

MINUTES

HOUSE & SENATE INTERIM COMMITTEES ON PUBLIC HEALTH, WELFARE AND LABOR

October 10, 2016

The House and Senate Interim Committees on Public Health, Welfare and Labor met Monday, October 10, 2016, at 10:00 a.m. in Committee Room A of The Big MAC Building, Little Rock, Arkansas.

Public Health Senate Members Attending Were: Senators Cecile Bledsoe, Chair; John Cooper, Keith Ingram, and Gary Stubblefield.

Public Health House Members Attending Were: Representatives Deborah Ferguson, Acting Chair; Fredrick Love, Acting Vice Chair; Mary Bentley, Justin Boyd, Ken Bragg, Kim Hammer, Ken Henderson, Robin Lundstrum, Stephen Magie, David Meeks, Josh Miller, John Payton, Chris Richey, Dan Sullivan, and Jeff Wardlaw.

Other Legislators Attending Were: Senators Jonathan Dismang, and Eddie Joe Williams. Representatives Bob Ballinger, Jim Dotson, Kenneth Ferguson, Justin Gonzales, Michelle Gray, Joe Jett, Micah Neal, Laurie Rushing, and Sue Scott.

Comments by the Chairs

Senator Cecile Bledsoe called the meeting to order, and announced that the Health Services Subcommittee of the Public Health, Welfare & Labor Committee will be meeting this afternoon at 1:30 p.m. in Committee Room A. The Interim Study Proposals (ISP) on today's Public Health agenda will be adopted for study and referred to the Health Services Subcommittee to be heard this afternoon. Shell bills will not be adopted for interim study.

Consideration to Adopt the September 12, 2016 Meeting Minutes (EXHIBIT B)

Without objection, the minutes from the September 12, 2016, meetings were approved.

Brief Discussion and Adoption for Study of the Following Interim Study Proposals (ISP) that may deal with Scope of Practice Issues and are being sent to the House and Senate Health Services Subcommittees for Discussion (C-1 through C-13):

- ◆ **ISP2015-071** – An Act to Allow Medicaid Recipients Direct Access to a Chiropractic Physician without Referral from a Primary Care Physician; and for Other Purposes. Sponsor, Representative Jim Dotson, (EXHIBIT C-1)
- ◆ **ISP2015-084** – To Clarify the Laws Governing Dental Practice. Sponsor, Senator Jeremy Hutchinson, (EXHIBIT C-2)
- ◆ **ISP2015-127** – To Create the Arkansas Surgical Technologists Act; to Establish the Registration of Surgical Technologists; and for Other Purposes. Sponsor, Representative Charlotte Vining-Douglas, (EXHIBIT C-3)
- ◆ **ISP2015-154** – To Amend Arkansas Dental Practice Act; to Amend the Dental Hygienist Collaborative Care Program; to Modify the Appointments to the Arkansas State Board of Dental Examiners; to Modify Dentistry Specialty Licenses; and for Other Purposes. Sponsor, Senator Jeremy Hutchinson, (EXHIBIT C-4)
- ◆ **ISP2015-164** – An Act to Amend the Prescriptive Authority of an Advanced Practice Nurse; and For Other Purposes. Sponsor, Representative Kim Hammer, (EXHIBIT C-5)
- ◆ **ISP2015-179** – Requesting the House Committee on Public Health, Welfare, and Labor Study the Role of an Advanced Practice Registered Nurse as a Primary Care Provider within the Arkansas Medicaid Program. Sponsor, Representative Dan Sullivan, (EXHIBIT C-6)
- ◆ **ISP2015-180** – Requesting the House Committee on Public Health, Welfare, and Labor Study Other States Regarding the Use of Pharmacists to Provide Access to Certain Medications, to Administer Medications, and to Define Pharmacists as Healthcare Providers Consistent with Other Areas of Arkansas Law. Sponsor, Representative Justin Boyd, (EXHIBIT C-7)

- ◆ **ISP2015-181** – Requesting the House Committee on Public Health, Welfare, and Labor Study States that Have a Practice of Allowing a One-Time Emergency Refill of a Prescription by a Pharmacist. Sponsor, Representative Justin Boyd, (EXHIBIT C-8)
- ◆ **ISP2015-182** – Requesting the Arkansas Legislative Council Refer to the House Committee on Public Health, Welfare, and Labor a Study to Remove the Collaborative Practice Agreement Requirement Placed on Advanced Practice Registered Nurses. Sponsor, Representative Karilyn Brown, (EXHIBIT C-9)
- ◆ **ISP2015-184** – Requesting that House Committee on Public Health, Welfare, and Labor Study Alternative Approaches by Other States Towards the Full Practice Model and the Collaborative Practice Agreements of Advanced Practice Registered Nurses and Physicians. Sponsor, Representative Dan Sullivan, (EXHIBIT C-10)
- ◆ **ISP2015-185** – An Act to Amend the Definition of Certified Registered Nurse Anesthetists by Removing Supervision Requirements; and for Other Purposes. Sponsor, Senator Gary Stubblefield, (EXHIBIT C-11)
- ◆ **ISP2015-186** – Requesting the House Committee on Public Health, Welfare, and Labor Study the Use of Global Signature Authority for an Advanced Practice Registered Nurse in Other States. Sponsor, Representative Mary Bentley, (EXHIBIT C-12)
- ◆ **ISP2015-187** – An Act to Establish the Arkansas Anesthesiologist Assistant Act; to Provide for Licensure of Anesthesiologists Assistants; and for Other Purposes. Sponsor, Representative Stephen Magie, (EXHIBIT C-13)

Ms. Bledsoe stated that ISPs C-1 and C-3 through C-13 will be adopted for study and referred to the Health Services Subcommittee in one motion. Representative Deborah Ferguson made a motion to adopt ISPs C-1 through C-13, with the exclusion of C-2, which is ISP2015-084. The adopted ISPs will be referred to the Health Services Subcommittee for Interim Study. ISP2015-084 has been excluded because it is a shell bill, and Senator Jeremy Hutchinson, the sponsor, has been notified of why it has been excluded. The motion passed without objection.

Department of Human Services (DHS), Division of County Operations, Review of the Proposed Rule Clarifying DHS Medical Services Policy Manual, to Bring into Compliance with Federal Law by Allowing a Reasonable Opportunity Enrollment Period for Verification of Immigration Status (EXHIBIT D)

Dave Mills, Program Administrator, Division of County Operations, and David Sterling, Chief Counsel, Office of Chief Counsel, DHS, presented this proposed rule change.

There was no public hearing and the public comment period expired on September 1, 2016 with no comments coming forward. This will become effective February 1, 2017. Mr. Mills stated the cost of implementation:

- ◆ The first 90 days will be \$8,147,636.97
- ◆ The rest of 2017 will be \$4,010,610.00
- ◆ In FY2018 it will be \$9,759,150.00.
- ◆ The cost per person per year will be about \$573

Based on the sanction fee rates from CMS (Centers for Medicare and Medicaid Services), if we do not implement these rule changes, the cost will be:

- ◆ The last quarter of FY2017 \$1.8 million
- ◆ The next quarter almost \$3 million
- ◆ If this rule change is not implemented \$240 million annually

These changes are mandated by the federal government. Senator Bledsoe postponed the discussion of these proposed rule changes until the end of this meeting, due to questionable data and unanswered questions posed by legislative members.

Department of Human Services (DHS), Division of Medical Services, Review of Episode of Care 1-16, Hysterectomy and State Plan Amendment No. 2016-001 (EXHIBIT E)

and

Department of Human Services, Division of Medical Services, Review of Episode of Care 2-16, Appendectomy (EXHIBIT F)

and

Department of Human Services, Division of Medical Services, Review of Episode of Care 3-16, Uncomplicated Pediatric Pneumonia (EXHIBIT G)

and

Department of Human Services, Division of Medical Services, Review of Episode of Care 4-16, Urinary Tract Infection (UTI) (EXHIBIT H)

William Golden, M.D., Medical Director, Division of Medical Services, David Sterling, Chief Counsel, Office of Chief Counsel, Michael Crump, Business Operations Manager, Third Party Liability, Division of Medical Services, and David Walker, Interim Health Care Innovation (HCI) Director, Division of Medical Services, all with the Department of Human Services; will present these four concerns.

Senator Bledsoe announced that Items 'E', 'F', 'G', and 'H', would not be presented today.

Department of Human Services, Division of Medical Services, Review of State Plan Amendment #2016-002 and Supplemental Rebate Agreement (EXHIBIT I)

Tami Harlan, Chief Operating Officer, Medical Services Division, Department of Human Services, explained the proposed change to the State Plan 2016-002 and the Supplemental Rebate Agreement. This change is due to the final Outpatient Drug Rule moving to a reimbursement model that is based on actual acquisition cost. Arkansas Medicaid is also updating the entire State Supplemental Rebate Agreement (SSRA) to include additional definitions and processes consistent with other Medicaid State's SSRAs in which Magellan Medicaid Administration has standings.

There is no financial impact and the proposed effective date is November 1, 2016.

Following committee discussion, the committees recommended review of the proposed rule changes.

Arkansas Department of Health, Center for Health Protection/Pharmacy Services, Review of Rule Pertaining to the List of Controlled Substances in Arkansas (EXHIBIT J)

Robert Brech, Chief Financial Officer, Arkansas Department of Health, presented the proposed updates to the List of Controlled Substances. The proposed effective date is March 1, 2017.

Following committee discussion, the committees recommended review of the proposed rule changes.

Arkansas Department of Health, Center for Public Health Practice, Review of Rule Regarding Medical Waste Transfer Regulations Amendment which allows for variance in the manifest/tracking documentation provided to the generators by the commercial medical waste transporters (EXHIBIT K)

Robert Brech, Chief Financial Officer, Arkansas Department of Health, presented the proposed changes that will allow for variance in the manifest/tracking documentation that must be provided to the generators by the commercial medical waste transporters at the time of waste transfer.

Following committee discussion, the committees recommended review of the proposed rule changes.

Representative Hammer asked Mr. Brech for an update on the transition of the stateside home health and hospice programs that Arkansas sold to the private sector, and if the transitional process was smooth. Mr. Brech stated that the transition from stateside to private entity went very well, and there have been no negative comments or repercussions.

Representative Hammer asked for the transitioned home health and hospice services to be added to a future Public Health agenda. Senator Bledsoe agreed to ask them to present at the November Public Health meeting.

Arkansas Minority Health Commission, Report on Health Disparities and Annual Activities (ACA 20-2-107) (EXHIBIT L)

Louise Scott, Interim Director, Arkansas Minority Health Commission (AMHC), presented an overview of the commission's annual report. Ms. Scott discussed in detail how the AMHC is helping to provide access to care and the community outreach programs they are conducting.

Representative Hammer asked Ms. Scott to find out how much the 19% who are uninsured, but eligible for the Private Option, will cost Arkansas when they default to uncompensated care. Ms. Scott stated she would get this information and provide it to the committee.

ITEM D Revisited

Michael Harry, Legislative Attorney, Administrative Rules and Review, Bureau of Legislative Research, stated that the \$100,000 amount did not come from the agency. It was a question from the Rules and Regulations Division of the Bureau of Legislative Research to the agency.

Mr. Mills stated that the cost of Medicaid for immigrants, per person per year would be \$1,363.96 annually, and Arkansas's part will be \$408.

Representative Hammer wanted to know why the Arkansas Works insurance is so much higher than the 90-day Medicaid program for the immigrants. Kelley Linck stated that he would get that information to the committee.

Following committee discussion, the committees recommended review of the proposed rule changes.

Preliminary Report from the Alzheimer's Advisory Council (Act 92 of 2009), A.C.A. 20-8-601 – 20-8-604 (EXHIBIT N)

Senator Gary Stubblefield stated that the Alzheimer's Advisory Council met on July 26, 2016 and August 23, 2016. Senator Stubblefield presented the Alzheimer's Advisory Council's preliminary report and discussed the seriousness of this disease and the progress that has been made to find cures and to slow the progression of Alzheimer's.

Following committee discussion, the committees accepted the report.

Arkansas Tobacco Settlement Commission, Review of the Quarterly (January 1, 2016 - March 31, 2016), and the Biennial Report 2014-2015 (Act 224 of 2016) (EXHIBIT M)

Misty Hunt Murphy, Executive Director, Arkansas Tobacco Settlement Commission, presented the quarterly report. Ms. Murphy discussed the updates on the progress of the programs funded by the Arkansas Tobacco Settlement Commission.

Representative Josh Miller stated that the Governor wanted to appropriate \$8.5 million out of the tobacco settlement fund to be used for the Developmentally Disabled Waiting List. Mary Franklin, Director, County Operations, DHS, verified that the Governor has approved using this money for the Developmentally Disabled Waiting List. This will be presented before the General Assembly in the 2017 session.

Following committee discussion, the committees reviewed the quarterly report.

Ms. Murphy presented the 2014-2015 Biennial Report to the committees. This report was given to the General Assembly and the Governor with a recommendation from the Commission that the funding should remain the same for the seven programs that receive tobacco settlement money.

Rhonda McClellan, PhD., Director and Professor, University of Central Arkansas, stated that the programs that receive the tobacco settlement funds are making adequate progress toward their goals.

Following committee discussion, the committees reviewed the biennial report.

Senator Bledsoe announced the next Public Health Meeting will be October 31, 2016 at 1:00 p.m.

The meeting adjourned at 10:45 a.m.

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