

INTERIM JOINT COMMITTEE ON STATE GOVERNMENT

Minutes of the 4th Meeting of the 2022 Interim

September 27, 2022

Call to Order and Roll Call

The fourth meeting of the Interim Joint Committee on State Government was held on Tuesday, September 27, 2022, at 1:00 PM, in Room 149 of the Capitol Annex. Representative Jerry T. Miller, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Robby Mills, Co-Chair; Representatives Jerry T. Miller, Co-Chair, and Kevin D. Bratcher, Co-Chair; Senators Ralph Alvarado, Christian McDaniel, Michael J. Nemes, Wil Schroder, Adrienne Southworth, Damon Thayer, and Phillip Wheeler; Representatives John Blanton, Adam Bowling, McKenzie Cantrell, Jim DuPlessis, Jim Gooch Jr., Derrick Graham, Richard Heath, Samara Heavrin, Mary Beth Imes, DJ Johnson, Matthew Koch, Scott Lewis, Savannah Maddox, Patti Minter, Kimberly Poore Moser, Jason Nemes, Tom Smith, Nancy Tate, James Tipton, Ken Upchurch, Russell Webber, and Buddy Wheatley.

Guests: Sharron Burton, Chris Chamness, Lindy Casebier, Rosemary Holbrook, Mary Elizabeth Bailey, and Alan Hurst - Kentucky Personnel Cabinet; Michael Board, Kentucky Public Pensions Authority; Carlos Luna and Judge Palmer, Kentucky Interactive; John Steffen, Kentucky Registry of Election Finance.

LRC Staff: Alisha Miller, Daniel Carter, Alaina Spence, and Peggy Sciantarelli.

Motions to approve the minutes of the July 19 and the August 25 meetings were seconded and passed without objection by voice vote.

2023 Kentucky Employees' Health Plan

Lindy Casebier, Deputy Secretary/Legislative Liaison of the Personnel Cabinet, introduced Sharron Burton and Chris Chamness as the new Commissioner and Deputy Commissioner of the Department of Employee Insurance (DEI), effective October 1, 2022. Their testimony included a PowerPoint presentation.

Mr. Chamness testified that over half (54 percent) of KEHP members are school board employees. Early retirees comprise 23 percent of membership, state agencies 18 percent, and quasi groups five percent. Planholder enrollments have gradually decreased,

with approximately 6,000 fewer planholders in 2022 than in 2019. Covered lives have declined by approximately 7,500 since 2020. Although membership is decreasing, average net payments per claim continued to grow over the years, from \$199.26 in 2019 to \$217.32 in 2021. A decrease in claims in 2020, likely due to the pandemic, was followed by a sizeable claims increase in the first half of 2021. Actuarial consultants expect a rising claims trend to continue. KEHP maximizes the use of premiums to provide coverage at low administrative cost. DEI salaries represent less than one-fifth of a penny of KEHP expense; 95.8 percent of plan expense is for claims payments.

Ms. Burton testified that KEHP continues to monitor factors affecting the health plan, such as price inflation, chronic conditions, and use of specialty and traditional drugs. There has been increased utilization in the area of behavior health. Year-to-date claims experience for 2022 is favorable and better than what had been projected. For the 2023 plan year, there will be a 10 percent increase in employer premium contributions. There will be no increase in employee premium contributions and no changes to co-pays, co-insurance, deductibles, or maximum out-of-pocket amounts. The LivingWell High Deductible Plan has been eliminated, and the LivingWell Basic CDHP (without HRA funds) will be the new default plan.

Concluding the overview, Ms. Burton stated that KEHP is constantly reviewing programs and coverages to ensure it is being fiscally responsible and taking care of the needs of its members.

Responding to a question from Representative Graham, Ms. Burton stated that the 6,000 reduction in planholders is due mostly to a general reduction in the employee population.

In response to questions from Senator Southworth on communication with members and the new acupuncture pilot program, Ms. Burton stated that KEHP staff frequently communicate with plan members; e-mails are sent almost weekly. Mr. Chamness stated that the new acupuncture pilot program is ongoing.

Senator Alvarado expressed concern that the savings negotiated by pharmacy benefit managers (PBMs) are not being passed on to consumers who purchase the medication. He referred to past abuse in the state's Medicaid program and stated that there is need for more transparency and for possible reforms statewide across all insurance lines, including the health plan for state employees. He suggested that KEHP's future PBM contract require that planholders receive a substantial percentage of negotiated savings. Ms. Burton responded that CVS is the pharmacy benefit manager for KEHP, and she believes their contract is transparent. It includes several programs with a goal to reduce cost. The Department of Employee Insurance is currently conducting a market check with CVS to ensure that the health plan is paying the indicated market price for drugs. DEI would be open to possible reform but would hope to be part of any discussion. The

Department is readying a PBM request for proposal and is researching different models that are compatible with the state's procurement code. Mr. Chamness stated they are also looking at best practices in other states. DEI has membership in industry organizations where PBM transparency is a frequent topic.

Senator McDaniel stressed the need for society to do a better job in promoting the benefits and importance of individuals being personally responsible for their health. Ms. Burton agreed and stated that is a focus and priority of KEHP's wellness program.

Representative DuPlessis stated that he has been told that rebates intended for the consumer are being cashed in by the PBMs. Ms. Burton explained that the rebates are intended to be passed through 100 percent to the health plan. They are then entered into the trust fund in order to keep premiums down.

Responding to a question from Senator Mills, Ms. Burton explained the reasoning behind increasing the employer premium contribution in 2023 without increasing employee premiums, copays, coinsurance, deductibles, and maximum out of pocket. She also noted that over the last several years employees have seen an increase in their premiums, copays, and coinsurance.

Follow-up on KY Registry of Election Finance Software and Systems

Carlos Luna, General Manager, and Judge Palmer, Director of Technology for Kentucky Interactive (KI), testified in response to concerns that were raised at the committee's August 2022 meeting. Their testimony included a PowerPoint presentation. John Steffen, Executive Director, Kentucky Registry of Election Finance, also participated in the discussion.

Mr. Luna stated that when Kentucky Interactive began serving the Registry, 89 requirements were initially set; after execution of the Statement of Work (SOW), the requirements increased to 683. KI has never increased the cost for added requirements or anything that it has built. The SOW included four milestones, and he discussed the progress of each milestone. Milestones 1 and 2a have been delivered, accepted, and paid by the Registry; milestone 2b awaits KREF acceptance and is unpaid; milestone 3 is in progress; milestone 4, the mobile app, will be done when the whole system is complete. Operational support is ongoing but unpaid. Legislative changes enacted in SB 216 and HB 740 (2022 RS) have been delivered and accepted but are unpaid by the Registry. Challenges faced by KI include agency process improvements, such as moving from paper to online; change in the original scope of the project; and increase in the software development cycle and delivery timelines.

Mr. Luna discussed strengths of the system in the areas of campaign finance reporting, public search, Registry office procedures; and system user feedback relating to suggested improvements in reporting and public search capability. He stated that KI is

committed to continuous improvements and wants the system to be useful to not only the end user but also to the Registry. KI will continue to seek feedback, while coordinating with the Registry to ensure that changes conform to statute, regulations and business process. KI intends to work closely with the Registry to streamline delivery of the remaining system requirements and to apply new project management methodology or changes to minimize system issues or bugs. KI wants to work with the Registry and system end-users to make sure that the campaign finance reporting system is intuitive. They will continue the necessary allocation of resources to address needs of system end-users and Registry staff. In conclusion, Mr. Luna stated that KI has worked successfully with over 300 agencies in the Commonwealth and is open to feedback.

Mr. Steffen stated that the project with KY Interactive should have been completed 2½ years ago. He believes that the work which KI has identified as “additional” belongs under the umbrella of the original Statement of Work. The Registry worked with KY Interactive’s team for nine months to resolve the scope of the project before entering into an agreement. The Registry accepted and paid for Milestone 2a (committee filing dashboard/backoffice) after assurance that work would continue on the remaining issues, but there are still issues with that milestone. Payment has not been made for Milestone 2b (public search) because the Registry is still awaiting completion of a problem-free reporting period. The system still lacks the ability to view and print financial statements, which was identified as a needed enhancement 2½ years ago. Some aspects of the system work successfully, but it has not been made more user friendly and functional for in-house staff. The database sometimes misses information and is still not reliable.

Senator McDaniel spoke of the crucial role of campaign treasurers and the difficulties they face in navigating the campaign filing system. He stated that the new electronic filing system has failed to perform. In anticipation of the upcoming general election, he questioned what KI is doing to restore confidence in the system. Mr. Luna stated that the goal is to make the system succeed. He assured that KI is working to improve the process. They will be adding additional resources and working to ensure that they can meet deadlines and goals for successful filing. He also expressed a desire to receive feedback directly from campaign treasurers and other end users of the system.

In response to a question from Representative Bratcher on whether KI is using up-to-date technology, Mr. Luna stated that the system uses the best and most recent technology but that, as specific functionalities are built into the system, there is need for more end user input from campaign treasurers who use the system. Mr. Palmer said that KI has been considering inclusion of a comment feedback section as part of the filing submission process.

In response to a question from Representative Bratcher on whether there had been a pilot program for the new electronic filing system, Mr. Steffen said he had hoped to have

it tested by user groups prior to implementation, but that was precluded by the existing timeframe and the need to go live with electronic filing.

Senator Thayer stated that he sponsored the 2019 legislation that declared mandatory electronic filing, and he feels its implementation has been a complete and utter failure. The inability to print reports is a huge problem. He questioned why there are still problems with the system three years, and two election cycles, after passage of the legislation—and why did KI not respond to concerns raised by the State Government Committee two years ago. He stated that there are no regularly scheduled legislative elections in 2023, and he believes the General Assembly needs to consider passing a bill with an emergency clause in January to temporarily suspend mandatory electronic filing for one year and allow filing of paper reports. He stated for the record that he believes it is time we give the Registry the authority to start over with a product that lives up to the original premise and tenets of the 2019 legislation.

Responding to Senator Southworth, Mr. Luna stated that KI has worked in various states and previously had worked on the electronic filing system for the Federal Election Commission. The company was recently purchased by Tyler Technologies.

Responding to questions from Representative Miller, Mr. Luna affirmed that Mr. Steffen had been provided a list of the 594 requirements that were added after execution of the Statement of Work. He discussed some of the system requirements and stated that the feature for printing a report was not included in the original requirements. He stated that KI is in the process of instituting a “warning” feature that was requested by the Registry.

In response to a question from Senator Wheeler, Mr. Steffen stated that the Registry has paid KI \$314,517 and has yet to pay an additional cost of \$233,255. Mr. Palmer and Mr. Luna detailed some of the system requirements that KI has found difficult to implement.

Representative Heath stated that his wife is his campaign treasurer and that she has had problems using the system. He suggested that it might be helpful for KI staff to spend time in the Registry’s office to field actual phone calls from users of the system.

Representative Minter expressed concern about the approaching filing deadline and the possibility that the system might again “crash” or become unavailable. Mr. Palmer stated that KI has made resource adjustments to prevent system overload at critical times. They will also be able to respond quickly if any problems occur.

In response to Representative Tate, Mr. Palmer discussed their improved project management methodology and ticketing system. He also confirmed that they have a documented testing process.

When asked by Representative Graham, Mr. Luna stated that KI is a Kentucky based company and that the parent company has a presence in various other states. However, KI has not created an electronic filing system like the Registry's in any other state. He stated that it would be possible for KI to have staff available in person to address any glitches that might occur with the December report filing.

Senator Thayer stated that during his attendance at today's meeting he received messages from three executive branch agencies regarding issues that they have with KI. He reiterated his opinion that it is time to start over with a new vendor.

Representative DuPlessis stated that he can empathize somewhat with KI because he knows how extremely difficult it is to make changes in computer code. The COVID outbreak also may have negatively impacted implementation of the new filing system. He hesitated to place blame but emphasized that now is the time to fix the problem.

Consideration of Referred Administrative Regulations

Nine administrative regulations from the Personnel Cabinet and one administrative regulation from the Kentucky Public Pension Authority (KPPA) were referred to the committee and available on the agenda for consideration. The Personnel Cabinet was represented by Rosemary Holbrook, Assistant General Counsel, Office of Legal Services; Mary Elizabeth Bailey, Commissioner, Department of Human Resources; and Alan Hurst, Acting Executive Director, Office of Employee Relations. KPPA was represented by Michael Board, Executive Director, Office of Legal Services.

Senator Southworth inquired about the amendments in Section 12 of 101 KAR 2:102 and 101 KAR 3:015 relating to leave time for blood donation. Ms. Holbrook and Commissioner Bailey explained that the amendments were merely for clarification purposes.

Discussion concluded, and the meeting was adjourned at 2:45 p.m.