

Approved: April 26, 2012

(Date)

MINUTES OF THE SENATE WAYS AND MEANS COMMITTEE

The meeting was called to order by Chairperson Carolyn McGinn at 10:30 AM on Friday, January 20, 2012 in 548-S of the Capitol.

All members were present except Senators Vratil, Emler and Schmidt, who were excused.

Committee staff present:

Jan Lunn, Committee Assistant
Melinda Gaul, Chief of Staff, Senator McGinn's Office
Eli Johns, Intern, Senator McGinn's Office
Alan Conroy, Director, Legislative Research Department
J. G. Scott, Senior Fiscal Analyst, Legislative Research Department
Michael Steiner, Senior Fiscal Analyst, Legislative Research Department
Bobbi Mariani, Fiscal Analyst, Legislative Research Department
Jill Wolters, Office of the Revisor of Statutes
David Wiese, Office of the Revisor of Statutes
Daniel Yoza, Office of the Revisor of Statutes

Conferees appearing before the Committee:

Iraida Orr, Research Analyst, Legislative Research Department

There were no bill introductions.

Joint Committee on Home and Community Based Services Oversight Report:

Iraida Orr, Analyst, Kansas Legislative Research Department, presented the report to members of the Senate Ways and Means Committee. She reviewed the list of committee members and the committee's statutory charge.

Ms. Orr reported on the topics heard during the days of meetings which included:

- Status of nursing home admissions;
- Impact of budget reductions on the funding, services, and population served by the Home and Community Based Services (HCBS) waivers;
- Impact of the Kansas Department on Aging (KDOA) and the Department of Social and Rehabilitation Services (SRS) program reforms on clients and providers including:
 - Closure and reorganization of SRS community service centers;
 - Expanded use of managed care contracts;
 - Implementation timeline for Financial Management Services (FMS), provider rate reduction, and delays in contract negotiations with service providers;
 - Implementation of Electronic Verification and Monitoring (EV&M) System;

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

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- Standardization of HCBS/Frail Elderly (FE) waiver processes across the state;
- Utilization of psychiatric residential treatment facilities (PRTFs) for children;
- Elimination of funding for college of Direct Supports training;
- Inclusion of faith-based and community initiatives language in provider contracts;
- Implementation by SRS of measures for prevention of fraud and abuse;
- Update on tele-health project;
- Update on the Money Follows the Person (MFP) demonstration grant services;
- Status of Rainbow Mental Health Facility repairs pursuant to the Fire Marshal's report;
- SRS legislation proposals for fiscal year 2012;
- Assisted Living facility funding option for low-income seniors;
- Diversification into HCBS by small rural nursing homes; and
- Status of access to dental care and varying options for improvement.

In addition, unassigned topics were discussed during the Oversight meeting, which were:

- The Release of Information Form used by SRS when a legislator forwards a constituent issue requiring agency assistance. The Oversight Committee recommended SRS re-evaluate whether the form violates an individual's right to privacy and whether the process could include SRS's response and resolution to the problem reported to the legislator without revealing a constituent's personal information.
- SRS' fraud and abuse prevention efforts. The Oversight Committee requested a job description of the fraud investigators within its program be furnished as well as a complete and accurate report of fraud discovered including a cost/benefit analysis of the fraud program. It was suggested this report contain information from a six-month time period and include all expenditures and savings from the program.
- Managed care was discussed and the Oversight Committee recommended any RFP the State considers relative to the implementation of a Medicaid managed care program exclude Kansas HCBS/DD services and that the 2012 legislature impanel an oversight committee specifically focused on the policy and implementation questions connected with managed care approach to Medicaid programs.

Ms. Orr provided the Committee's conclusions and recommendations, which are detailed in Attachment 1. Addenda A, B, and C were reviewed. Addendum A contains information concerning the number of individuals transferred from state or private institutions to HCBS waivers as well as savings resulting from these transfers. Ms. Orr reported that according to the Department of Social and Rehabilitation Services, the

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tracking of some information has been discontinued to staffing reductions. Addenda B and C contained information requested by the Committee.

With regard to a question concerning why some waiver information was not tracked, Ms. Orr indicated the agency reported only information required by statute. Concern was expressed that valuable tracking information was omitted from the report. Sara Arif, Kansas Department on Aging, commented she was unaware that information was unavailable; she will provide the numbers for all waivers next week. Another committee member requested that the information contained in Addendum A be furnished for a three-year period to provide a basis for comparison.

In follow-up to the Release of Information form, a committee member commented that SRS had submitted a revised form, which was rejected. Work will continue on the development of an acceptable Release of Information form; follow-up will be provided to the Senate Ways and Means Committee members. Ms. Deckard, Legislative Research Department, commented that as long as the individual signs the Release of Information form designating to whom the information can be released, there is no violation of the Health Information Portability and Accountability Act (HIPAA). A committee member requested additional information.

A committee member requested information concerning the capacity of the Parsons State Hospital. Susan Duffy, Legislative Research Department, will provide that information at a later date.

Considerable discussion was heard about the Financial Management System and how the \$115 provider rate was reached. Amy Deckard, Legislative Research Department, clarified that prior to November 1, 2011 the provider rate included funding for both the payroll agent and the direct care/support provider. The Centers for Medicare/Medicaid Services (CMS) mandated the separation of the administrative (payroll agent) fee from the provider payment. SRS, through various studies on actual administrative fee costs, set the administrative fee rate at \$115 per member per month person (PMPP). Sara Arif, Department on Aging, elaborated that the national payroll agent average payment is \$98.10 PMPP. When the payroll agent and the direct care provider payments were blended, it allowed the payroll agent flexibility in how funds were distributed. Now there is a set payroll agent payment and a separate, specific amount dedicated to the direct care provider.

A committee member asked if information was available to compare the provider rates (both payroll agent and direct provider) to the number of clients being served by the payroll agent. Ms. Arif will respond at a later time.

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Ms. Arif clarified that the \$115 administrative rate was set by Department on Aging, based on the Myers and Stauffer Study. It is possible that the direct care providers could be receiving less funding. The Committee requested written follow-up detailing what direct care providers are being paid by the payroll agent on behalf of HCBS recipients. Ms. Arif confirmed some payments to direct care providers on behalf of FE waiver recipients have been reduced.

A question was asked concerning the DD waiver waiting list funding, Ms. Deckard clarified that there were some delays in Community Developmental Disability Organizations (CDDOs) contract negotiations. These delays resulted in a freeze on the release of legislative appropriations to serve additional persons on the waiting list. Ms. Deckard could not respond whether the delay was purposeful.

The meeting was adjourned at 11:35 a.m.