

## Health and Social Services Debriefing

- Medicaid Program Overview
- II. Tort Reform
- Mental Health & Substance Abuse Services
- v. Smoking Regulations
- v. Federal Issues



### **Medicaid Overview**

#### Medicare vs. Medicaid

- Medicare: Federal program for the elderly & disabled
- Medicaid: State/Federal program for the poor

### Medicaid (Title XIX)

- Medicaid is a state administered program subject to federal guidelines. The Oklahoma Health Care Authority administers our program which is subject to the approval and review of the federal Centers for Medicare and Medicaid Services (CMS).
- The federal government provides matching funds for approved services delivered by Medicaid providers to approved beneficiaries in an approved setting.



### **Medicaid Beneficiaries**

- All persons covered by Medicaid are poor or have a low-income. However, not all poor or low-income persons are covered by Medicaid. To be eligible, you must fall under one of these categories:
  - Parent of a Dependent Child (TANF-related) Income cannot exceed traditional AFDC requirements. To be eligible, an individual must earn less than 37% of the FPL (\$6,700/yr for a family of 4) and have less than \$1,000 in countable assets. Approximately 44,000 recipients
  - Pregnant Women and Children 18 (TANF-related) Total family income cannot exceed 185% of the FPL (\$34,000/yr for a family of 4). The majority of recipients are in this category. Approximately 332,000 individuals at any given time



### Beneficiaries

- Aged, Blind and Disabled (ABD) Basic eligibility is based on standards for federal SSI cash assistance (approx. 100% of the FPL and disability determination). The eligibility level for institutional long-term care is 300% of SSI. Approximately 130,000 recipients at any given time. This category represents 30% of Medicaid recipients but 71% of the Medicaid budget
- Qualified Medicare Beneficiaries (QMB) Medicaid pays premiums for individuals who are eligible for Medicare and earn less than 100% of the FPL. Approximately 7,500 recipients
- Medically Needy This program provides short term assistance with medical expenses for those who spenddown to eligibility levels.
- You are never eligible for Medicaid in Oklahoma if you are aged 18-64, you are non-disabled and you have no dependent children.



### Medicaid Service Delivery System

- There are 3 Medicaid service delivery systems;
  - SoonerCare Plus: This is the state's MCO model and is in effect in Tulsa, Oklahoma City, Lawton and 17 surrounding counties. This is a fully capitated model.
  - SoonerCare Choice: This is the service delivery system for rural Oklahoma. Only the primary care physician receives a capitated payment. All other claims are paid on a fee-for-service basis.
  - Fee-For-Service: This is the delivery system that pays claims for all institutionalized patients. A set fee is paid for a particular service.

## OHCA FY'03 Budget Shortfall

### FY'03 Revenue Reduction: Round One

- OHCA was informed in early September that its budget would be reduced by \$17.6 million. This resulted in a loss of \$42 million in federal funds. The board approved the following service reductions soon after:
  - Adult dental services were eliminated on 10-1-02. This will affect approximately 2,000 Oklahomans annually. \*\*\*
  - The prescription drug benefit for home and community based waiver clients was reduced from unlimited to a maximum of 5 paid prescriptions per month on 10-1-02. This affected approximately 11,000 elderly and disabled Oklahomans. \*\*\*
  - Paid hospital days were reduced from 24 days to 15 days annually for Fee-For-Service and Sooner Care Choice members on 10-1-02. \*\*\*

### FY'03 Revenue Reduction: Round Two

- OHCA was cut an additional \$6.4 million in November as a result of deteriorating state revenues. This reduction in state funds led to a loss of \$15.2 million in federal funds. The board took the following actions:
  - The Medically Needy Program was eliminated on 2-1-03. This cut affected approximately 8,300 Oklahomans with catastrophic illnesses.
  - Retroactive eligibility was eliminated.
  - SoonerCare Plus MCOs were authorized to reduce benefits packages to match the SoonerCare Choice package effective 1-1-03.
  - Outpatient behavioral health services for nursing home clients were eliminated.
  - A planned SSI COLA increase for nursing facilities was delayed.

### FY'03 Revenue Reduction: Round Three

- OHCA was cut an additional \$5 million on March 11, 2003 as a result of deteriorating state revenues. This reduction in state funds led to a loss of \$12 million in federal funds.
  - This final reduction brought the cut to the Medicaid program to a total of \$29 million in state funds and \$69 million in federal matching funds for a total loss to the program of \$98 million.
  - Because this final reduction was so late in the fiscal year, program changes would have been insufficient to balance the budget. OHCA turned in a formal request for a supplemental appropriation in March.

## FY'03 Revenue Generating Mechanisms

- OHCA implemented several revenue generating mechanisms in order to balance the budget and prevent further service reductions in FY'03.
  - An interagency agreement was reached between the University Hospital Authority (UHA) and OHCA in December. This agreement netted approximately \$4.6 million for OHCA.
  - Passage of HB 1017 with an April 1, 2003 implementation date generated \$4 million for the Medicaid program. This bill imposes a 6% quality assurance fee on all Medicaid Managed Care Organizations.
  - OHCA has generated \$2.1 million in administrative savings by leaving 8 positions vacant, cutting travel expenses, reducing service contracts and lowering operating expenses by 12 %.
  - In addition to the revenue generating mechanisms, OHCA received a \$7.5 million supplemental appropriation in the form of a cash transfer from the Department of Human Services.

## OHCA Fiscal Year 2004 Budget



### FY'03 Annualizations

The following items are programs that were started or changed during FY'03. The agency is asking that these items be annualized for a full 12 months.

\$57,538
\$3,000,000
\$2,238,525
\$481,261
\$601,330
(\$1,771,957)
(\$10,203,410)
(\$13,479,685)

Total Requests Funded

(\$19,076,398)



### FY'04 Maintenance

The agency is requesting funds to accommodate growth, utilization and inflationary increases in the following areas.

<ul><li>Replace FY'03 One Time Funding</li></ul>	\$15,250,534
<ul><li>FFS Pharmacy Growth</li></ul>	\$12,088,173
<ul> <li>FFS Utilization Increases</li> </ul>	\$8,330,091
Medicare A & B Premium Increases	\$695,007
<ul><li>Quality of Care Shortfall</li></ul>	\$5,339,980
<ul><li>SoonerCare Choice Growth</li></ul>	\$712,890
<ul><li>Replace One Time Funding</li></ul>	\$710,700
<ul><li>Other Items</li></ul>	\$436,750
<ul><li>MMIS Renegotiation</li></ul>	(\$2,778,401)

Total Requests Funded

\$40,785,724



### FY'04 Mandate and Compliance

 OHCA is requesting funds required in accordance with new Federal and/or State regulations.

•	Contract for Legal Services	\$300,000
•	Contract for Actuarial Services	\$250,000
•	Eligibility for Working Poor	\$1,887,412
•	Nursing Home SSI Rate Increase	\$1,185,313
•	Other Mandates	\$108,203

Total Requests Funded \$3,730,928



### FY'04 Budget Outlook

### FY'04 Appropriated Budget

	FY'03	Revised	App	oro	priation	
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- Annualizations
- Maintenance
- Mandate and Compliance
- Total FY'04 Budget

### Carryover

- OSF FY'03 Refund
- All Other Positive Variances
- Total FY'03 Carryover

#### FMAP Increase

\$413,559,746

(\$19,076,398)

\$40,785,724

\$3,730,928

\$439,000,000

\$4,227,366

\$9,200,000

\$13,427,366

\$71,000,000



## FMAP Increase

OHCA anticipates receiving a large infusion of one time funding through the Jobs and Growth Tax Relief Reconciliation Act of 2003 once it is signed by President Bush. This act provides the state of Oklahoma approximately \$100 million in one time support for the state's Medicaid program. OHCA will be the beneficiary of approximately \$71 million of these funds with agencies such as the Department of Human Services, the Department of Mental Health and Substance Abuse Services, the Oklahoma State Department of Health and the Office of Juvenile Affairs receiving the balance. The funds will be distributed over 5 quarters, retroactive to April 1, 2003, in the form of an increase in the federal match rate. The state anticipates receiving the first quarterly payment in July 2003.



- OHCA has approximately \$84 million more in state dollars to spend than the Legislature intended when session ended (carryover and FMAP funds).
   At the direction of Legislative leadership and the Governors office, OHCA has allocated a portion of those funds in the following ways:
  - The agency set aside \$8.5 million to fund actuarially sound rates for the SoonerCare Plus MCOs beginning January 1, 2004.
  - Paid Hospital days were increased from 15 to 24 for SoonerCare Choice on July
     1, 2003 and restored to an unlimited number for SoonerCare Plus in September.
  - The Adult Dental program was restored July 1, 2003.
  - The prescription drug benefit for ABD members may increase from 3 to 8 prescriptions per month beginning January 1, 2004.
  - The prescription drug program for Advantage and the Home and Community Based Waiver Clients may increase from 5 to 10 per month with the possibility of additional prescriptions with prior approval.
  - A "risk corridor" is being established for the SoonerCare Plus MCOs.



#### OKLAHOMA HEALTH CARE AUTHORITY Analysis of One-time Enhanced Federal \$'s

Description	Enhanced Federal \$		Enhanced Federal \$	
Federal Temporary State Fiscal Relief	71,597,262	52,953,282	24,273,204	
Proposed Changes: (All proposed changes include SoonerCare Plus, SoonerCare Choice and Fee-for-Service Costs)				
1. Restoration of Benefit Cuts	FY-04	FY-05	FY-06	
Restore plus benefits	2,488,697	3,063,327	3,063,327	
Restore adult dental program	391,549	422,947	422,947	
Increase paid hospital days from 15 to 24 per year	1,984,282	2,410,238	2,410,238	
Subtotal	4,864,528	5,896,513	5,896,513	
2. Equalization of Benefits				
Unlimited hospital days	661,989	1,149,365	1,149,365	
Unlimited physician visits	1,481,151	2,507,706	2,507,706	
Enhanced drug benefit program	11,636,312	19,126,494	19,126,494	
Subtotal	13,779,452	22,783,565	22,783,565	
Total	18,643,980	28,680,078	28,680,078	
Ending Temporary Fiscal Relief balance	52,953,282	24,273,204	(4,406,873)	



### Medicaid's Economic Impact

- The potential harm to people who rely on Medicaid should be the foremost consideration when facing tough policy decisions concerning Medicaid spending. However, the impact to the state's economy is another important consideration. According to a new study by the US Department of Commerce, every \$1 in state Medicaid spending in Oklahoma generates a business activity multiplier of 5.46. Oklahoma's total state Medicaid spending of \$620 million in FY '01 generated business activity of \$3.385 billion, measured in dollar value of goods and services produced.
- According to the study, Oklahoma's Medicaid program supported 44,720 jobs in FY'01, or 72 jobs for every \$1 million. The estimated wages of those employees totaled \$1.228 billion.
- The study further indicated that for every \$1 million cut in Medicaid state spending, there is a corresponding loss of \$4.98 million in business activity, 62 jobs and \$1.81 million in lost employee wages.



## **Tort Reform**

SB 629
Fisher of the Senate
And
Adair and Askins of the House



### **Definitions**

- **Tort:** from Latin. --to twist. A private or civil wrong or injury (other than breach of contract) for which the court will provide a remedy in the form of an action for damages.
- Non-Economic Damages: All subjective, nonmonetary losses including, but not limited to, pain and suffering, inconvenience, mental anguish, emotional distress, loss of enjoyment of life, loss of society and companionship, loss of consortium, injury to reputation and humiliation; provided however, noneconomic damages do not include exemplary damages (damages for the sake of example and by way of punishing).
- Clear and Convincing Proof: That measure or degree of proof which will produce in mind of trier of facts a firm belief or conviction as to allegations sought to be established; it is intermediate, being more than mere preponderance, but not to the extent of such certainty as is required beyond reasonable doubt as in criminal cases.



- Across the nation the cost of medical malpractice insurance has soared, doctors are shutting their doors, and the number of underwriters has dropped.
- "Premiums for medical malpractice insurance went up 30 to 60 percent this year for Oklahoma physicians." (Daily Oklahoman 2/27/03 Lillacky)
- On February 3, 2003, doctors across New Jersey shut their doors to protest soaring liability insurance in an action that sent hundreds of people to emergency rooms for routine medical care. (The Star Ledger 2/4/03 Campbell)
- According to the Houston Chronicle (2/20/03 Elliott), [t]he number of insurance companies writing medical liability policies dropped from seventeen to four since 2000.
- In Florida thousands of doctors took part in street rallies—their battle cry was medical malpractice. (Naples Daily News 3/30/03 Campbell).

## The Solution

Ensure that medical malpractice insurance premiums remain affordable for Oklahoma health care providers while still protecting patients who have legitimate malpractice claims.

# SB 629

- Creates the "Affordable Access to Health Care Act" for purposes of:
  - Improving the availability of health care services;
  - Lowering the cost of medical liability insurance;
  - Ensuring fair and adequate compensation for health care claims;
     and
  - Improving the cost-effectiveness of this state's current medical liability system.

### SB 629 (cont.)

- Caps non-economic damages at \$300,000 for obstetric cases and for cases that initiate in the emergency room.
- Damage cap exceptions: Wrongful death actions; and where judge finds out of presence of jury that clear and convincing evidence of negligence exists.
- Requires plaintiff in medical liability action to obtain a written opinion from a qualified expert stating the acts or omissions of a health care provider constitute professional negligence.
- Reduces prejudgment interest rate by 4%.
- Relieves defendants from responsibility for plaintiffs' attorney fees in certain nursing home actions.



### SB 629 (cont.)

- Requires the court to admit evidence of payments made to the plaintiff from collateral sources unless the court determines that the payment is subject to subrogation or other right of recovery.
- Requires insurers to file a closed claim report within a certain time in which a claim for recovery under a medical professional liability insurance policy is closed (reports include but are not limited to: whether a lawsuit was filed, whether attorneys were involved, number of defendants, amount paid on claim, any appeal, and amount paid for defense costs.

## SB 629 (cont.)

- Requires the Insurance Commissioner to prepare a composite summary report of closed claim reports and make the summary available to the public; and
- Authorizes a policyholder to request a hearing to determine whether a requested rate change by an insurer is appropriate.



## Department of Mental Health & Substance Abuse Services



### FY'03 Service Reductions

#### Mental Health Services Reductions

- 2,888 or 8.3% fewer clients were able to access services
- Reductions in services include:
  - case management
  - residential housing services
  - Closing of satellite programs
  - Closing of medication clinics

#### Substance Abuse Services Reductions

- 13,770 or 7.1% fewer days of service delivered to clients
- Reduction in services include:
  - detox services
  - halfway houses
  - counseling



### Service Reduction Impact to Clients

- Increased hospitalization
- Increased crisis situations
- 12.8% increased unemployment
- 21% increased homelessness
- Increased incarceration
- Increased use of community resources, (emergency rooms, law enforcement, courts, DHS services, food banks, shelters, etc.)
- Decreased quality of life



### Legislative Response

- The Department of Mental Health and Substance Abuse Services received the fourth largest percentage increase in operations for FY'04 behind only OHCA, ODVA and the Department of Rehabilitation Services. The agency's FY'04 appropriation was increased by \$6 million over its revised FY'03 appropriation, a part of which will support the following programs:
  - Programs for Assertive Community Treatment (PACT)
  - Drug Court
  - Systems of Care



# Programs for Assertive Community Treatment (PACT)

## PACT

#### What is PACT?

- PACT teams deliver comprehensive treatment, rehabilitation and supportive services to consumers with severe and persistent mental illness in their own homes, at work or in community settings rather than in an inpatient hospital setting. These community based services are provided on a 24-hour-a-day, seven-day-a-week basis.
- The PACT team model has been utilized across the nation for nearly 30 years. Oklahoma became the 37<sup>th</sup> state to implement PACT in 2001. The National Alliance for the Mentally III (NAMI) recognizes PACT as the leading treatment model of choice for persons with severe and persistent mental illness.



### Why implement PACT teams?

 Research has demonstrated that PACT reduces the burden of cost to society by decreasing hospitalizations, crisis intervention services, incarcerations, police involvement and court involvement.

### Where are the teams and what do they cost?

PACT teams cost money to operate, however the savings generated once the teams are fully active offset this cost to the state as a whole. ODMHSAS was given \$2,000,000 in 2001 to start two, one hundred person teams (one in Tulsa and one in Oklahoma City). The agency funded four half-teams on its own in 2002 (Norman, McAlester, Tahlequah and Lawton), and the Legislature provided \$1.2 million for two new teams in FY'04. These new teams will provide additional support to the Tulsa and Oklahoma City areas.

# 4

## PACT 6-Month Results

	OKC	Tulsa	Total
Consumers enrolled between 9/1/01 and 2/28/02	30	28	58
Number of 6-Month Pre-PACT Hospital Days	1256	1056	2312
Number of Consumers	25	23	48
Number of 6-Month Post-PACT Hospital Days	114	216	330
Number of Consumers	8	13	21
Cost of Pre-PACT Hospital Days (000's)	\$502	\$443	\$925
Cost of Post-PACT Hospital Days (000's)	\$45	\$86	\$132
Cost Savings (000's)	\$457	\$336	\$793
Number of 6-Month Pre-PACT Incarcerations	659	17	676
Number of Consumers	6	2	9
Number of 6-Month Post-PACT Incarcerations	206	32	238
Number of Consumers	3	4	7

## 4

## PACT 12-Month Results

	OKC	Tulsa	Total
Consumers enrolled between 5/1/01 and 5/31/02	17	18	35
Number of 12-Month Pre-PACT Hospital Days	1286	1405	2691
Number of Consumers	11	15	26
Number of 12-Month Post-PACT Hospital Days	188	132	320
Number of Consumers	4	4	8
Cost of Pre-PACT Hospital Days (000's)	\$514	\$562	\$1,076
Cost of Post-PACT Hospital Days (000's)	\$75	\$53	\$128
Cost Savings (000's)	\$439	\$509	\$948
Number of 12-Month Pre-PACT Incarcerations	470	3	473
Number of Consumers	3	1	4
Number of 12-Month Post-PACT Incarcerations	37	100	137
Number of Consumers	2	1	3

## What is Drug Court?

- Drug Court offers nonviolent, felony offenders with substance abuse problems an opportunity to enter into a district court supervised substance abuse treatment program in lieu of incarceration.
- The program features a team approach to rigorous treatment, coordinated with intensive supervision, random drug testing, regular and frequent court appearances and educational opportunities.

## Who gets into Drug Court?

- The offender must be a drug addict and been convicted of a felony offense.
- The arrest charge can not involve trafficking.
- The offender can not have any prior felony convictions for a violent offense.

### How does the offender get into Drug Court?

- The offender is recommended for the drug court program by a police officer, Sheriff, his/her defense attorney or the District Attorney.
- The DA's office performs an intensive background check to determine eligibility.
- The treatment provider conducts an assessment of the offender to determine his/her severity of addiction and appropriateness for treatment.
- The offender must then voluntarily plead guilty to the charges in order to be admitted into the drug court program.

### How does the offender "graduate" Drug Court?

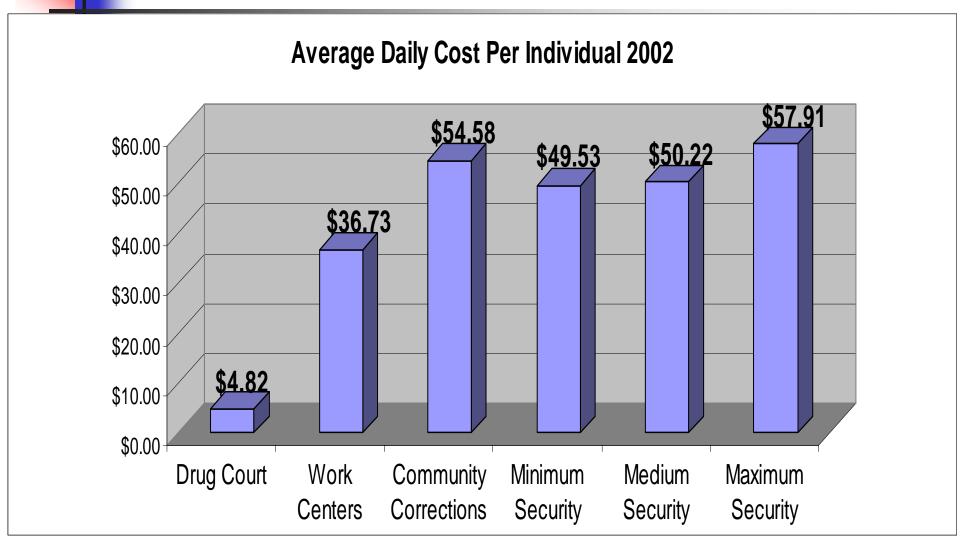
Each Drug Court Program consists of phases. Each court determines the number of phases for its own program. Each phase has specific requirements that must be met before the participant can advance to the next phase. Once all phases are completed, the offender "graduates."

### What is a status hearing?

- These hearings allow the judge and other team members to assess a participant's progress and determine what incentives, sanctions, or phase movements are appropriate for the participant
- During status hearings, each participant is called in front of the Drug Court Judge. The judge and participant discuss the participant's progress since the last status hearing. The judge encourages positive behavior or sanctions the participant for negative conduct.

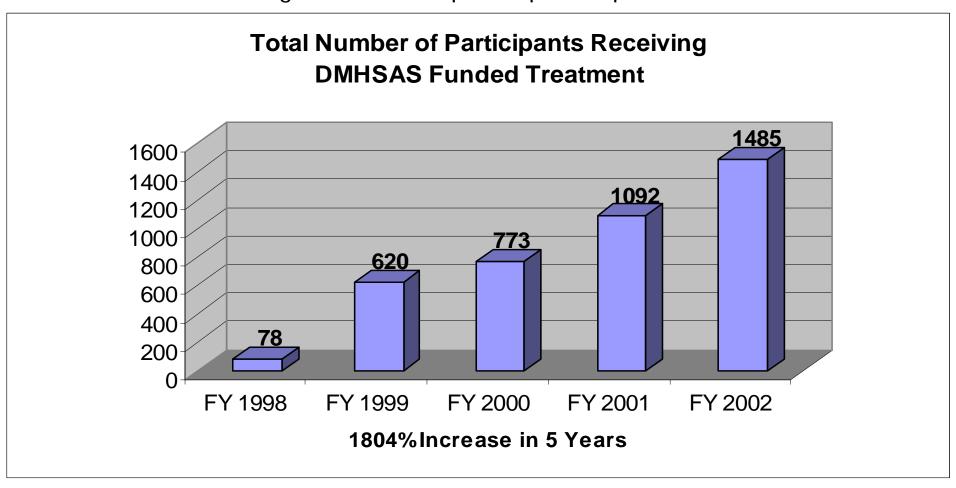
- What types of sanctions are used to reinforce positive behavior and compliance?
  - admonishment from the Drug Court judge
  - community service
  - jail time
- What types of incentives are used to reinforce positive behavior and compliance?
  - praise from the Drug Court judge
  - gift certificates / event tickets
  - reduction in drug testing, supervision, or treatment





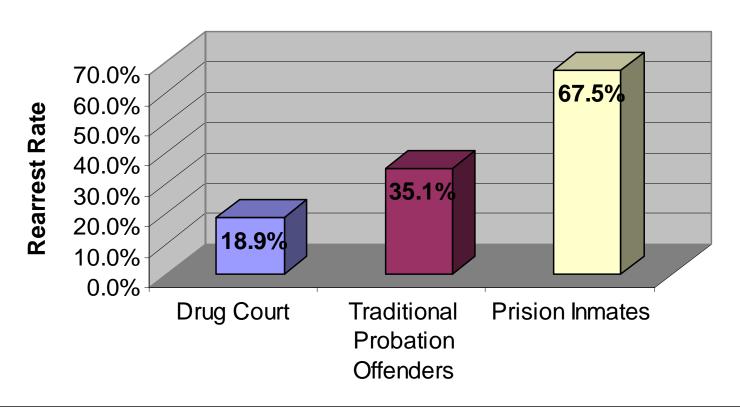
# Drug Courts Provide More Jail Space for Violent Criminals

Each individual in Drug Court leaves open a space in prison for a violent criminal.

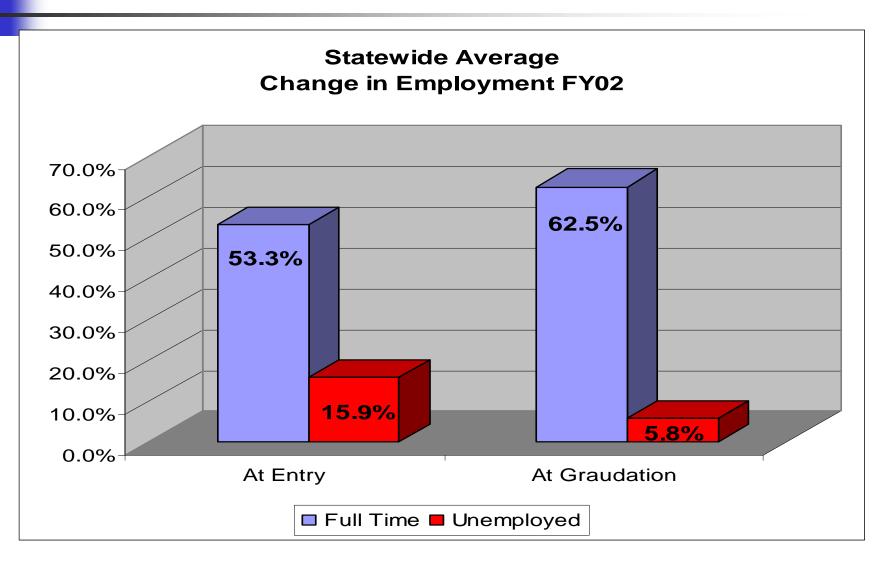




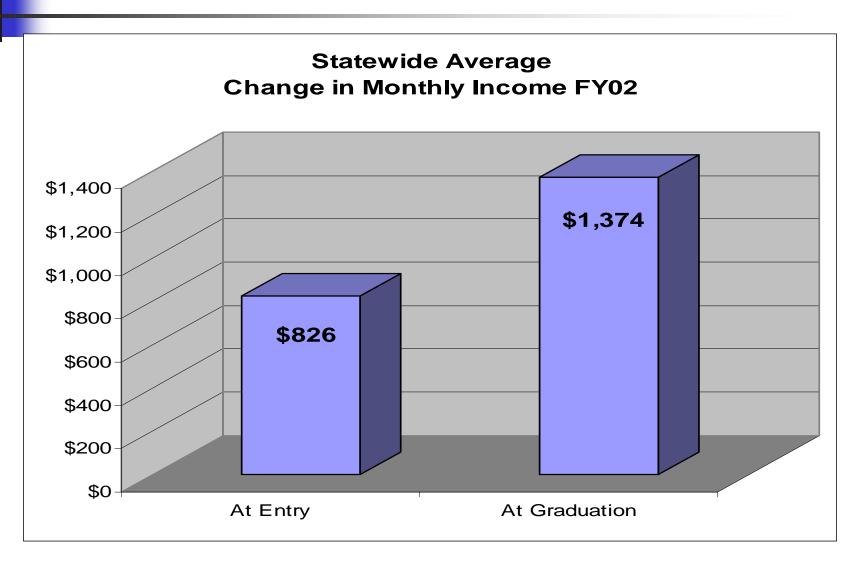
## Rearrest Among Offenders at Various Stages of the Justice System



## **Drug Courts & Employment**



## Drug Courts Increase Income





### What is a System of Care?

- A system of care is a "comprehensive spectrum of mental health and other support services which are organized into a coordinated network to meet the multiple and changing needs of children and adolescents with serious emotional disturbance and their families"
- A system of care involves the cooperation of everyone who has a role in serving a child with emotional and/or behavioral disorders, including family members, educators, mental health workers, social services, health services, the juvenile justice system, and community and recreational agencies.



## How does a child get into a System of Care program?

- Children can be referred any number of ways including by law enforcement officers, educators, mental health workers, social workers or family members.
- The child's case is then reviewed by the programs referral committee. The committee makes sure that the child is having difficulties in 2 or more life domain areas.
- Once the child has been accepted into the program by the committee, a care coordinator is assigned. The care coordinator organizes a team of providers to ensure whatever array of services the child requires is provided.



#### Where are the programs located?

- Tulsa County: started November 2000 and serves 100 kids
- Kay County: started November 2000 and serves 40 kids
- Custer County: started July 2001 and serves 10 kids
- Beckham County: started January 2002 and serves 20 kids
- Canadian County: started January 2002 and serves 15 kids
- Oklahoma County: started January 2002 and serves 60 kids
- Cleveland County: started July 2002 and serves 15 kids

#### Where will the programs expand in the future?

Washington, Pottawatomie, Comanche and Pittsburg Counties



### 90 Days Prior to Program (98 Youth)

- 302 days in the hospital
- 283 days suspended from school
- 74 contacts with law enforcement

### 90 Days After 4-6 Months in Program

- 105 days in the hospital
- 81 days suspended from school
- 38 contacts with law enforcement



#### PACT:

Randy May: PACT Specialist

### Drug Court:

Brian Karnes: Drug Court Team Leader

### Systems of Care:

Keith Pirtle: State Project Director