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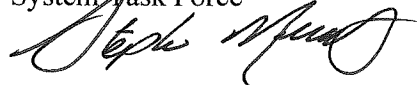
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**MEMORANDUM**

**TO:** Robert Stivers, President of the Senate  
David Osborne, Speaker of the House  
Members of the Legislative Research Commission

**FROM:** Senator Stephen Meredith, Co-chair  
Representative David Meade, Co-chair   
KY Health & Human Services Delivery System Task Force 

**SUBJECT:** Findings and Recommendations of the KY Health & Human Services  
Delivery System Task Force

**DATE:** November 6, 2023

The Legislative Research Commission established the KY Health & Human Services Delivery System Task Force to:

- examine the structure, operations, programs, policies, and procedures within the Cabinet for Health and Family Services to determine if or how services can be delivered more effectively and efficiently; and
- examine Kentucky's benefits cliff and continuing the work of the prior benefits cliff task force.

The ten-member task force began meeting in June 2023, and convened six times during the Interim. The task force heard testimony from cabinet leadership including the secretary, commissioners, and deputy commissioners; directors of state agencies; leaders of Kentucky nonprofits; and advocacy groups. Testimony focused on the Cabinet for Health and Family Services' organizational structure, budget, workforce, and public benefits processes; Medicaid contracts, waiver programs, and nursing home inspections; the implementation of passed legislation; and overall child welfare in Kentucky.

In accordance with the memorandum establishing the task force, the task force submits the following findings and recommendations to the Legislative Research Commission for consideration. These findings and recommendations are based solely on the testimony provided to the task force during the 2023 Interim. The findings do not include independent research by LRC staff. This memorandum serves as the final work product for the task force.

## **Findings**

- 1. Senate Bill 48 from 2023 Regular Session reorganized state agencies to provide more efficiency and streamline services to better meet the needs of Kentuckians.**
  - The implementation of Senate Bill 48 is progressing and discussions with the Office of the Attorney General, Auditor of Public Accounts, and various departments are ongoing and leading to transition plans.
  - Senate Bill 48 from 2023 Regular Session dissolved the Office of the Ombudsman and Administrative Review in the Cabinet for Health and Family Services. A new Commonwealth Office of the Ombudsman was created as an independent office administratively attached to the Auditor of Public Accounts, and has the same jurisdiction as the previous Office of the Ombudsman that was established within the cabinet. The administrative functions of the previous Office of the Ombudsman within the cabinet were split, with some administrative review responsibilities moved to the Office of Attorney General and some administrative review responsibilities moved to the new Commonwealth Office of the Ombudsman.
  - The Office for Children with Special Health Care Needs was removed as an independent office within the Cabinet for Health and Family Services and placed under the jurisdiction of the Department for Public Health.
  - The process of disability determinations was removed from the Department for Income Support and moved to the Education and Labor Cabinet.
  - The State Guardianship Program was removed from the Department for Aging and Independent Living and moved to the Department for Community Based Services.
  - The Department for Income Support will be dissolved by 2025 with the Child Support Enforcement Program being moved from the Department for Income Support to the Office of the Attorney General with a delayed effective date of July 1, 2025. The other reorganization movements have a delayed effective date of July 1, 2024.
  
- 2. Medicaid renewal processes are divided between active renewal notices and passive renewal requests.**
  - Passive renewal notices are when the Cabinet for Health and Family Services has enough information about an individual to determine the individual remains eligible for Medicaid, while active renewal requests mean the cabinet does not have enough information to determine eligibility and the individual must take action to update information.
  - Information is submitted to the Kynect system, which is the eligibility and enrollment Medicaid system. Should an applicant start an application on the Kynect

system but not finish it, the applicant will receive notifications to renew enrollment, or the applicant will receive alert messages.

- Notification to members to renew Medicaid is a federal requirement.

**3. During the COVID-19 Public Health Emergency, the Cabinet for Health and Family Services implemented several flexibilities to better serve Medicaid providers and members.**

- The cabinet is undoing some of those flexibilities as Kentucky is no longer in a public health emergency, but has decided to keep some of the flexibilities permanent.
- One example of a flexibility that the cabinet is undoing is no longer suspending Medicaid provider revalidations. Providers will resume having to revalidate within the Medicaid program every few years.
- A few examples of permanent flexibilities the cabinet is keeping are: no longer requiring a nurse aide to provide a social security number for verification but will instead accept an I-9, and the cabinet will continue the expansion of telehealth services outlined in regulations.

**4. As a result of the end of the COVID-19 Public Health Emergency, the Department for Community Based Services anticipates a decrease in funding to child care programs.**

- There will be a decrease in federal child care and development block grant funding as much of the funding was one-time funding provided through the Coronavirus Response and Relief Supplemental Appropriations Act of 2021 (CRRSAA) and American Rescue Plan Act (ARPA).
- The Transitional Child Care Assistance Program, which is a program that provides 50 percent of childcare payments for parents transitioning from increased income and work requirements, will no longer be funded after September 2024 unless additional funding is provided. Child care sustainability payments and start-up grants for child care centers and homes will end. The lack of childcare options is one of the biggest benefits cliffs and is a barrier to work participation.

**5. Some children in state custody are staying in Department for Community Based Services' offices due to shortages of foster care placements.**

- The average length a child stays in the cabinet's office is between 1 to 2 days. Some children stay longer, with the longest number of consecutive days being about 17 days.
- Kentucky is at about 50 percent capacity for beds within therapeutic foster care agencies, but most of the therapeutic agencies for residential and foster care refuse youth who may have higher acuity needs.
- The cabinet has the authority to increase the reimbursement rates for Psychiatric Residential Treatment Facility beds, and has recently approved an increase.
- The cabinet has increased the Single Case Rate but many therapeutic agencies continue to refuse children with high acuity needs. In current contracts with these agencies, they can give the state a two week notice to pick up the child as the agency can no longer meet the child's needs.

6. **The Court Appointed Special Advocate program (CASA) in Kentucky is growing with 247 CASA volunteers having served 671 children in 2022 alone.**
  - CASA volunteers are community-based volunteers who are appointed by judges to serve in child abuse, neglect, and dependency cases.
  - Kentucky statutes govern the role of the volunteers and the administration of the program. CASA volunteers are to attend all court hearings, submit reports and recommendations, monitor and visit the child, participate in treatment planning conferences, interview parties involved, and stay on a case until a child is in a safe and permanent home.
  - One issue CASA has is finding volunteers. Due to the supply issue of available volunteers, judges tend to appoint CASA to the most egregious and complex cases.
  - Currently, KRS prohibits CHFS employees becoming a CASA volunteer.
  
7. **The Department for Medicaid Services (DMS) submitted a state plan amendment on July 14, 2023 with a proposed effective date of January 1, 2024 to allow transportation to destinations other than hospitals as long as medical services are medically necessary. DMS is seeking approval of the state plan amendment to add alternate destinations which include urgent treatment centers, medical clinics, behavioral health centers, and physician offices, and will be limited to medical necessity for low-acuity patients. DMS also submitted an amendment on July 14, 2023 with an anticipated start date of July 1, 2024 to allow Emergency Medical Services (EMS) providers to bill Medicaid for services rendered at the scene of an emergency call that does not result in patient transportation.**
  - House Joint Resolution 38 from 2023 Regular Session directed the Cabinet for Health and Family Services to take actions to improve the emergency medical services. The General Assembly directed the cabinet to:
    - Apply for a Medicaid waiver to permit the coverage of triage, treatment, and transport of patients by emergency ambulance services;
    - Submit a state Medicaid plan amendment to cover treatment in place without transportation; and
    - Urged the cabinet to increase Medicaid reimbursement rates for ambulance services.
  - The average agency cost of treatment in place, which is when prehospital emergency medical services crew provides aid or assessment to a patient that does not result in transport for further immediate care or evaluation, is about \$620,000 per year while Medicaid does not reimburse for that service.
  
8. **Nursing Home annual survey inspections are delayed across Kentucky.**
  - Some of the causes of the delay include Centers for Medicare & Medicaid Services (CMS) requiring teams of individuals to be on site for certification and recertification of nursing homes, the suspension of annual surveys during COVID-19 until November 2021, and increased facility closures, some of which have been involuntary closures and some of which have been voluntary closures.
  - The majority of surveyors are required to be registered nurses. Individuals have left these positions due to retirement, jobs outside of state government, insufficient

salary and benefits, heavy workload, and unsatisfactory assignments, practices, and policy.

- In 2023, there has been a nearly 20 percent turnover. All of the nurse regulator positions within the Office of Inspector General are vacant. Some of the solutions that have been implemented include increasing wages for nurse surveyors, creating a nurse career ladder, and allowing licensed practical nurses to be hired and promoted with the surveyor role.

**9. The Cabinet for Health and Family Services has taken action to improve employee retention and recruitment.**

- The cabinet established internal recruitment rates that impacts new hires as well as current employees.
- The cabinet targeted increases for specific job classifications to include the social service worker series within the Department for Community Based Services. It also created locality premiums and increased pay for social service workers and family support workers by 10 percent.
- The cabinet implemented an interim hiring process for expedited hiring for social workers and family support workers.
- The cabinet also hired a recruiter who attends college campuses and job fairs and hired a classification and compensation specialist to help evaluate job classifications to help agency needs.

**10. Kentucky Medicaid served approximately 1.6 million individuals as of July 31, 2023.**

- Over 600,000 children are on the Medicaid or CHIP program. There are over 69,000 providers enrolled in the Medicaid program and in state fiscal year 2023, Medicaid expenditures were about \$16.8 billion dollars.
- A directed payment gives more money to providers through a directed payment. The Department for Medicaid gives money to Managed Care Organizations (MCOs) and directs them to pay a specific fee to providers.
- MCOs are not contractually obligated to pay the amounts stated in fee schedules. MCOs have the ability to negotiate rates.

**11. House Bill 129 from Regular Session 2020 served as a catalyst for local health departments and the Department for Public Health to work collaboratively to provide needed programs and services to communities across Kentucky.**

- Local health departments offer a variety of programs and services including food and water safety, disease investigation and disaster response, and vaccines.
- Additional programs such as the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), The Health Access Nurturing Development Services (HANDS) program, and Harm Reductions program are offered through local health departments as well.
- Local health departments receive funding to provide grant-related services and report back on those services to the state and the federal government.

**12. Between July and October 2023, the Department for Community Based Services received approximately 6,300 support service tasks per day, completing an average of 5,800 tasks per day, leaving a backlog of 500 tasks each day.**

- Support service tasks are actions that need to be done on a case. Every task is associated with a task due date and there are about 316 different types associated with case work.
- The backup has led to the department being behind in processing public benefits by thousands of cases. Family support workers saw a 40 percent increase in their work across the board.
- One of the most difficult cases to process are adult medical benefits due to asset testing.
- An application to public benefits should take between 30 to 60 days after income verification is submitted, but it is taking considerably longer. There are two major contributing factors to an increase in tasks. One is due to the public health emergency unwinding and the other is transitioning in more staff.
- Tasks are assigned to a worker based on their skill level. Tenured employees with more experience can complete a variety of tasks whereas newer employees can only complete specific tasks that they have been trained to complete.
- There are three primary points of access for clients who receive services. One point of access is through a DCBS office and there is at least one office in all 120 counties. Individuals may visit any office, regardless if it is in the county of their residence. One point of access is through a call service and another is through the online self-service portal.
- Family support staff work in one of three areas: serving clients in person, serving clients on call services, or processing cases behind the scenes.
- Since June 10, 2023, a large portion of the applications have gone from being processed locally to being processed statewide. Fayette County and Jefferson County are behind in processing applications and have been behind for a while. Staff at DCBS offices in some of the smaller counties have been processing applications for individuals who reside in Fayette County, Jefferson Country, and other counties in which they are not located.

**Recommendations**

1. The General Assembly may wish to consider increasing rates for Psychiatric Residential Treatment Facilities (PRTF) and support the establishment of high acuity care centers.
2. The General Assembly may wish to consider increasing rates for Court Appointed Counsel.
3. The General Assembly may wish to encourage the Department for Community Based Services to establish liaisons with the CASA program in counties where CASA is active.
4. The General Assembly may wish to consider allowing employees of the Cabinet for Health and Family Services to become CASA volunteers, but continue to prohibit

employees of the Department for Community Base Services from becoming CASA volunteers due to a conflict of interest.

5. The General Assembly may wish to encourage the Cabinet for Health and Family Services to seek federal approval for immediate reallocation of a waiver slot when a person dies or voluntarily and permanently relinquishes the waiver slot.
6. The General Assembly may wish to encourage the Cabinet for Health and Family Services to standardize waitlist management policies across all waivers in departments that administer waivers.
7. The General Assembly may wish to encourage the Administrative Office of the Courts to increase the rates for Guardian ad litem per case.
8. The General Assembly may wish to encourage the Cabinet for Health and Family Services to reconsider a statewide model for processing public assistance benefits and should examine the establishment of a pilot project in Jefferson and Fayette counties to promote public private partnerships that provide for efficient and timely processing of public assistance benefits.
9. The General Assembly may wish to reinstate the Medicaid Oversight and Advisory Committee.
10. The General Assembly may continue to monitor the implementation of SB 48 2023 Regular Session to ensure all programmatic staff, personnel, records, files, equipment, resources, funding, and administration functions of offices and programs are efficiently transferred.
11. The General Assembly may wish to continue the task force through the Interim of 2024 to continue its study of the organizational structure, operations, and administrations of the Cabinet for Health and Family Services.