

MINUTES
SENATE COMMITTEE ON PUBLIC HEALTH, WELFARE, AND LABOR
HOUSE COMMITTEE ON PUBLIC HEALTH, WELFARE, AND LABOR
MEETING JOINTLY

DECEMBER 9, 2019

The Senate and House Committees on Public Health, Welfare, and Labor met jointly on Monday, December 9, 2019, at 1:30 p.m., in Room A, MAC Building, Little Rock, Arkansas.

Committee members present: Senators Missy Irvin, Chair, Ronald Caldwell, Scott Flippo, Kim Hammer, Jimmy Hickey, Bill Sample, and David Wallace. Representatives Jack Ladyman, Chair, Karilyn Brown, Justin Boyd, Bruce Coleman, Kenneth Ferguson, Justin Gonzales, Michelle, Gray, Lee Johnson, Stephen Magie, Austin McCollum, Josh Miller, Clint Penzo, Mark Perry, Chris Richey, and Jeff Wardlaw.

Other legislators present: Senators Linda Chesterfield, Breanne Davis, Jonathan Dismang, Trent Garner, and Mathew Pitsch. Representatives Fred Allen, Stan Berry, Joe Cloud, Jim Dotson, Denise Ennett, David Fielding, Vivian Flowers, Grant Hodges, Steve Hollowell, Lane Jean, Tippi McCullough, Reginald Murdock, Johnny Rye, Keith Slape, Stu Smith, James Sorvillo, Danny Watson

Call to Order:

Senator Irvin called the meeting to order.

Comments by the Chairs:

Senator Irvin asked Secretary Cindy Gillespie, Director, Department of Human Services (DHS) to describe the Blue Umbrella Program which is hosting a pop up shop in the lobby of the building. Ms. Gillespie explained the program began in February, 2019 with crafts and items for sale made by persons who live in the Human Development Centers throughout the state. 100% of the proceeds of sales of the products go back to the artist and craft person. The sales not only provide the artist their own money, but gives the sense of belonging within the community. Senator Irvin encouraged members to shop for gifts. Representative Ladyman expressed his appreciation for the program and how it gives the clients a sense of worth.

Consideration to Adopt the September 18, 2019, October 30, 2019, and November 4, 2019 Meeting Minutes [Exhibit C]

Motions were made by members to accept the minutes of the September, October, and November meetings. The motions were approved and the minutes adopted.

Status of Provider-led Arkansas Shared Savings Entities (PASSE'S) Reimbursement to Providers

Senator Irvin recognized Cindy Gillespie, Secretary, DHS, Mark White, Chief of Legislative and Intergovernmental Affairs and Chief of Staff, DHS, Paula Stone, Deputy Director, Division of Medical Services, DHS and Dawn Stehle, DHS Deputy Director for Health and Medicaid Director. Ms. Gillespie gave a report on the three Provider-Led Arkansas Shared Savings Entity (PASSE). She commented on a meeting between DHS and legislators regarding the intent of legislation which created the PASSEs. It was agreed the legislative intent regarding ownership of the PASSEs is provider owned and should not be owned by an insurance company. The legislation also provides that 51% ownership of a PASSE will be by a Medicaid provider or providers. Deputy Director Stone advised clarifying language has been added to the 2020 agreements each PASSE will sign. Additional language in the agreements states a participating provider shall not be owned in whole or in part by an entity licensed by the Arkansas Insurance Department or by any state's insurance regulatory agency as an insurance carrier or health maintenance organization participating in the same PASSE. Each PASSE received a written agreement with the additional language. Legislators discussed specifics concerning the ownership requirements of the PASSEs and heard from Booth Rand, Managing Counsel, Arkansas Insurance Department.

Senator Irvin recognized Robert Slattery, Chief Executive Officer, Empower Healthcare Solutions, John P. Ryan, President and Chief Executive Officer, Arkansas Total Care, and Jason Miller, Plan President, Summit Community Care.

- Mr. Slattery – Stated that the governing structure of Empower Healthcare Solutions is divided amongst six members. Each member has 16.67% equity ownership in the ownership. Five of the members are providers or provider sponsored organizations and/or provider led organizations. The sixth member is a managed care organization.
- Mr. Miller – Stated that Summit Community Care began as The Arkansas Provider Coalition (APC) with 71 Arkansas providers. The APC brought Anthem Health Insurance Company in as a partner in the PASSE model. The APC has a 15 member board with 3 executive members merged with 3 Anthem executive members as a joint operating committee. The APC is the 51% owner of Summit Community Care.
- Mr. Ryan – Stated that Arkansas Total Care ownership: 49% Arkansas Health and Wellness, 25% Mercy Healthcare of Arkansas and 25% Lifeshare, an equity owner.

Loretta Cochran, MD, provided public testimony in which she stated that her experience had not been satisfactory with the PASSEs. She stated that she did not agree with the change to the PASSE structure and wanted to return to the old system of payment by DHS.

Review of the Arkansas Tobacco Settlement Commission (ATSC) Quarterly Report for January, 2019-March, 2019 [Exhibit E]

Senator Irvin recognized Matt Gilmore, Boards and Commissions Coordinator, Arkansas Department of Health (ADH) who gave the quarterly report for January, 2019 through March, 2019 of the Tobacco Settlement Programs. The report focuses on areas the programs are engaged in:

- Education – a healthcare professional course is offered through the College of Public Health at UAMS working with community education across the state with community leaders and caregivers. Services are provided through exercise encounters, health screenings, health clinics, and work with DHS through the Medicaid Expansion Program using tobacco settlement funds for the following populations: pregnant women, seniors, extended hospitalization benefits, and individuals on the developmental disabled waiting list.
- Research – programs include work with the Arkansas Bioscience Institute (ABI) and the College of Public Health at UAMS. The ABI is working with a claim database in partnership reviewing insurance claims, and engaging in research across the state to assist in solving issues within the College of Public Health and the College of Pharmacy. Mr. Gilmore advised members that Arkansas is the only state in the U.S. that dedicates 100% of tobacco settlement funding towards health initiatives.

Review of the 2019 Annual Status Report for the Prevention of Unplanned Pregnancy on Campus (Act 943 of 2015) [Exhibit F]

Senator Irvin recognized Ann Clemmer, Senior Associate Director, Government Relations and Special Projects, Arkansas Department of Education, Division of Higher Education. Ms. Clemmer gave the Department of Education's report on methods identified on college campuses to address the problem of unplanned pregnancy along with the collaboration with health centers to identify measures of success to be incorporated into academic coursework. Recommendations in legislation include: orientation information on the prevention of unplanned pregnancy. All schools submitted an annual report, activities include:

- Arkansas Tech University – student leaders and staff received training with materials being taught in small group sessions. Sessions in the fall of 2018 involved 1,300 freshman and transfer students
- The University of Arkansas - students provided community outreach to teens in Northwest Arkansas through service learning, the Center of Community Engagement, and federally funded pre college programs. Students were surveyed Spring, 2019 using a national college health assessment with data collected regarding the awareness of birth control and safe sex alternatives
- The University of Arkansas Little Rock - conducted an event focused on safe sex and unplanned pregnancy prevention. Resident assistants used bulletin boards in dormitories to promote the statistics and data on unplanned pregnancy. Mentorships with the Pulaski County School District reached out to teens

- The University of Central Arkansas – held student health clinics with a comprehensive overview provided to students, a month long Get Yourself Tested Campaign in February, 2019, and a health fair with student volunteers promoting wellbeing with a focus on abstinence, safe sex, and smart choices.

Review of the 2019 Annual Status Report for Sexual Assault Prevention on Campus (Act 563 of 2017)

[Exhibit G]

Senator Irvin recognized Ann Clemmer who gave the annual report required by Act 563 of 2017 concerning the issue of sexual assault on college campuses. The Department of Education has a link on its website which offers ideas to campuses for a large number of campaigns to be implemented including: Red Flag Campaign and Walk a Mile in Her Shoes. Links can be accessed for bystander intervention trainings. Every campus has provided the required report.

Arkansas Employee Benefits Division-Decision Regarding Disabled Dependents Eligibility of Being Covered by the Parents Policy and Report Findings on Act 1089 of 2017 Requiring State and Public School Life and Health Insurance Board to Explore Emerging Therapies and Cost-Effectiveness of Treatment (EXHIBIT H)

Senator Irvin recognized Chris Howlett, Administrator, Employee Benefits Division (EBD) for a report from the EBD Board concerning Act 1089 of 2017. Mr. Howlett explained the Board was to explore the option related to the act by the end of the plan year 2017. The board was unable to make a decision by the end of 2017 due to term limits of board members. Governor Hutchinson appointed a new board, which began reviewing the Act and approved a pilot program in May, 2018. The EBD leadership reviewed criteria for treatment as part of emerging therapies as an alternative and cost savings to traditional surgeries and procedures. EBD worked to operationalize the board's decision to create a network of providers that did not exist as far as regenerative medicine and stem cell therapy. EBD identified providers and assisted in completing their credentials with insurance carriers. Mr. Howlett reported on a decision by EBD to remove individuals from the plan who are adult dependents and over the age of 26.

- In the Fall, 2018, an internal audit on the 157,000 members on the health plan was performed
- In the Spring, 2019 EBD found a subset of 89 individuals identified as 26 years or older
- Under the Affordable Care Act (ACA) and state law, provisions allow for the removal of persons 26 years or older.
- EBD established legal guidelines and policies when reviewing the population and applied standard eligibility criteria
- EBD also conducted an independent audit when identifying the population to be removed from the plan
- The audit found: 25 members with Medicare and Medicaid coverage, 26 members with Medicare coverage and 6 who did not qualify to remain on the plan
- EBD communicated with the persons identified to be 26 years of age or older who will be removed from the plan.
- The cutoff will take effect December 31, 2019.

Senator Irvin recognized David Harshfield, MD, and Mr. Rob Tillman. Dr. Harshfield explained the first law in the U.S. for emerging therapies was passed in Arkansas when a pilot program was awarded. He and Mr. Tillman work with the Federation of State Medical Boards and the Federal Drug Administration (FDA). He and Mr. Tillman are both in private practice working with FDA rules and regulations. Mr. Tillman told members he serves on the Arkansas State Board of Physical Therapy and is President of the National Minority Physical Therapy Association. When the appropriate care is provided to patients it will decrease patients need for sustained use of Opioids.

Report on Medicaid Expansion Beneficiary Case Closure in 2017, 2018, and 2019 (Beneficiaries that are deceased, moved out-of state, income ineligible, etc.) (Exhibit I)

Senator Irvin recognized Mark White, Chief of Legislative and Intergovernmental Affairs and Chief of Staff, DHS and Mary Franklin, Director, County Operations, DHS. Mr. White and Ms. Franklin gave an overview of efforts to ensure Medicaid roles are accurate. Accuracy initiatives include: Public Assistance Reporting Information System (PARIS), a quarterly match states can subscribe to with the Centers for Medicare and Medicaid Services (CMS).

Information is provided for beneficiaries on a quarterly basis. The report lists beneficiaries who receive benefits in multiple states in the same quarter. When Arkansas receives the information a notice is sent to the individual. When a person does not respond, the case is closed. 5,529 Modified Adjusted Gross Income (MAGI) Medicaid cases were closed in 2019. These cases included Arkansas Works, pregnant women, parent caretaker, relative, ARkids A and B, and newborns in our former foster care category. The Division of Workforce Services has a match specific to Arkansas Works with the all Arkansas Works clients reviewed monthly with new hire information. An automated process reviews the data. Notices are sent and cases closes when individuals do not respond. October, 2019 33,607 Arkansas Works cases were closed. A daily incarceration match with the Arkansas Department of Corrections resulted in 4,335 cases being closed. A new process is being developed for address verification.

Arkansas Department of Human Services (DHS), Division of Medical Services, Review of Rule Hospital 3-19 Spinal Muscular Atrophy Newborn Screening. This rule change is to comply with provisions of Act 58 of 2019 which adds spinal muscular atrophy to the list of metabolic diseases for which, all newborn infants in the state must be tested. [Exhibit J]

Senator Irvin recognized Mark White, Chief of Legislative and Intergovernmental Affairs and Chief of Staff, DHS and Janet Mann, Director of Division of Medical Services. Mr. White stated Rule Hospital 3-19 adding spinal muscular atrophy to the list of metabolic diseases for which all newborns must be tested in the state has been included in Medicaid manuals. Senator Irvin stated that without objection the rule will stand as reviewed.

Arkansas Department of Human Services (DHS), Division of Aging, Adult and Behavioral Health Services, Review of Rule regarding certification in Deaf Mental Health and provides for culturally affirmative and linguistically appropriate mental health services to deaf and hard of hearing persons. This rule implements Act 644 of 2019 (Exhibit K)

Senator Irvin recognized Mark White, Chief of Legislative and Intergovernmental Affairs and Chief of Staff, DHS. Mr. White advised the implementation of Act 567 of 2019 created standards and provisions related to mental health services for those who are hearing impaired. The rule creates a certification process for mental health professionals in deaf mental health services. The rule creates the certification process and criteria to enable DHS to implement the provisions of the act. Senator Irvin stated that without objection the rule will stand as reviewed.

Arkansas Department of Human Services (DHS), Division of Aging, Adult and Behavioral Health Services, Review of Rule which establishes reasonable charges for costs of treatment. This rule implements Act 567 of 2019 by expanding the permissible criteria for waiver or postponement of a charge to include when a patient has a court-appointed attorney because the court has found them to be indigent. (Exhibit L)

Senator Irvin recognized Mark White, Chief of Legislative and Intergovernmental Affairs and Chief of Staff, DHS. Mr. White the rule implements Act 557 as it relates to the ability of the Arkansas State Hospital to charge for services. Language in the statute was repealed in error several years ago. Act 557 reinserts the language providing the state hospital the ability to charge for services performed. Senator Irvin stated that without objection the rule will stand as reviewed.

Arkansas Department of Health, Center for Health Protection, Review of Rules Pertaining to Communicable Diseases-Tuberculosis. This updates the Arkansas Department of Health (ADH) rule to be consistent with the Centers for Disease Control and Prevention (CDC) guidelines for screening and testing healthcare workers for tuberculosis (TB) in the United States. (Exhibit M)

Senator Irvin recognized Laura Shue, General Counsel, Arkansas Department of Health (ADH). Ms. Shue reviewed the rule stating a change made by the Centers for Disease Control (CDC) regarding tuberculosis guidelines. The premise of the rule change is to remove the requirement for yearly tuberculosis testing after a baseline has been found. This adds language indicating no routine follow up testing is required. Senator Irvin stated that without objection the rule will stand as reviewed.

Arkansas Department of Health, Engineering Section, Review of Rule which increases the public water system service fee rate by \$.10 per water meter per month and updates references to two disinfection standards published by the American Water Works Association in accordance with Act 788 of 2019. The rule also removes the word regulation and consistently uses the word rule in accordance with Act 315 of 2019.
(EXHIBIT N)

Senator Irvin recognized Laura Shue, General Counsel, Arkansas Department of Health (ADH) for a review of the rule which will increase the public water system service fee by \$.10 per water meter per month. The rule also updates references to two disinfection standards and removes the word regulation replacing it with the word rule. A public comment period on the change was held in September and October, 2019 with no public comments made. Senator Irvin stated without objection, the rule will stand as reviewed.

Report of Arkansas PANS/PANDAS Advisory Council (Act 878 of 2019) Pediatric Acute-Onset Neuropsychiatric Syndrome (PANS). Pediatric Autoimmune Neuropsychiatric Disorder Associated with Streptococcal Infections (PANDAS). (Exhibit O)

Senator Irvin recognized Dr. Richard Smith, MD, Chief of Psychiatry, PRI Director, University of Arkansas for Medical Sciences (UAMS). Dr. Smith stated his position as acting head of child psychiatry at Arkansas Children's Hospital (ACH) he is charged with creating a statewide resource for children with Pediatric Acute-onset Neuropsychiatric Syndrome (PANS) and Pediatric Autoimmune Neuropsychiatric Disorder Associated with Streptococcal Infections (PANDAS). Dr. Smith advised that he was able to link with the PACE Foundation, a national non-profit organization dedicated to improving diagnosis, treatment and quality of life for persons with these disorders. The PACE Foundation has a consortium of clinics. The ACH and UAMS have become the fifth of eight clinics planned nationwide to be multi-disciplinary clinics in the diagnosis, treatment and assistance for the care of these children. Thus far, two co-medical directors have been recruited and trained. One patient, an 11 year old boy from northwest Arkansas has been seen and placed on appropriate medication. A weekly clinic is planned with the ability to see 4 to 6 children per week, which is anticipated to open January, 2020. Paul and Patricia Ryan, the founders of the PACE Foundation visited recently and met with leaders with the Arkansas Department of Health, members of the governor's staff, members of ACH. They were given a tour of the ACH clinic. Work is ongoing primary care strategy essential for the treatment of these children. The future agenda is to secure the clinic with a full time nurse and created programs for primary care and pediatricians.

Regional Solid Waste District-Tire Recycling Action-Woodruff County-Arkansas Department of Environmental Quality (ADEQ)

Senator Irvin recognized Michael Grappe', Chief Program Officer, ADEQ. Mr. Grappe' gave an overview of the overall tire program:

- In the last 10 years the tire program has treated and/or processed 3 million tires per year and averaged \$5 to \$6 million dollars per year in revenue
- An additional \$1.5 million in revenue was generated in 2018

Senator Caldwell advised members of an incident in Woodruff County in the town of Cotton Plant with 800,000 tires and question as to who owns the property where the tires are located. The Woodruff County Judge is working with ADEQ and others attempting to find a resolution to the problem. One of the issues is the cleanup. Mr. Grappe' reviewed the revenue from the tire fee collection: 75% goes to solid waste districts, 5% goes to the tire generators, 3% goes to the Department of Finance and Administration (DF&A), 7% goes to ADEQ to manage the program, and 10% is to be set aside for tire abatement. Senator Irvin recognized Jan Smith, Executive Director, White River Development District who stated the district operates a waste tire monofill at Bald Knob, Arkansas. This monofill has been the disposal site since 2002 and is at capacity. The District is seeking alternative options to dispose of the tires in a 10 county region as there is very little that can be done to dispose of tires. Ms. Smith the district has worked with ADEQ for a number of years and two different property owners but have yet to resolve the problem. Legislators continued discussion of the problems. Senator Irvin suggested the discussion will be taken up at a future meeting.

There being no further business, the meeting adjourned at 6:00 p.m.