



## Behavioral Health System for Future Generations Commission



Recommendation for Consideration

The Behavioral Health System for Future Generations (BHSFG) Commission proposes the following recommendation for consideration: **Grants to Incentivize Community-Based Court-Ordered Evaluations.**

### Problem Statement

There are currently very few options for court-ordered forensic fitness evaluations (COE) in the State of Montana, with most conducted by one psychiatrist at the Montana State Hospital Forensic Mental Health Facility (FMHF). The lack of options to conduct COEs locally (in part driven by the lack of available state funding), the limited number of beds at FMHF, and the lack of additional psychiatrists to process both fitness evaluations as well as treatment and restoration to fitness have created a backlog of ordered yet uncompleted evaluations. As of 10/11/2023 there are approximately 67 individuals waiting for admittance to the MSH-FMHF.

House Bill 872 explicitly authorizes certain expenditures and prohibits others. Acceptable uses for HB 872 funds are listed in Section 3 of the Bill. The Department submits this recommended initiative can be paid for by HB 872 funds as it is:

From Section 3, subsection (3)(c), "statewide community-based investments to stabilize behavioral health and developmental disabilities service providers and delivery, increase and strengthen the behavioral health and developmental disabilities workforce, increase service capacity to meet identified behavioral health and developmental disabilities services demands, and increase opportunities for Montanans to receive integrated physical and behavioral health care;" or relate to (as cited in Section 3, subsection (3)(f), "planning, operation, or other contract expenses associated with behavioral health settings."

### Data and Information Sources

The following breakout of the COE waitlist, which is accurate as of October 11, 2023, is provided to assist the Commission in understanding from where defendants have been ordered to be placed at FMHF and for what specific legal purpose. It may serve as context for considering where community evaluation resources are most needed.

#### Initial Fitness:

Males by county (25 total):		Females by county (9 total):	
Butte-Silver Bow	COE – 4	Butte-Silver Bow	COE – 3
Madison	COE – 3	Yellowstone	COE – 3
Deer Lodge	COE – 2	Missoula	COE – 1



**Behavioral Health System for  
Future Generations Commission**



Recommendation for  
Consideration

Cascade	COE - 2	Gallatin	COE - 1
Yellowstone	COE - 2	Flathead	COE - 1
Richland	COE - 2		
Flathead	COE - 1		
Granite	COE - 1		
Hill	COE - 1		
Lake	COE - 1		
Mineral	COE - 1		
Missoula	COE - 1		
Valley	COE - 1		
Montana State Prison	COE - 3		

**Restoration:**

<b>Males by county (13 total):</b>	<b>Females by county (10 total):</b>
Missoula            UTP - 3	Missoula            UTP - 1
Cascade            UTP - 3	Cascade            UTP - 2
Lewis and Clark    UTP - 3	Lewis and Clark    UTP - 1
Yellowstone        UTP - 2	Yellowstone        UTP - 1
Flathead            UTP - 1	Lake                 UTP - 2
Park                 UTP - 1	Butte-Silver Bow    UTP - 1
	Sanders             UTP - 1
	CSKT                UTP - 1

**Pre-Sentence Evaluations: 3**

Cascade - 1  
Yellowstone - 2

**Pending GBMI Determinations: 7**

Yellowstone - 1  
Flathead - 1  
Lincoln - 1  
Cascade - 1  
Yellowstone and Cascade - 1  
Missoula - 1  
Powell County/Montana State Prison - 1



**Behavioral Health System for  
Future Generations Commission**



Recommendation for  
Consideration

**Recommendation**  
Provide 24-month pilot grants to counties from HB 872 funds, to finance the completion of in-facility court-ordered fitness-to-proceed evaluations, as well as associated stabilization services, using on-site RN and/or telehealth psychiatric services for those individuals determined unable to regain fitness. Individuals will have streamlined access to block grant or Medicaid funds as appropriate.

Place in Continuum	BHSFG Priority	Projected Cost
Crisis / Early Intervention (Stabilization & Evaluation)	Clinically appropriate state-run health care settings and a functional commitment system	Maximum of \$7,500,000 (24 months)

Impact	
Outcomes and Outputs	Implementation Activities and Milestones
<ol style="list-style-type: none"> <li>1. Increased number of qualified professionals willing to perform COEs in local communities.</li> <li>2. Increased number of county jails using local COE options.</li> <li>3. Increased number of individuals receiving local COEs.</li> <li>4. Decreased time spent by county employees transporting individuals to and from FMHF.</li> <li>5. Reversed growth trend in the FMHF waitlist.</li> <li>6. Decreased average number of days spent on the FMHF waitlist.</li> </ol>	<ol style="list-style-type: none"> <li>1. Request for Proposals released.</li> <li>2. Grants issued to local governments.</li> <li>3. Local governments contract with telehealth provider organizations for services.</li> <li>4. Local governments hire new FTEs to support the purpose of the initiative (as applicable).</li> <li>5. Initial and recurring data collection from counties to demonstrate progress against expected outcomes.</li> </ol>



**Behavioral Health System for  
Future Generations Commission**



Recommendation for  
Consideration

**Supporting Material: Example Program Budget\***

	Cost per Evaluation	# People on Waitlist	Cost to Evaluate Full Waitlist	Avg. Annual # People Needing COE	Avg. Annual Cost to Perform COE	24-Month Total Cost
Contracted telehealth and local provider evaluation services	\$2,000	67	\$134,000	240	\$480,000	\$1,094,000
			Annual County Cost for Stabilization Services	Minimum # Counties to Serve Annually	24-Month Total Cost	
		Stabilization services associated with evaluations	\$500,000	6	\$6,000,000	
<b>TOTAL</b>					<b>\$7,094,000</b>	

Counties will be required to explain, in responses to the state’s RFP, how they intend to use awarded dollars (e.g., for telehealth provision or FTEs).

\* For example purposes only

**Supporting Material: Example Grant Criteria\***

To be eligible for this grant an applicant must meet all of the following criteria:

- A county/municipality government body.
- A county or counties with currently documented waitlist for COE.

To request grant funds the applicant must complete an application outlining the needed resources to efficiently conduct community-based COEs with an emphasis on current backlogs, including estimated clinical FTEs (by credential), estimated costs, and project timeline. Applicant organizations must certify all the following:

- Any new FTEs will meet the credentialing requirements under MCA 53-21-102 for involuntary commitment reviews and/or hold credentials as a licensed clinical psychologist, a licensed clinical social worker (LCSW), an advanced practice registered nurse (APRN) to conduct forensic fitness evaluations.
- In contracting with any provider organization offering telehealth evaluation services, all evaluators will meet the credentialing requirements under MCA 53-



## Behavioral Health System for Future Generations Commission



### Recommendation for Consideration

21-102 for involuntary commitment reviews and/or hold credentials as a licensed clinical psychologist, a licensed clinical social worker (LCSW), an advanced practice registered nurse (APRN) to conduct forensic fitness evaluations.

- If contracting with any provider organization offering telehealth evaluation services, clinical and non-clinical information systems are deemed to be HIPAA-compliant.
- Added capacity will reduce and/or eliminate the current waitlist for COEs in covered counties and provide added statewide capacity, as needed, during the grant period to potentially serve other counties in the applicant's geographic region.

\*For example purposes only.

#### Oversight and Grant Management

DPHHS will audit grant usage to ensure local governments only expend funds on allowable uses.

Counties and/or provider organizations will be required to provide data to demonstrate progress against expected outcomes.

DPHHS reserves the right to issue a statewide RFP to provider organizations and contract with those organizations on behalf of counties.

#### *Supporting Material: Additional Background*

There are two main commitment types in the State of Montana: forensic and involuntary civil commitments. Forensic commitments are for individuals that have been accused of committing a crime and are involved in the criminal justice system. For these individuals, a court, the defense, or the prosecution may require a person charged with a crime to undergo an evaluation to determine the person's mental state, capacity to understand the criminal proceedings, and ability to assist in the person's own defense. These evaluations may be done in a community setting, or the person may be committed to MSH for up to 60 days for the evaluation, unless a longer period is needed. Historically, forensic fitness evaluations have been conducted by a psychiatrist at MSH and several other qualified individuals in the state. As the need for these evaluations has increased, the limited capacity of MSH and the lack of qualified fitness evaluators has exacerbated the backlog of individuals needing to be evaluated for fitness. MCA 46-14-202 states that in these cases, "...the court shall appoint at least



## Behavioral Health System for Future Generations Commission



### Recommendation for Consideration

one qualified psychiatrist, licensed clinical psychologist, or advanced practice registered nurse...to examine and report upon the defendant's mental condition.”

Involuntary civil commitments occur if a court finds that because of a mental disorder a person has injured themselves or poses an imminent risk of injury to self or others, or that the person is substantially unable to provide for the basic needs of food, clothing, shelter, health, or safety. The filing starts a series of events, including an appointment of a professional person to examine the individual by a court. Per MCA 53-21-102, DPHHS certifies Mental Health Professionals as professional persons qualified for conducting the evaluations for these civil commitments. Qualifications for this type of evaluation include: a certified professional person, a physician, a licensed clinical professional counselor (LCPC) (Title 37, chapter 23), a licensed clinical psychologist (Title 37, chapter 17), a licensed clinical social worker (LCSW) (Title 37, chapter 22), an advanced practice registered nurse (APRN) (37-8-202), and a physician assistant (Title 37, chapter 20).

The list of qualifications necessary for a forensic fitness evaluation are stricter than those for a civil commitment examination, but there is some overlap (e.g., a licensed clinical psychologist, psychiatrist, and APRN could conduct both). The current list of licensed professional persons for DPHHS includes people with qualifications as: LCPC (33) and LCSW (48). There is a policy need to either increase the number of qualified psychiatrists, licensed clinical psychologists, and APRNs, or to broaden the qualifications necessary for forensic commitment evaluations to include LCPCs and/or LCSWs. Telemedicine may also be a solution to leverage more qualified professionals for these purposes.