

MINUTES

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

September 13, 2018

The House and Senate Interim Committees on Public Health, Welfare and Labor met Thursday, September 13, 2018, in Committee Room A, MAC Building, Little Rock, Arkansas.

Public Health Senate Members Attending: Senators Eddie Cheatham, Vice Chair; Lance Eads, and Missy Irvin.

Public Health House Members Attending: Representatives Jeff Wardlaw, Chair, Deborah Ferguson, Vice Chair; Mary Bentley, Bruce Coleman, Justin Gonzales, Kim Hammer, Ken Henderson, Jack Ladyman, Stephen Magie, Austin McCollum, David Meeks, Josh Miller, Donald Ragland, and Richard Womack.

Other Legislators Attending: Senators: None. Representatives Fred Allen, Sarah Capp, Les Eaves, Kenneth Ferguson, Monte Hodges, Steve Hollowell, Mathew Pitsch, and Laurie Rushing.

Comments by the Chairs

Senator Eddie Cheatham called the meeting to order.

Consideration to Adopt the August 6, 2018, Meeting Minutes (EXHIBIT C)

Senator Cheatham stated that without objection, the August 6, 2018, meeting minutes are adopted

Department of Human Services (DHS), Division of Medical Services, Review of Rule ARChoices 1-18, Resource Utilization Groups (RUGS) Which Determines the Number of Attendant Care Hours for an ARChoices in Homecare Recipient (EXHIBIT D)

Mark White, JD, Deputy Director, Division of Aging, Adult & Behavioral Health Services, Craig Cloud, Director, Division of Provider Services & Quality Assurance, and Kelley Linck, Chief, Legislative and Governmental Affairs, all with DHS; presented the proposed rule change.

DHS is submitting this rule change in order to bring the ARChoices in Home Care waiver program into compliance with the Administrative Procedure Act, Ark. Code Ann. § 25-15-204. This change is called the Resource Utilization Groups (RUGS) program; and it changes:

- ❖ The methodology used to determine the amount, duration, and frequency of authorized attendant care hours for ARChoices program participants
- ❖ The use of the ArPath Assessment tool for assessments, with determination of attendant care hours using an evidence-based methodology

The RUGs methodology is currently the only method permitted under the terms of the ARChoices Medicaid Waiver, as approved by CMS, to allocate attendant care hours for beneficiaries. DHS is developing the plans of a new method for proposal, and to seek CMS approval of that method. In the meantime, the agency proposes to adopt the RUGs methodology as a short-term measure to ensure that no eligible Arkansan is denied waiver services while the new method is finalized.

Representative Hammer requested the following information:

- ❖ The amount of money that was saved by cutting service hours to clients who are receiving services
- ❖ The cost of adding new people versus money saved by cutting service hours; and if the two offset each other.
- ❖ A financial analysis before this proposed rule change goes to Administrative Rules & Regulations Subcommittee meeting
- ❖ How many people DHS was able to add to the waiver, and what was the cost to add these people

AUDIENCE TESTIMONY

Bradley Ledgerwood	Recipient of Services
Kevin DeLiban	Legal Aid of Arkansas
Ann Ledgewood	Caregiver
Andrea Reeves	Recipient of Services
Kevin Hoover	Recipient of Services
Brenda Stinebuck	Executive Director, Spa Independent Living (SAILS), Hot Springs, AR
Jessie Edwards	Employee of Spa Independent Living (SAILS), Hot Springs, AR
Thomas Nichols	Managing Attorney, Disability Rights Arkansas (DRA)

Mr DeLiban, along with all of the other audience testifiers, testified against the RUGS program and voiced the following concerns:

- ❖ Before RUGS, clients could be eligible for eight (8) hours daily, instead of five and one-half (5 ½) hours daily, causing:
 - People to lie in their own waste
 - People to go without food
 - Very little social contact
- ❖ RUGS has not been validated or verified in Arkansas
- ❖ As yet DHS is not able to generate data on the magnitude of the cuts
- ❖ There is no documented evidence of problems with the pre-existing system of nurse discretion
- ❖ The algorithm the RUGS program uses to determine the hours for each client is unfair to the clients
- ❖ Doctor's opinions are excluded

Representative Hammer made a motion and Representative Ladyman seconded the motion, to send this rule out with an unfavorable recommendation from the Public Health Committee. The motion passed without objection.

Arkansas Department of Environmental Quality (ADEQ), Review of Rule Entitled, Regulation #2, Establishing Water Quality Standards for Surface Waters in Arkansas. The City of Huntsville is Requesting a Third Party Rulemaking, Allowing the City to Seek a Site-Specific Criteria and Designated, but not Existing or Attainable, Uses in the Stream Segments; which Allow Huntsville to be Compliant with its NPDES Permit While Making Certain that its Effluent Does Not Limit the Attainment of Any of the Designated Aquatic Life Uses of the Stream Segments or Any of the Uses in Beaver Lake, Including the Domestic Water Supply Use. (EXHIBIT E)

Michael Grappe', Chief Program Officer, ADEQ, and Charles Nestrud, JD, Attorney, with the Barber Law Firm and private counsel for the city of Huntsville, AR; presented the review of Regulation #2 (*Establishing Water Quality Standards for Surface Waters in Arkansas*), in the Waste Water Division.

As required by ADEQ under the National Pollutant Discharge Elimination System (NPDES), Permit No. AR0022004; the city of Huntsville, Arkansas undertook a study to evaluate all options for achieving compliance with water quality standards for dissolved minerals. Huntsville completed the study and submitted a report which recommended establishing site specific criteria for dissolved minerals for certain stream segments downstream of the Huntsville Municipal Wastewater Treatment Facility. After the initial comment period and discussions with ADEQ, Huntsville issued a revised report.

Senator Eddie Cheatham stated that without objection this rule will stand as reviewed.

Arkansas Minority Health Commission Annual Report (ACA 20-2-103), and the Annual Health Workforce Report (ACA 25-1-117) (EXHIBITS F-1, F-2, F-3)

Sharonda Love, Director, Arkansas Minority Health Commission, presented both reports to the committee members.

Strategic planning has enabled the commission to achieve the planned goals and objectives that were set. Arkansas Minority Health Commission's (AMHC) five-year strategic plan targets diabetes, asthma, nutrition, physical activity, and tobacco use.

Consideration of the following Interim Study Proposals (ISP) for Adoption, Study, and Referral to a Subcommittee of the Senate and House Public Health, Welfare & Labor Committees (EXHIBITS G-1 - G-3):

- ❖ **ISP 2017-126** – “Requesting that the House Committee on Public Health, Welfare, and Labor Study the Need for the Training and Education of Those Who Interact with Individuals with Epilepsy on Seizure Recognition and Ways to Effectively Manage and Support Individuals with Epilepsy, and to Provide Community Support for Individuals with Epilepsy.” **(EXHIBIT G-1)**
 - *Representative* Kim Hammer, Sponsor
- ❖ **ISP 2017-131** – “An Act to Modify the Definition of “Ophthalmic Dispensing” to Include the Preparation and Dispensing of Contact Lenses; and for Other Purposes.” **(EXHIBIT G-2)**
 - *Representative* Stephen Magie, Sponsor
- ❖ **ISP 2017-132** – “An Act to Authorize a Licensed Dispensing Optician to Refract Eyes and Dispense Eyeglasses in Certain Conditions; and for Other Purposes.” **(EXHIBIT G-3)**
 - *Representative* Stephen Magie, Sponsor

Senator Eddie Cheatham made a motion to adopt all of the above listed ISPs, and refer them to the Health Services Subcommittee. The motion passed without objection

The meeting adjourned at 12:30 p.m.