

## **MINUTES**

### **SPECIAL COMMITTEE ON INSURANCE**

October 20, 2003  
Room 514-S—Statehouse

#### **Members Present**

Senator Ruth Teichman, Chair  
Senator David Adkins  
Senator Mark Buhler  
Representative Patricia Barbieri-Lightner  
Representative Mike Burgess  
Representative Stan Dreher  
Representative Eber Phelps  
Representative Scott Schwab  
Representative Bonnie Sharp  
Representative Judy Showalter

#### **Members Absent**

Senator Paul Feliciano

#### **Staff Present**

William G. Wolff, Kansas Legislative Research Department  
Amy Deckard, Kansas Legislative Research Department  
Ken Wilke, Revisor of Statutes Office  
Gina Poertner, Committee Secretary

#### **Others Present**

Jeff Bottenberg, Health Insurance Association of America  
Bill Sneed, Health Insurance Association of America  
Christina Collins, Kansas Medical Society  
Brad Smoot, Blue Cross Blue Shield of Kansas  
Larrie Ann Lower, Kansas Association of Health Plans  
Harry Bossi, Department of Administration  
Jarrod Forbes, Kansas Insurance Department  
Doug Bowman, Coordinating Council on Early Childhood Developmental Disabilities  
Mark Tremain, Parent  
Karen Rossetti, Infant-Toddler Services of Johnson County

## Morning Session

Senator Teichman called the meeting to order at 9:00 a.m. on October 20, 2003, in Room 514-S of the Capitol.

The Chairperson introduced Doug Bowman of the Coordinating Council on Early Childhood Developmental Disabilities ([Attachment 1](#)). Mr. Bowman discussed the efficiency of early intervention of developmental disabilities and proposed that health insurance carriers be required to cover common therapies utilized in early intervention.

A member asked if an overwhelming number of children would need to be served should this proposal become policy. Mr. Bowman explained that they are not proposing a change in eligibility criteria; therefore, the number of children served would not be overwhelming. When asked if this population is easy to diagnose, Mr. Bowman stated that although there is some gray area, it is relatively easy to make a diagnosis. He explained that identifiers for delayed development have been refined, advancing the diagnostic process.

Information was requested as to the number of children served and the amount of money spent in the past five years in this area. Mr. Bowman offered to obtain the information.

Referring to a comment in the conferee's remarks, a member asked for clarification regarding the reason parents do not want to utilize insurance coverage for early intervention costs. Mr. Bowman explained the issue had to do with lifetime service caps and the fear that those caps will be reached if services are received early in the life of the disabled person. A follow up question concerned whether any insurance companies refuse to cover services. Mr. Bowman stated that most companies follow this pattern of refusal and he would be willing to forward names of these companies. He also explained that there is a difference between habilitation and rehabilitation services, adding another dimension to acceptance and denial of payment. He suggested that legislation should exempt early intervention diagnosis and treatment from a lifetime cap placed on a health policy or plan.

In regards to the question of what percentage of children are missed in being diagnosed with developmental disabilities, Mr. Bowman stated that approximately 2 percent of children nationally and 1.9 percent of children statewide are being missed. He also was asked if there are certain communities not doing well with early intervention strategies. He stated that Kansas is working hard, border to border, to identify children in need of services.

Responding to a question of moneys available for the developmentally disabled, Mr. Bowman indicated that public funds and services have been enhanced; private insurance has seemingly not made progress.

Staff asked whether Mr. Bowman's organization was a creature of state or federal law. He stated that it falls under both federal and state law, with the Kansas law beginning at KSA 74-7801.

The Chairman called upon Mark Tremain for his comments as a parent of a child with special needs. He related the difficulty in obtaining insurance coverage secondary to the needs of his child; a difficulty shared by many parents of children with similar needs.

A member asked if early intervention would be considered an early investment in order to avoid costs later in the child's life. Mr. Tremain stated that costs are dependent on the child's specific delay or disability and whether the child ultimately overcomes the impairment. He related that his son's diagnosis is Down's Syndrome, which is lifelong.

Concerning the 2 percent of children whose diagnoses are missed, Mr. Bowman was asked about a process for finding these children. He replied that the medical community is the primary source for identification. However, he added that parents have a choice to decline services should their child be identified as having developmental issues. Also, services for children need to be promoted to inform parents of the variety of services available. A flyer listing infant-toddler services was presented to the Committee.

Next to speak was Karen Rossetti, Infant-Toddler Services of Johnson County (Attachment 2). Ms. Rossetti discussed constraints in billing private insurance companies on services for developmental issues. This includes the limitation imposed by the law on a source other than the family paying any co-pay or deductibles charged for services. Since most insurance companies use co-pay and deductibles charges as part of their policies, the charge would be contrary to the law. Asked if anyone was trying to change the law, Ms. Rossetti deferred to Mr. Bowman who stated that this piece of federal legislation is up for reauthorization at this time, but the likelihood is that it will be held until spring rather than dealt with this fall.

Ms. Rossetti also spoke of fees charged by insurers and health plans that must be paid by or on behalf of providers, particularly therapists, in order to be eligible for reimbursement. She explained that it is prohibitive for her agency to pay the fees for all of the therapists who provide services. The question was asked whether the therapists themselves could pay the fee and be qualified for reimbursement. Ms. Rossetti said that would be possible.

A member questioned whether under a mandate to pay, insurers would still require providers to be accredited in order to be reimbursed. Ms. Rossetti stated that they probably would have to go through accreditation, and that it would be worthwhile for her organization to pay the fee for full-time therapists because they would be guaranteed that money would be coming back into the program, however, given the difficulty families are having making the co-payments and deductibles Infant-Toddler Services of Johnson County decided that paying the fee is not worthwhile.

The Chairperson then introduced Larrie Ann Lower, Executive Director, Kansas Association of Health Plans (Attachment 3). Ms. Lower stated opposition to this mandate and referred to past testimony.

Bill Sneed, Health Insurance Association of America, was introduced (Attachment 4). Mr. Sneed explained that all of the insurance companies he knows of have benefit caps in place. He stated that this proposed mandate seems to be an attempt to cost-shift a social problem to the private sector, which can barely afford the system as it is. He asked that this and other mandates be rejected by the Committee.

A member questioned if the Legislature needed to look deeper into public funding for early intervention and treatment. Mr. Sneed answered that if there is an issue for the social good of the state, then the State of Kansas should be the entity to address that issue rather than private insurers.

After a 15-minute recess, the Chairperson asked the Committee if there was interest in deleting or revising any of the current mandates reviewed at the first meeting. Absent that, she suggested direction be given to staff that the Committee has reviewed current statutory mandates and sees no need for change at this time. She suggested further, that the direction include a recommendation that the Legislature continue to use the 1999 law requiring new mandates enacted by the Legislature to be applied first to the state employee health plan. As that law requires, a study on the impact of the mandate would be completed and presented to the Legislature.

*Representative Schwab moved, seconded by Representative Dreher, to maintain status quo on current statutory mandates. The motion carried.*

The Chairperson asked for discussion on other topics heard during the course of the Committee meetings.

Regarding the proposal to mandate coverage for early intervention and treatment of children with special needs, a member commented that she has not seen any proposed legislation regarding children with special needs and is not supportive of new legislation in this area. Another member suggested drafting a bill for consideration in order to calculate the impact of such a mandate. Following discussion, the Chairperson proposed that the Committee make no recommendation until the proponents provide specific information about what they are asking the Legislature to enact. By consensus, the Committee makes no recommendation at this time.

Concerning the proposal to mandate coverage for contraceptives, a member said the Committee should move ahead and recommend enactment of the mandate. Proponents of the measure have met the requirements of KSA 40-2248 and 40-2249. Further, the Committee received the actuary's report on the potential cost of the mandate. Any cost associated with the mandate would be minimal since most insurers already provide coverage for contraceptives. Another member stated that the impact lies with people of lower incomes whose plans do not cover contraceptives. The member supports a mandate to require coverage of contraceptives because it would give people another way to plan for children.

Other members commented that proponents demonstrated no need for the mandate. They asked who is not already covered. An additional comment was expressed that health care costs already are rising to the point that people are struggling to maintain the coverage they have.

As a matter for clarification, the question was asked whether self-insured plans would be impacted by mandates. Mr. Smoot informed the Committee that any self-insured group that qualifies under the Employee Retirement Income Security Act (ERISA) is free to bypass state insurance regulations. Many small businesses, however, are not self-insured and would be impacted.

*Representative Barbieri-Lightner moved, seconded by Representative Schwab, recommending that the Legislature not enact proposed legislation mandating coverage for contraceptives. A substitute motion was made by Representative Sharp, seconded by Representative Showalter, recommending that the appropriate standing committees of the Legislature continue consideration of the issue. The substitute motion failed. The original motion carried.*

Senator Teichman opened the floor for discussion on the proposed mandated coverage for clinical trials. Members supporting the mandate indicated that proponents had met the statutory requirements under KSA 40-2248 and 40-2249 and the issue should be recommended to the 2004 Legislature. Members opposed to the mandate pointed out that proponents had demonstrated no need for the mandate. All expenses, except out-of-pocket expenses of one of the conferees, were in fact paid by those doing the trial and the two insurance companies involved.

*Representative Sharp moved, seconded by Representative Showalter, to the effect that, while the Committee is not endorsing passage of the bill to mandate coverage for clinical trials, it does recommend that discussion of the issue continue in the next session of the Legislature. A substitute motion was made by Representative Schwab, seconded by Representative Dreher, that the Committee not recommend the mandate for passage in the next session of the Legislature. The substitute motion failed. The original motion failed.*

The Committee has no recommendation on the issue of clinical trials.

Senator Teichman asked Dr. Wolff, Kansas Legislative Research Department, for comments. Dr. Wolff explained that staff will draft a Committee report reflecting the work of the Committee along with conclusions and recommendations. The draft report will be sent out to each member for

comment and approval. A deadline will be included for responses. Following this, the report will be amended to reflect suggested changes or considered approved as drafted, and submitted to the Legislative Coordinating Council by December 1, 2003.

The Chairperson thanked the members for their work during the interim.

The meeting was adjourned at 11:20 a.m.

Prepared by Gina Poertner  
Edited by Dr. William G. Wolff

Approved by Committee on:

December 8, 2003  
(date)