

MINUTES

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

October 31, 2016

The House and Senate Interim Committees on Public Health, Welfare and Labor met Monday, October 31, 2016, at 1:00 p.m. in Committee Room A of The Big MAC Building, Little Rock, Arkansas.

Public Health Senate Members Attending Were: Senators Cecile Bledsoe, Chair; Stephanie Flowers, Vice Chair; John Cooper, Missy Irvin, and Gary Stubblefield.

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

Other Legislators Attending Were: Senators Linda Chesterfield, Joyce Elliott, and Jason Rapert. Representatives Trevor Drown, Jon Eubanks, Kenneth Ferguson, Michelle Gray, Sue Scott, and Dwight Tosh.

Comments by the Chairs

Representative Deborah Ferguson called the meeting to order and gave a brief background of the changes that were proposed by the Governor and The Stephen Group (a consulting firm that was hired by the Bureau of Legislative Research for The Health Reform Legislative Task Force).

Consideration to Adopt the October 10, 2016 Meeting Minutes (EXHIBIT C)

Without objection, the minutes from the October 10, 2016, meeting were approved.

The first four proposed changes on the agenda (Items D-G) are being presented today before the public comment period has closed. Kelley Linck, Liaison, Legislative Intergovernmental Affairs, Department of Human Services (DHS), explained that the public comment period has been extended for the first four proposed rule changes, because DHS did not file for the public comment period with the Secretary of State's Office until after they had filed with the other required agencies. Therefore the public comment period was not in effect until DHS filed with the Secretary of State's Office. The public comment period on the first four rules will end November 13, 2016.

Department of Human Services (DHS), Division of Medical Services, Review of a Rule Regarding State Plan Amendment 2016-007 Dealing with Nursing Facility Payment Methodology Update (EXHIBIT D)

Tami Harlan, Chief Operating Officer, Medical Services Division; Dawn Stehle, Deputy Director, Health, and Director, Division of Medical Services; Kelley Linck, Legislative Intergovernmental Affairs; and Craig Cloud, Director, Division Aging and Adult Services; all with the Department of Human Services; presented this update.

Ms. Harlan discussed the proposed policy change regarding the payment of a provisional rate, and stated there will also be a cap on the allowable professional liability insurance of \$2500 per licensed bed.

Following committee discussion, the Chair accepted a motion and a second to review the proposed rule. The motion carried.

Department of Human Services, Division of Medical Services, Review of Rule Regarding Establishing the Outpatient Behavioral Health Services Program While Also Amending the Inpatient Psychiatric Services for Under Age 21 Program and School-Based Mental Health Program in Arkansas Medicaid.(State Plan Amendment 2016-007) (EXHIBIT E)

Charlie Green, Director, Behavioral Health Services Division, and Paula Stone, Assistant Clinical Director, Behavioral Health Services Division, both with the Department of Human Services; presented this update.

Mr. Green, with the aid of a PowerPoint presentation (Handout #1), explained the proposed transformation of the Arkansas Behavioral Health System, and showed the contrasts of the current system to the proposed system. The proposed system will be tiered, and recipients will have better access to services. It will also:

- ◆ Allow Medicaid-eligible youth and adults to access coordinated substance abuse and mental health treatment at the same time.
- ◆ Allow for development of crisis units for adults experiencing acute mental health issues, which could serve as an alternative to jails and emergency rooms.
- ◆ Allow primary care practices to offer behavioral health services so that people can get care close to home.
- ◆ Ensure people with the highest level of need have someone coordinating their care.
- ◆ Provide home and community based alternatives to the use of higher cost inpatient and psychiatric residential treatment.

This program will be administered by a third party and determined by procurement or by a change in the relationship with the providers. Ms. Paula Stone briefly described the tiers of services, the coordinated care services, and improved access to care that will be implemented.

Representative Dan Sullivan wanted to know if impact studies have been conducted. Ms. Stehle stated that impact studies have been done and the committees will be provided with these studies in detail, including the process conducted to arrive at the numbers in the financial impact study.

Mr. Green stated that the projected cost savings of implementing this system into the Arkansas Behavioral Health System will be \$80 million annually.

Senator Linda Chesterfield asked to receive the following information in writing, and Ms. Paula Stone agreed to provide this information:

- ◆ How much is Arkansas currently paying for care coordination?
- ◆ How much will Arkansas save with this proposed change?
- ◆ What makes up the projected \$80 million in savings?

Mr. Linck stated that DHS is continuously meeting and working with the providers, to ensure this program is a success.

Representative Bentley wanted to see in writing, what the required level of experience is for the person who is giving an independent assessment to an individual, and Paula Stone stated that she would get this information to the committees.

Representative Charlene Fite stated that The Health Reform Legislative Task Force recommended approving these changes. Acting Chair Ferguson agreed with that statement.

Robin Raveendran, Director, Alliance for Health Improvement, stated that providers cannot decide to support or not to support these changes because of the lack of information, especially on the cost and the overview of the program itself. The cost of care coordination has not been provided at this time.

Following committee discussion, Representative Ferguson stated that without objection, this issue will be brought back for further discussion at the November 17, 2016 meeting at 2:30 p.m. The committees took no action on the proposed rule change.

Department of Human Services, Division of Medical Services, Review of Rule Regarding Establishing a Limit on the Weekly Amount of Medicaid Funded Speech Therapy, Occupational Therapy and Physical Therapy That May Be Provided to An Eligible Individual Without Prior Authorization.(State Plan Amendment 2016-009) (EXHIBIT F)

Presenters of these proposed rule changes were Melissa Stone, Director, Division of Developmental Disabilities Services, Department of Human Services; Amy Denton, Licensed Physical Therapist and representing the Child Health Management Services (CHMS) Association; Janie Sexton, Licensed Occupational Therapist and representing the Developmental Disabilities Provider Association; and Stephanie Smith, Chief Operating Officer, Easter Seals and representing the Developmental Disabilities Provider Association.

Senator Bledsoe asked the presenters listed in the above paragraph if any of them are independent therapists and they said they were not. Senator Bledsoe then asked if independent therapists were notified of the meetings recently held to discuss these proposed changes, and if so, how were they notified.

Ms. Denton explained how the professional therapists and their related associations were notified of meetings and rule changes. Senator Bledsoe pointed out that more care and diligence needs to be practiced in notifying the independent therapists, statewide, of meetings and rule changes.

Melissa Stone described the proposed rule changes. The Request for Proposal (RFP) will be released for public comment in the spring of 2017 and the date for implementation of these proposed changes is July 1, 2017. Melissa Stone described the requirements for therapy programs in other states, and how they manage their programs.

The following independent therapists testified against the proposed rule changes in Item F, as they stand now:

- ◆ Cheri Woodson from Northwest Arkansas
 - A member of a therapy association for 20 years
- ◆ Kent Woodson from Northwest Arkansas
 - Operations Manager for Post Pediatric (for 0-18 pediatric therapies)
- ◆ Ron Branscum, President, Independent Therapist Services from Northwest Arkansas
 - Found out about these proposed changes through one of his employees about 30 days ago
- ◆ Lainey Morrow, Founder of Medicaid Saves Lives (*Handout #1*)

Following committee discussion, Representative Ferguson stated that without objection, this issue will be brought back for further discussion at the November 17, 2016 meeting at 2:30 p.m. The committees took no action on the proposed rule change.

Representative Hammer requested that the therapy associations provide to the Public Health Committees, their chain of communication process in notifying their individual members, providers, and concerned parties of proposed new developments in the health care system, for the last year. Melissa Stone stated she already has this information and will provide it to the committees. Melissa Stone said that she and her department are presently trying to resolve the communication issue between the associations and the independent clinics.

Department of Human Services, Division of Medical Services, Review of Rule Which Informs Providers of the 2016 Healthcare Common Procedural Coding System (HCPCS) and the 2016 Current Procedural Codes (CPT) (EXHIBIT H)

Tami Harlan, Chief Operating Officer, Medical Services Division, Department of Human Services, presented the proposed changes. Ms. Harlan said this was filed as an emergency rule, effective August 26, 2016, so providers could start billing under the new codes. This was implemented to comply with federal regulations.

Following committee discussion, acting Chair Ferguson stated that without objection this rule will be sent out as reviewed.

Department of Human Services, Division of Medical Services, Review of Rule Which Reduces Rate of Rehabilitative Services for Persons with Mental Illness (RSPMI) Payment Amount Per Unit for Procedure Code 90853 from \$13.80 to \$10.00 (EXHIBIT G)

Elizabeth Smith, Medicaid Inspector General, Office of Medicaid Inspector General, presented the proposed rule change. Ms. Smith stated the original implementation date was October 1, 2016, but it has been changed to February 1, 2017. The public comment period has been extended until November 13, 2016.

Mr. Robin Raveendran testified against this proposed change because no information has been forthcoming to the providers on the reason for the rate change and how this number was arrived at. He requested for this to be delayed until more information can be provided.

Ruth Allison Dover, Executive Director, Mid-South Health System Community Mental Health Center, Jonesboro, Arkansas; testified against the group rate cut. Ms. Dover stated this facility serves the only 911 mental health population in Arkansas. There are 59 residents in this facility, and the proposed cuts will negatively impact the care of these individuals.

Bill Phillips, President, Phillips Management & Consulting, testified against approving these changes to the Group Psychotherapy Code of 90853. Elizabeth Smith presented information from the CMS Sixty-Four Report, a report generated by each state to report their spending on Medicaid to CMS; and how states pay back their state match.

A motion was made by Representative Fite and seconded by Senator Bledsoe to send this rule out as reviewed. The motion failed.

Following committee discussion, Representative Ferguson stated that without objection, this issue will be brought back for further discussion at the November 17, 2016 meeting at 2:30 p.m. The committees took no action on the proposed rule change.

Department of Human Services, Division of Medical Services, Review of Rule Which Deals with Rehabilitative Services for Persons with Mental Illness (RSPMI), Update #2-16 & State Plan Amendment #2016-005 and Eliminates Speech Therapy, Collateral Interventions and Reduces Daily Maximum Units for Mental Health Professionals in the RSPMI Program (EXHIBIT I)

Tami Harlan, Chief Operating Officer, Medical Services Division, Department of Human Services, presented this update. Ms. Harlan stated that the purpose of these proposed rule changes is to reduce the number of units for intervention services by mental health professionals and mental health paraprofessionals. It will also eliminate the collateral intervention services that will be obsolete in the therapy codes from the RSPMI program which are duplicative to other programmatic services.

Representative Chris Richey wanted to discuss what was meant by 'obsolete collateral intervention services'. Ms. Zekis, Director, Division of Medical Services, DHS, stated these recommendations came from behavioral health providers and the task force. Further explanation came from Anita Castleberry, Business Operations Manager, Utilization Review for Medicaid, who said she used the term 'obsolete' in reference to describing the way these services were delivered and information was gathered in the 1980s, when these services were first instituted. Since then there have been substantial improvements and innovation in the delivery of mental health services to the recipients, such as evidence-based practices and care coordination.

Doug Stadter, President & CEO, Centers for Youth & Families, Inc., said the collateral intervention services are the only services presently available to collect information. To eliminate it now before the replacement program is operational, will leave agencies and providers with no way to gather the vital information necessary to help children and adults who are in need of services.

Mr. Stadter stated that all three of the Arkansas Behavioral Health Provider Associations support and recommend replacing collateral services with the new care coordination services, and care coordination entities statewide; but only when the new care coordination services are operational so there will be no interruption in services.

Following committee discussion, Representative Ferguson stated that without objection, this issue will be brought back for further discussion at the November 17, 2016 meeting at 2:30 p.m. The committees took no action on the proposed rule change.

The meeting adjourned at 5:35 p.m.