead to career advancement with the provider or in the HCBS field. Potential uses of scholarship funding includes Certified Brain Injury Specialist (CBIS) certification. The State's spending plan also calls for building provider capacity through the development of one or more pilots to serve children with neurobehavioral needs in a residential setting to avoid out of state (OOS) placement and hospitalization.

**Indiana** is prioritizing an array of services and supports to help HCBS recipients and their families support their overall mental, physical, and emotional well-being, which includes caregiver training for HCBS waiver participants, including Traumatic Brain Injury (TBI) Waiver participants. This service would reach families who are not otherwise eligible for the existing Structured Family Caregiving service.

The **Maine** lead agency, Office of Aging and Disability Services (OADS) is using \$50,000 to help fund activities in keeping with requirements of the ACL State Partnership Program grant. OADS is adding these grant deliverables to its contract with BIAA-ME to hire a third half time neuro-resource facilitation position and other tasks.

**New Hampshire** Bureau of Developmental Services (BDS) is dedicating \$750,000 for start-up of a brain injury clubhouse program. The agency is committed to amending the Medicaid State Plan to include the clubhouse as a benefit for on-going funding once start-up is completed.

**New York** proposes to expand capacity in both the nursing home transition and diversion and TBI 1915( c) waivers in order to reduce nursing home admissions by providing increased quality home supports; investing in provider development and workforce resources; and support the program infrastructure at the regional level to facilitate enhanced services and supports.

**North Carolina** Medicaid is proposing to expand the unduplicated participant count in each of the HCBS waivers, contingent on approval from the North Carolina State legislature, including the TBI waiver program which currently does not have a waiting list. The Unified Innovations and TBI Waiver Waitlist project seeks to develop a State waitlist database for intellectual and developmental disabilities (I/DD) and survivors of TBI services for both State operated and funded services and Medicaid waiver-funded services. This will provide beneficial information for the community to understand the demographics of people who require services and may shift between programs. This would be an operational change rather than addition of services or change in eligibility of these populations.

**Washington** is proposing one time funding for DSHS to contract with an association representing long-term care facilities to develop and provide fall prevention training for long-term care facilities.

### ***Medicaid Expansion . . .***

#### **Oklahoma's Medicaid Expansion to Provide Access to Coverage for 190,000 Oklahomans**

Approximately 190,000 individuals between the ages of 19-64 in Oklahoma are now eligible for health coverage, due to Medicaid expansion made possible by the Affordable Care Act (ACA). On June 1, 2021, the State began accepting applications, and over 120,000 people have applied for and were determined eligible to receive coverage. On July 1, these individuals were eligible for full Medicaid benefits, including access to primary and preventive care, emergency, substance abuse, and prescription drug benefits. Oklahoma is eligible to receive additional federal funding for their Medicaid program, estimated to be nearly \$500 million over two years from the American Rescue Plan (ARP). It is estimated that an additional 70,000 people in Oklahoma who have not yet applied are now eligible for coverage under Medicaid.

#### **Missouri Medicaid Expansion Brings Coverage to More than 275,000 Missourians**

In October, approximately 275,000 Missourians are now eligible for comprehensive health coverage as the result of Medicaid expansion. Through the American Rescue Plan (ARP), Missouri will be eligible to receive an estimated \$968 million in additional federal funding for its Medicaid program over the next two years. A single adult making up to \$17,774 a year, or a family of 4 making up to \$36,750 a year, may qualify for Medicaid through MO HealthNet. This includes parents who have not qualified before, as well as adults without children.

With the addition of Oklahoma and Missouri, 38 States and the District of Columbia have expanded health coverage through Medicaid. Nearly 4 million more Americans in 12 States stand to gain access to quality health coverage through Medicaid. ARP incentivizes States who have yet to expand coverage through Medicaid by offering a five percentage point increase in their regular federal matching rate for many medical services for two years. In addition, States that expand will also qualify for the 90% federal matching funds currently available through the ACA for medical services for Medicaid expansion enrollees. In June of last year, Oklahomans voted to expand Medicaid.

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The National Association of State Head Injury Administrators assists State government in promoting partnerships and building systems to meet the needs of individuals with brain injuries and their families.



**Support States. Grow Leaders. Connect Partners.**

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