

DRAFT MINUTES

Senate Committee on Public Health, Welfare, and Labor

House Committee on Public Health, Welfare, and Labor

Monday, November 09, 2020

10:00 A.M.

Committee Members Present: **Senators** Missy Irvin, Chair; Jimmy Hickey, Jr., Kim Hammer, and Bill Sample **Representatives** Jack Ladyman, Chair; Mary Bentley, Karilyn Brown, Bruce Coleman, Deborah Ferguson, Vice-Chair; Kenneth Ferguson, Fredrick Love, John Payton, Clint Penzo, and Jeff Wardlaw

Other Legislators Present: **Senators** Jonathan Dismang and Linda Chesterfield **Representatives** Marsh Davis, Denise Ennett, Jon Eubanks, Vivian Flowers, Steve Hollowell, Tippi McCullough, Jamie Scott, and Danny Watson

Call to Order and Comments by the Chairs Representative Ladyman called the meeting to order. Representative Ladyman reminded legislators that if they were wanting to introduce legislation regarding medical scope of practice, they needed to introduce their ISP and submit it before November 30, 2020.

Consideration to Adopt the October 15, 2020 Meeting Minutes [Exhibit C] Without objection, the minutes were approved.

Discussion of 5-G Network and what it means for the Healthcare Industry [Handout 1] Joseph Sanford, MD, Director of Center of Digital health, University of Arkansas for Medical Sciences discussed the fifth generation of cellular network known as 5-G. It represents a new usage of an existing radio frequency spectrum bandwidth. 5-G represents 3 bands that are primarily composed of low band. It is well below visible light. Because these radio waves are of higher energy, the public media has expressed concerns to the penetration of them. Sanford stated this is not supported, to his knowledge, by medical evidence or research. There is a large amount of infrastructure work to do in regards to leveraging data interconnects. That includes dark fiber currently underground done by various companies and state agencies. The additional opportunity for wireless specifically, is dependent upon fiber backhauls because data has to go from cell towers to the “trunk”. Rural areas have low, mid, and high bands. The advantage to high band fibers is its data capacity, but it has less range meaning a greater density of cell towers is needed. Rural areas don’t typically have a high density of cell towers. High bands are limited to more urban areas in Arkansas. The exposure to the frequencies being discussed is not unusual nor is it cumulative in dosage. The time of exposure given the energies at play have not been shown as harmful to people’s health.

The Arkansas Department of Transportation’s dark fiber network is expansive, but some areas have not been lit up. For 5-G to be effective, a high speed data connect needs to be connected to a trunk. Without high speed interconnects, the 5-G radio only communicates within that radio’s circumference. Areas that are unserved or underserved are defined as having little to no broad band.

Discussion of COVID-19 Effects on Unemployment Insurance Employer Claims Charges for 2020

[Handout 2] Mike Preston, Cabinet Secretary, Department of Commerce discussed the unemployment insurance (UI) trust fund and that it is currently calculated by the base tax rate and the stabilization tax rate. In September of 2020, \$165 million dollars was appropriated from CARES Act funding to increase the

unemployment insurance trust fund balance. This was to ensure there was not an increase in the stabilization tax rate. Despite that, many industries such as manufacturing, hospitals, and clinics were still greatly affected. Roughly 26,000 employers had over \$207 million in UI claims for the quarter ending June 30, 2020. This could lead to difficulties in hiring for the future. After looking at solutions implemented by other states, the Division of Workforce Services has decided to administratively deem the \$165 million previously transferred, as a voluntary contribution to the trust fund. An additional \$50 million from the CARES committee will be needed making it a total of \$215 million in voluntary contributions. No emergency appropriation should be needed.

Department of Human Services, Division of Developmental Disabilities Services, Review of Rule

[Exhibit F] Mark White, Chief Legislative & Intergovernmental Affairs Officer and Chief of Staff, DHS discussed the addition of 600 slots to the existing Community & Employment Supports (CES) Home & Community Based Waiver. This is a Medicaid waiver that serves the developmentally disabled population and allows for home and community based services. The addition of 600 slots will hopefully reduce the large waiting list for these services. The waitlist hovers around 3,400-3,500 individuals. There will be 100 priority slots available to children who come into Department of Children and Family Services custody and are in need of waiver services. These slots will be funded through premium tax revenue from the premiums that are paid on the Provider-Led Arkansas Shared Savings Entity (PASSE) program. Providers have the ability to negotiate their own rates based on the services they provide.

Melissa Stone, Director, Division of Developmental Disabilities Services, DHS discussed that those looking for CES are informed of Human Development centers which have no waiting lists, but due to COVID-19, it appears people are less likely to go into those development centers. Those signing up for services are typically those who signed up for services as children, but, due to a lack of slots, they have been unable to receive services.

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

Department of Human Services, Division of County Operations, Review of Rule [Exhibit G]

Mark White, Chief Legislative & Intergovernmental Affairs Officer and Chief of Staff, DHS discussed the reimplementation of transitional Medicaid eligibility for one particular category of Medicaid client which is the Parent/Caretaker category. This category includes individuals who have a child in the home and have very low income, specifically those who do not qualify for Arkansas Works. This is 17% of the federal poverty level which equates to roughly \$300 that these individuals can earn at the most to be in this category. If individuals go above this, they are eligible for up to 6 months of transitional Medicaid. This coverage lapsed in 2014 because the federal law requiring it had a sunset clause. The rule is just for this one category. It is not expected that a large amount of new dollars will be needed to fund the program.

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

Department of Human Services, Division of Medical Services, Review of Rule [Exhibit H]

Mark White, Chief Legislative & Intergovernmental Affairs Officer and Chief of Staff, DHS discussed the amendments to the Medicaid provider manual that would remove specific brand names. This, in turn, should reduce requests to modify the manual.

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

Department of Human Services, Division of Medical Services, Review of Rule [Exhibit I] [Handout 3]

Elizabeth Pittman, Deputy Director, Division of Medical Services, DHS discussed the federal requirement of

Electronic Verification Visit (EVV). EVV is a process that uses electronic means to verify visits for certain in-home services that will be effective December 4, 2020. The visits will collect data such as the type of services provided, the client receiving the service, and the date of the service. The pilot program began October 23, 2020. 5 pilot providers have participated and verified a number of visits. All caregivers who will be using EVV for personal care, attendant care, and respite services must enroll with Arkansas Medicaid. They may do so through the Provider Portal, or by filling out and mailing in a paper application. Roughly 12,000 caregivers have enrolled thus far. If providers opt out of using the free Authenticare system provided with EVV, they may choose to use a third party system, but the system must comply with requirements set by Centers for Medicare and Medicaid Services.

Mark White, Chief Legislative & Intergovernmental Affairs Officer and Chief of Staff, DHS discussed the process of choosing Authenticare. The cost of the contract is paid for by federal dollars alongside state dollars.

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

Arkansas Department of Health, Division of Health Facility Services, Review of Rule [Exhibit J] Laura Shue, JD, General Counsel, Arkansas Department of Health discussed the amendments in regards to Critical Access Hospitals regarding licensing standards and related facilities. These amendments comply with Act 315 of 2019 to remove the word regulation and Act 620 of 2019 to report abortion complications. The Department of Health will compile aggregate data and put this report online. It will also comply with Act 889 of 2019 to improve plan review which allows for licensed architects or engineers to approve any improvements to hospitals and Act 977 of 2019 to report transfers of patients from the care of a lay midwife. The changes also standardize tuberculosis prevention practices to follow Centers for Disease Control and Prevention recommendations.

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

Arkansas Department of Health, Division of Health Facility Services, Review of Rule [Exhibit K] Laura Shue, JD, General Counsel, Arkansas Department of Health discussed rules related to hospitals and related institutions regarding licensing standards and related facilities. These amendments comply with Act 315 of 2019 to remove the word regulation, Act 620 of 2019 to report abortion complications, Act 889 of 2019 to improve plan review, Act 977 to report transfers of patients care of a lay midwife. The changes also, standardize tuberculosis prevention practices to follow Centers for Disease Control and Prevention recommendations.

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

Arkansas Department of health, Division of Health Facility Services, Review of Rule [Exhibit L]
Item L was put on hold until the next meeting in order to get additional information.

Interim Study Proposals

Motion to Adopt for Study/Second

Sen. Hammer/Rep. Bentley

ISP2019-173 Requesting House Committee of Public Health, Welfare, and Labor study methods to increase healthcare choices and access to maternity, prenatal,

postnatal, and reproductive healthcare by utilizing certified nurse midwives.

Sen. Hammer/Rep. Bentley

ISP2019-175 An act to modify the application process for certification to practice as an Orthotic Assistant, Orthotic/Prosthetic Assistant, or Prosthetic Assistant and for other purposes.

Sen. Hammer/Rep. Bentley

ISP2019-176 Requesting that the Senate Committee on Public Health, Welfare, and Labor Study Removal of the Collaborative Practice Agreement Requirement of Advanced Practice Registered Nurses and Granting Advanced Practice Registered Nurses Full Practice Authority including Full Prescriptive Authority.

Representative Payton made a motion to hold ISP2019-174 over until the next committee meeting due to the absence of the Representative Love.

Senator Irvin seconded the motion.

After discussion by the committee, Senator Hammer made a substitute motion to refer ISP2019-174 to the next subcommittee meeting in order to make a recommendation on whether or not to adopt the ISP2019-174.

Representative D. Ferguson seconded the motion.

Senator Hammer's substitute motion carried.

Other Business [Handout 4] Senator Missy Irvin presented a report on the Buffalo River Conservation Committee (BRCC). The funding proposal update included a number of programs being funded. This included assisting the city Jasper with a waste water treatment facility. Because there are no public restrooms, businesses are unable to keep up with the amount of traffic coming in and out due to a lack of infrastructure. There are also two unpaved roads projects in Searcy County and Newton County. Additionally, funding has been approved for a Dark-Sky Light Conversion Proposal in the Town of Gilbert to help promote tourism.

Senator Irvin moved to accept the report as a final progress report from the Buffalo River Conservation Committee.

Representative Bentley seconded the motion.

Senator Irvin's motion carried.

Without any further business, the meeting was adjourned at 12:19 PM.