

MINUTES

**ALC-ARKANSAS HEALTH INSURANCE MARKETPLACE OVERSIGHT SUBCOMMITTEE
SENATE COMMITTEE ON PUBLIC HEALTH, WELFARE, AND LABOR
HOUSE COMMITTEE ON PUBLIC HEALTH, WELFARE, AND LABOR**

MEETING JOINTLY

JANUARY 6, 2020

The Senate and House Committees on Public Health, Welfare, and Labor met jointly with the Arkansas Legislative Council Health Insurance Marketplace Oversight Subcommittee on Monday, January 6, 2020 at 1:30 p.m., in Room 171, State Capitol, Little Rock, Arkansas.

Committee members present: Senators Missy Irvin, Chair, Ronald Caldwell, Scott Flippo, Kim Hammer, Jimmy Hickey, Jason Rapert, Terry Rice, Bill Sample, Larry Teague, and David Wallace. Representatives Jack Ladyman, Chair, Mary Bentley, Justin Boyd, Karilyn Brown, Bruce Coleman, Deborah Ferguson, Kenneth Ferguson, Jack Fortner, Megan Godfrey, Justin Gonzales, Mike Holcomb, Stephen Magie, Tippi McCullough, Josh Miller, Clint Penzo, Mark Perry, Chris Richey, Marcus Richmond, Jamie Scott, and Brandt Smith.

Other legislators present: Representatives Joe Cloud, Andy Davis, Marsh Davis, David Fielding, Aaron Pilkington, and Johnny Rye.

Call to Order: Representative Ladyman called the meeting to order.

Comments by the Chairs: Representative Ladyman thanked legislators for attending. Senator Irvin commented on the success of the Arkansas Department of Human Services (DHS) Blue Umbrella Program with its pop up shop held during the December 9, 2019 Public Health Committee meeting. Residents of the Human Development Centers create and sell their craft items through this program. Representative Deborah Ferguson, Co-Chair, Legislative Council Health Insurance Marketplace Oversight Committee told legislators the joint meeting with the Public Health Committee allows the Arkansas Insurance Department the opportunity to make their presentation to both committees instead of providing the same information separately.

Consideration to Adopt the December 9, 2019 Meeting Minutes of the House and Senate Public Health Committee [Exhibit C]

A motion was made to adopt the December 9, 2019 meeting minutes. The motion was approved.

Latest Information on the Health Insurance Marketplace Enrollments for 2020, geographic breakdown of enrollments, insurance rates being charged, number of plans being offered, and the names of the companies offering the plans.

Representative Ladyman recognized Allen Kerr, Insurance Commissioner, Arkansas Insurance Department and Ryan James, Public Information Officer. Mr. Kerr gave an overview of the Insurance Department's 2019 financial report:

- The Arkansas Insurance Department (AID) took over the Arkansas Health Insurance Marketplace (AHIM) on March 15, 2019
- A total of \$13 million had been collected annually from ratepayers to support the AHIM
- The federal technology user fee is reduced from 3.0% to 2.5%
- The largest expense to the AID is the Arkansas Foundation for Medical Care (AFMC) Call Center, which pays navigators to answer phone inquiries assisting individuals seeking insurance
- The AID annual budget for AHIM is \$500,000
- Fees will no longer be collected for the management of the marketplace

Mr. James gave an overview of the rate information report:

- The elimination of the 1.25% user fee for the 2020 plan year allowed for lower premiums
- The Arkansas Works policies are the same as the private marketplace resulting in a cost savings to the Arkansas Department of Human Services
- All Arkansas companies offer all plan types throughout the state
- In previous years, there were four companies, but only three products were offered in certain counties
- Currently, all 75 counties have the same products available with uniform premium rates
- Plan year 2020 companies are AmBetter, Arkansas Blue Cross and Blue Shield, QualChoice, and QCA Health

Mr. Kerr reviewed the Marketplace enrollment:

- As of December, 2018 there were 51,998 individuals enrolled
- As of December, 2019 there were 51,383 individuals enrolled
- The impact to enrollment from changing the management of AHIM to the AID has been flat. It has resulted in a reduction of \$13 million in costs.

Mr. James stated a report from the Centers for Medicare and Medicaid (CMS) was received by AID last week, which AID is still processing the information. The CMS report listed a total of 64,601 plan selections, but there is normally a drop off between the CMS plan selection metric and what the AID considers an effectuated enrollment. The example is for persons who move from one insurance carrier to another during the enrollment CMS counts that person twice in the total numbers, one as a policy holder for the current year and again as having selected a policy for the upcoming plan year. The calculation by the CMS creates a difference in total enrollment numbers.

Arkansas Department of Human Services (DHS), Division of Medical Services, Review of Rule to be effective February 1, 2020, which would revise the provider manuals to comply with Acts 651, 652, and 959 of 2019. The purpose of these acts are to increase services and medications to Medicaid eligible beneficiaries. [Exhibit E] Representative Ladyman recognized Mark White, Chief of Legislative and Intergovernmental Affairs, DHS, and Janet Mann, Director, Division of Medical Services, DHS. DHS made changes to the Medicaid Provider Manuals to reflect legislation passed during the 2019 legislative session concerning the prescription and provisions governing tobacco cessation products and services. Mr. White responded to questions and discussion of the rule providing tobacco cessation counseling for children. The rule does provide payments for counseling of any child who is a Medicaid client.

Representative Ladyman stated that without objection, the rule will stand as reviewed.

Arkansas Department of Human Services (DHS), Division of Medical Services, Review of Rule to be effective February 1, 2020, which would revise the DHS Policy 1088 which is the Participant Exclusion Rule regarding Medicaid Providers. The rule would clarify that the Office of Medicaid Inspector General (OMIG) is an entity that may exclude Medicaid Providers pursuant to ACA 20-77-2506 and implements Act 951 of 2019. [Exhibit F] Representative Ladyman recognized Jim Brader, Attorney, Office of Chief Counsel, DHS, and Mark White, Chief of Legislative and Intergovernmental Affairs and Chief of Staff, DHS. Mr. White reviewed a rule concerning participant exclusion. When DHS determines an individual or organization is should not be involved in the state's business, DHS is able to exclude the person or organization from participating in DHS programs, including the Medicaid program. This rule has been in place for a number of years, however DHS has recently been working with the Office of the Arkansas Medicaid Inspector General (OMIG) to amend the rule for clarity. Also, several changes related to the exclusion process have been developed in consultation with the OMIG.

Representative Ladyman recognized Tammera Harrelson, Chief Counsel, Office of Medicaid Inspector General (OMIG) who commented on the work the OMIG and DHS have completed on the rule changes, which ultimately expanded the ability of the OMIG to include more providers.

Representative Ladyman stated that without objection, the rule will stand as reviewed.

Arkansas Department of Health, Center for Local Public Health, Review of Rules Pertaining to Body Art Establishments. Updating a rule to reflect requirements of Act 315 of 2019 to remove the word "regulation" and added language pertaining to Artist Trainers and hours for Artists in Training which was in Act 910 of 2019. [Exhibit G]

Representative Ladyman recognized Laura Shue, JD, General Counsel, Arkansas Department of Health (ADH), and Terry Paul, RS, CPH, Branch Chief of Environmental Health, ADH. Ms. Shue presented the rule on body art establishments as part of the revisions due to the changes to occupational licensure. The ADH added specific authority to artist trainers and the hours for artist in training based on Act 910 of 2019. Additional changes reflect provisions under Act 820 of 2019 for military and veteran's licensure. Language was added to Act 426 of 2019 pertaining to reciprocity and provisional licenses. The ADH provided notice in newspapers in August, 2019, filed the notice with the Arkansas Secretary of State in September, 2019 and held public hearings in October, 2019. The ADH responded to public comments from the public hearings regarding some confusion concerning educational provisions and schools. Legislators discussed notifying the lead sponsors of legislation to future rule changes being presented to the committee as well as attaching a copy of the regulation to the rules. Legislators held discussion regarding specific aspects of the rule changes to reciprocal licensure, and schools.

Representative Ladyman stated that without objection, the rule will stand as reviewed.

Arkansas Department of Health, Center for Health Protection, Review of Rules Pertaining to Arkansas Prescription Drug Monitoring Program adding legislative amendments from 2017 and 2019. [Exhibit H]

Representative Ladyman recognized Laura Shue, JD, General Counsel, ADH, and Jamie Turpin, Pharm. D., Administrator, Prescription Drug Monitoring Program, ADH. Ms. Shue presented rules to the Prescription Drug Monitoring Program (PDMP) with descriptions of changes made pursuant to Acts passed in the 2017 and 2019 legislative sessions. The ADH has general authority to revise these rules under Title 20. The ADH had approval by the Board of Health in August, 2019, a notice was published in August and September, 2019, the revised rule changes were filed with the Arkansas Secretary of State, and public hearings were held in September 2019. The ADH responded to comments from the public hearings.

Legislators discussed specific areas within the rule changes with Ms. Turpin, including:

- The PDMP has moved to a different branch within the ADH, and has been updated to the Substance Misuse and Injury Prevention branch
- Language was inserted allowing access by the Arkansas Medicaid Prescription Drug Program
- Language was inserted concerning information to be provided to insurance carriers for the purpose of verifying prescriber or dispenser registrations with the PDMP
- Additional language was inserted to provide for research
- Language was inserted for the mandatory usage of the PDMP by prescribers
- Two new members have been added to the Arkansas Drug Monitoring Program Advisory Committee
- Language was inserted for the development of prescribing criteria for controlled substances with reports to be generated to prescribers, dispensers, and licensing boards based on this criteria
- Language was inserted for the implementation of real time reporting by the PDMP when funding and technology become available
- Language was inserted for the penalty of the failure to use the PDMP
- Language was inserted allowing access by the OMIG
- Language was inserted to allow for the exchange of data between the Arkansas PDMP and federal PDMP programs

Representative Ladyman stated that without objection, the rule will stand as reviewed.

Overview of Medicaid Behavioral Health Transformation

Representative Ladyman recognized Jay Hill, Director, Division of Aging, Adult, and Behavioral Health Services, DHS, and Patricia Gann, Deputy Director, Division of Aging, Adult, and Behavioral Health Services, DHS. Ms. Gann gave a presentation on the DHS Beneficiary Support in forensics. In August, 2019, DHS launched a behavioral health support line for persons who have been impacted by and/or are suffering from mental health, substance abuse, or addiction issues. The phone line is open Monday through Friday from 8:30 a.m. to 4:30 p.m. Should a person not have Medicaid or private insurance, or other means to make a payment, they are directed to a contract provider to provide services. Any Arkansan can receive help in locating a provider in their area. Services that are available include individual and group counseling, substance abuse and addiction counseling, medication management, help during a mental health crisis,

and family counseling. Under a new outpatient behavioral health program counseling is now available for children under the age of four years, called infant mental health. These are Dyadic services provided to the child and parent. Flyers with information are being distributed by the Arkansas Foundation for Medical Care (AFMC) to county offices and primary care physicians.

Under the Outpatient Behavioral Health Services (OBHS) program, there are no caps on providers, allowing providers to be certified in the state of Arkansas. This is one of the three pillars of the transformation to behavioral health, which allows an increase in access to services across the state. In 2017 there were 31 independently licensed practitioners. Currently, there are 292 certified independently licensed clinicians. In 2017, there were 253 behavioral health agencies. Currently, there are 312 certified behavioral health agencies.

Representative Ladyman recognized Jay Hill who gave an update on the management of the state's forensic evaluation system. Arkansas ranks 3rd nationally in the number of forensic evaluations that are ordered. The Arkansas State Hospital (ASH) receives approximately 2,000 orders annually. In the past three years, the hospital has been responsible for 4,698 evaluations. There are three staff evaluators. The evaluations are completed through partnerships with local community mental health centers under contract to provide services. The community health centers have clinically trained evaluators on staff and they will see that the evaluation is completed and a report is sent back to ASH. There are currently 450 open cases, 360 of which are considered actionable. Actionable cases are those in the process of getting completed. Incentives have been created for the community health centers. The evaluations are to be completed within 60 days. There were 460 overdue evaluations, but following a new program developed the number is now at 91. The evaluation process has been updated, communication with the community health centers has improved and four personnel have been added. There is now a treatment recommendation report with the goal of intervening and stabilizing individuals whenever possible. There are now diversionary efforts with some of the courts working and partnering with the Administrative Office of the Courts (AOC) to provide individuals with treatment. DHS is working with jail administrators, crisis stabilization units, the sheriffs association, the AOC, prosecutors, and public defenders.

Senator Irvin and Representative Ladyman discussed the reversal of a decision by the Arkansas Employee Benefits Division (EBD) regarding disabled dependents' eligibility for insurance coverage under their parent's policy. The reversal of the EBD decision allows those dependents to remain on their parent's policy.

There being no further business, the meeting adjourned at 3:30 p.m.