

MINUTES

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

June 5, 2017

The House and Senate Interim Committees on Public Health, Welfare and Labor met Monday, June 5, 2017, at 10:00 a.m. in Committee Room A, MAC Building, Little Rock, Arkansas.

Public Health Senate Members Attending: Senators Cecile Bledsoe, Chair; Lance Eads, Scott Flippo, and Missy Irvin.

Public Health House Members Attending: Representatives Jeff Wardlaw, Chair; Deborah Ferguson, Vice Chair; Mary Bentley, Justin Boyd, David Branscum, Bruce Coleman, Justin Gonzales, Ken Henderson, Jack Ladyman, Fredrick Love, Robin Lundstrum, Stephen Magie, David Meeks, John Payton, Aaron Pilkington, Chris Richey, and Richard Womack.

Other Legislators Attending: Senators Linda Chesterfield, Jonathan Dismang; Trent Garner, Bryan King, and Jason Rapert. Representatives Fred Allen, Charles Blake, Jim Dotson, Charlotte Vining Douglas, Trevor Drown, Jon Eubanks, Kenneth Ferguson, Lanny Fite, Michael John Gray, Reginald Murdock, Mathew Pitsch, James Sorvillo, Dan Sullivan, and DeAnn Vaught.

Comments by the Chairs

Committee Chairs, Senator Cecile Bledsoe and Representative Jeff Wardlaw made opening comments to begin the first Public Health, Welfare and Labor Committee meeting of the 2017-2018 Interim.

Consideration to Adopt the December 19, 2016, Meeting Minutes (Exhibit C)

Without objection, the December 19, 2016, meeting minutes were adopted.

Consideration of Motion to Authorize Co-Chairs to Approve Special Expenses Incurred by the Committees

Representative David Branscum made a motion to authorize the co-chairs to approve special expenses incurred by the committees. The motion was seconded and Chair Bledsoe stated that without objection the motion was adopted.

Arkansas Department of Health (ADH), Arkansas State Board of Health, Review of the Rules & Regulations Governing Medical Marijuana Registration, Testing, and Labeling in Arkansas (Exhibit D)

Robert Brech, Chief Counsel, Arkansas Department of Health, presented the proposed rules for the testing and labeling of medical marijuana; and also for applying for or renewing of identification cards for qualifying patients and designated caregivers. The application fee for identification cards for qualifying patients and designated caregivers will be \$50. Implementation and operation costs for this program will be about \$1.5 million for the first year.

Following committee discussion, Chair Bledsoe stated that without objection this rule will stand as reviewed.

Clarification on Committee Responsibilities and Authorizations

Jill Thayer, Legal Counsel to the Director, and Jessica Sutton, Administrator, Rules Section, both with The Bureau of Legislative Research, distinguished between the responsibilities of the Public Health Committees to review a rule and the Administrative Rules & Regulations Subcommittee to approve a rule.

Arkansas Department of Environmental Quality (ADEQ), Water Division, Third Party Rulemaking Request Submitted by Halliburton Energy Services, Inc. to Temporarily Make Changes to Regulation 2, Which are Water Quality Standards for Surface Water of the State of Arkansas. Halliburton Energy Services, Inc. Proposes to Take Remedial Action to Improve Conditions at the Dresser Industries Magcohar, Former Mine Site in Hot Springs County (Exhibit E)

Caleb Osborne, Associate Director, Office of Water Quality, ADEQ, and Michael B. Heister, Attorney, Quattlebaum Law Firm, presented this proposed change.

Mr. Osborne explained the proposed temporary modification to ADEQ's Regulation #2 of the Pollution Control and Ecology Commission (this rule addresses water quality standards), and stated that it was approved by the Pollution Control and Ecology Commission.

Mr. Heister said that the point of concern is the Dresser Industries Magcobar (DIM) former mining site in Hot Springs County, Arkansas. The concern is the suspected run-off of the acidic water from the former mining pit into seven nearby water bodies. Because of this concern, Halliburton Energy Services, Inc. has been authorized to perform an Environmental Improvement Project (EIP), which is a statutory cleanup option in Arkansas available only to former mine sites that require a long-term cleanup. A key component of the EIP is a site-specific, temporary change to water quality standards by third-party rulemaking.

Following committee discussion, Chair Bledsoe stated that without objection this rule will stand as reviewed.

Department of Human Services (DHS), Division of Behavioral Health Services, Review of a Rule to Update Behavioral Health Provider Certification Manuals and Forms, Which Implements the Previously Approved Behavioral Health Transformation Legislative Package (Exhibit F)

Robert (Robbie) Nix, Assistant Director for Policy and Research, Division of Behavioral Health Services, DHS, presented this proposed rule change.

The proposed Behavioral Health Provider Certification Manuals and forms are required to implement the previously approved Behavioral Health Transformation package that was filed with the Secretary of State's Office on December 27, 2016. These rule changes are necessary to ensure compliance with CMS (Centers for Medicare and Medicaid Services) for Medicaid reimbursement.

Mr. Nix stated that because of the multiple meetings held with stakeholders, no formal public hearings were held.

Following committee discussion, Chair Bledsoe stated that without objection this rule will stand as reviewed.

Department of Human Services (DHS), Division of Medical Services, Review of a Rule to Provide Home Health Services in Any Normal Setting Which Normal Life Activities Take Place (Home Health 2-16, Prosthet 3-16, CNM 1-16, Nursprea 3-16) (Exhibit G)

Tami Harlan, Chief Operating Officer, Division of Medical Services, DHS, presented the proposed changes. This proposed rule change addresses face-to-face requirements for Home Health Services, policy changes, and clarifications related to the Home Health final rule. CMS (Centers for Medicare and Medicaid Services) has required states to revise their documentation to come into compliance by July 1, 2017. There is no financial impact.

Following committee discussion, Chair Bledsoe stated that without objection this rule will stand as reviewed.

Department of Human Services (DHS), Division of Medical Services, Review of a Rule Pertaining to Reimbursement for Covered Outpatient Drugs in the Medicaid Program (Pharmacy 1-17) (Exhibit H)

Tami Harlan, Chief Operating Officer, and Jason Derden, Director of Pharmacy, both with The Division of Medical Services, DHS; presented this proposed rule.

CMS published the Covered Outpatient Drug final rule, CMS-2345-FC, on February 1, 2016 pertaining to reimbursement for covered outpatient drugs in the Medicaid program. This rule is required in order to ensure compliance with CMS-2345-FC and 81 FR 5170; and it was filed and approved as an emergency rule on April 1, 2017. Expiration of the emergency rule is July 29, 2017.

Mr. Derden and Brad Nye, Business Operations Manager, Program Development and Quality Assurance, Division of Medical Services, DHS, explained why there is no financial impact with the implementation of this proposed rule.

Following committee discussion, Chair Bledsoe stated that without objection this rule will stand as reviewed.

Department of Human Services (DHS), Division of Medical Services, Review of a Rule for Medicaid Eligible Children Age 20 and under; and CHIP (Children's Health Insurance Program) Eligible Children Age 18 and Under, to Prior Authorize an Initial 16 Treatments in 12 Months (Visual 2-16) (Exhibit I)

Tami Harlan, Chief Operating Officer, Division of Medical Services, DHS, presented this proposed rule. The purpose of this rule is to put a prior authorization (PA) on orthoptic and/or pleoptic training (vision therapy); and to also limit the number of visits in a 12-month period to 16 treatments with no more than one within a one-week period (extension of benefits may be requested if medically necessary).

These services are only for children, and must be performed in the office of a licensed optometrist or ophthalmologist.

Following committee discussion, Chair Bledsoe stated that without objection this rule will stand as reviewed.

Department of Human Services (DHS), Division of Medical Services, Review of Rule Regarding Updating the Patient-Centered Medical Homes (PCMH 1-17) Provider Manual to Extend Practice Support Until June 30, 2018 (Exhibit J)

Tami Harlan, Chief Operating Officer, Division of Medical Services, DHS, presented this proposed rule. The Patient-Centered Medical Home (PCMH) Manual is being updated to reflect that practice support will now continue until June 30, 2018. The current manual specifies that the practice support would end on June 30, 2017. This rule is essential to add new practices into the PCMH program.

Following committee discussion, Chair Bledsoe stated that without objection this rule will stand as reviewed.

Department of Human Services (DHS), Division of Developmental Disabilities Services (DDS), Review of Rule to Update Medicaid Provider Manual to be Consistent with Waiver Approved by CMS (Centers for Medicare and Medicaid) on March 10, 2017—Effective Date of September 1, 2016 (DDS Alternative Community Services Waiver (DDS ACS) Update 1-17) (Exhibit K)

Melissa Stone, Director, Division of Developmental Disabilities Services, DHS, presented this proposed rule. This is a request for approval of a waiver renewal that was:

- ❖ Submitted during the summer of 2016 with a public hearing held June, 2016
- ❖ Approved by CMS in March, 2017 with a retroactive date of September, 2016

Approval is also needed for the proposed changes made to the Medicaid Provider Manual that were edited and approved in March, 2017. The Medicaid Provider Manual changes are necessary so the manual is consistent with the waiver approved by CMS. The renewal will last five years.

Following committee discussion, Chair Bledsoe stated that without objection this rule will stand as reviewed.

Department of Human Services (DHS), Division of Developmental Disabilities Services, Review of Rule to Add 500 Slots to the Waiver Due to Redirection of \$8.7 Million in Tobacco Settlement Funds and Incorporate Independent Assessments as a Step Toward Conflict-Free Case Management and Transforming the Medicaid Program (DDS Community & Employment Supports Waiver and Medicaid Provider Manual 2-17) (Exhibit L)

Melissa Stone, Director, Division of Developmental Disabilities Services, DHS, presented this proposed rule change. Ms. Stone stated this is an amendment to the aforementioned waiver renewal that will add 500 additional slots to the waiver from the DDS Wait List. All of the 500 additional clients will undergo an independent assessment by an independent 3rd-party vendor. This will determine the client's tier assignment and also verify their eligibility.

Following committee discussion, Chair Bledsoe stated that without objection this rule will stand as reviewed.

Department of Human Services (DHS), Division of Developmental Disabilities Services, Review of Rule to Update the Certification Standards Applicable to DDS Home and Community-Based Waiver Service Providers; by Adding Home and Community-Based Settings Requirements, Conflict-Free Case Management Requirements, and Other Clarifying Changes (DDS Community & Employment Services (CES) Waiver Certification Standards) (Exhibit M)

Melissa Stone, Director, Division of Developmental Disabilities Services, DHS, presented the proposed changes to this rule. This rule will update, simplify, and clarify all of the proposed changes that have been made to the DDS Community and Employment Supports (CES) Waiver Certification Standards.

Following committee discussion, Chair Bledsoe stated that without objection this rule will stand as reviewed.

Consideration of an Interim Study Proposal (ISP) for Adoption and Study (Exhibit N)

ISP 2017-079 - “Requesting that the House Committee on Public Health, Welfare, and Labor Study Methods to Enhance Access to Immunizations in Arkansas by Overcoming Challenges to Immunization Access.” The sponsor is Representative Justin Boyd.

Senator Bledsoe asked for a motion to adopt ISP 2017-079, and to send it to the Health Services Subcommittee of the Public Health, Welfare & Labor Committees for interim study. A motion was made, seconded, and approved without objection.

The meeting adjourned at 11:20 a.m.