

INTERIM JOINT COMMITTEE ON HEALTH AND WELFARE AND FAMILY SERVICES

Minutes of the First Meeting of the 2018 Interim

June 20, 2018

Call to Order and Roll Call

The first meeting of the Interim Joint Committee on Health and Welfare and Family Services was held on Wednesday, June 20, 2018, at 10:00 a.m., in Room 129 of the Capitol Annex. Representative Addia Wuchner, Co-Chair, called the meeting to order at 10:07 a.m., and the secretary called the roll.

Present were:

Members: Representative Addia Wuchner, Co-Chair; Senators Ralph Alvarado, Danny Carroll, Julian M. Carroll, David P. Givens, Denise Harper Angel, Alice Forgy Kerr, Stephen Meredith, Reginald Thomas, and Max Wise; Representatives Danny Bentley, Larry Brown, George Brown Jr, Daniel Elliott, Joni L. Jenkins, Mary Lou Marzian, Chad McCoy, Russ A. Meyer, Kimberly Poore Moser, Melinda Gibbons Prunty, Steve Riley, and Russell Webber.

Guest Legislators: Senator Jimmy Higdon and Representative Linda Belcher.

Guests: Vicki and Makayla Pesty, Kentucky Lyme Disease Association; Adam Meier, Secretary, and Kristi Putnam, Deputy Secretary, Maik Schutze, Chief Analytics Officer, Eric Clark, Chief of Staff, Robert Butt, Executive Director, Office of Health Data and Analytics, Jill Hunter, Acting Commissioner, Department for Medicaid Services, Elizabeth Caywood, Acting Commissioner, Department for Community Based Services and Christa Bell, Child Care Division, Department for Community Based Services, Cabinet for Health and Family Services; Jason Gerling and Anne Jacobs, Navigant; Jason Dunn, Kentucky Voices of Health; David P. Jude, Deloitte; Steve McGuire, Child Care Advocates of Kentucky; Louis Kelly, Kentucky Board of Physical Therapy; Rachel Fitzgerald, Kentucky Primary Care Association; Pat Niceley and Jack Coleman, Community Action Kentucky; Adrienne Bush, Homeless & Housing Coalition; Sarah S. Nicholson, Kentucky Hospital Association; Philip Micali, Conduent, Inc.; and Greg Thursten.

LRC Staff: DeeAnn Wenk, Ben Payne, Chris Joffrion, and Gina Rigsby.

Consideration of Referred Administrative Regulations

The following administrative regulations were on the agenda for consideration: **201 KAR 020:056 regular** - Advanced practice registered nurse licensure and certification requirements; **201 KAR 020:070 regular** - Licensure by examination; **201 KAR 020:110 regular** - Licensure by endorsement; **201 KAR 020:225 regular** - Reinstatement of licenses; **201 KAR 020:370 regular** - Applications for licensure; **201 KAR 020:411 regular** - Sexual Assault Nurse Examiner Program standards and credential requirements; **201 KAR 020:470 regular** - Dialysis technician credentialing requirements and training program standards; **201 KAR 022:020 Emergency** - Eligibility and credentialing procedure; **201 KAR 022:040 Emergency** - Procedure for renewal or reinstatement of a credential for a physical therapist or a physical therapist assistant; **201 KAR 022:070 Emergency**- Requirements for foreign-educated physical therapists; and **921 KAR 002:015 Emergency**- Supplemental programs for persons who are aged, blind, or have a disability. A motion to accept the administrative regulations was made by Senator Alvarado, seconded by Representative Bentley, and accepted by voice vote.

Lyme Disease

Senator Jimmy Higdon stated that he would file legislation relating to Lyme disease in the 2019 Regular Session similar to Senate Bill 170 from the 2018 Regular Session.

Vicki Pesty, Founder, Kentucky Lyme Disease Association, and her daughter, Makayla, stated that individuals in Kentucky with Lyme disease have to travel out of state to receive treatment. Doctors and the public need to be educated about the disease. Some people are misdiagnosed, because the disease can come on very slowly and have confusing symptoms that mimic other diseases such as Multiple Sclerosis. Tests to diagnosis Lyme disease are unreliable. The disease can be congenital and transmitted from mother to child. Ticks carry the disease which can cause multiple infections. Although it is a chronic disease for anyone who contracts it, the Centers for Disease Control and Prevention (CDC) do not recognize Lyme disease. Long-term antibiotics can help the immune system fight off the disease. Kentucky has a large number of Lyme disease cases. Representative Wuchner stated that there is a need to learn more about the disease.

Legislative Review of the Child Care and Development Fund Block Grant

Elizabeth Caywood, Acting Commissioner, and Christa Bell, Child Care Division, Department for Community Based Services, Cabinet for Health and Family Services were present to answer questions. The block grant can be found at <https://chfs.ky.gov/agencies/dcbs/dcc/Pages/default.aspx>. A motion to accept the block grant was made by Senator Danny Carroll, seconded by Senator Alvarado, and accepted by voice vote.

Kentucky HEALTH: 1115 Medicaid Waiver Rollout Update

Kristi Putnam, Deputy Secretary, Cabinet for Health and Family Services, stated that 19 percent of Kentuckians live in poverty, and nearly one-third of the population is enrolled in Medicaid. Kentucky has poor health outcomes despite high Medicaid expenditures. Kentucky's projected spending on expanded Medicaid over the next five years is \$1.2 billion. Every \$1 spent on expanded Medicaid is \$1 not spent on coverage for pregnant women, children, and individuals who need Medicaid due to age, blindness, or having a disability. Kentucky HEALTH (Helping to Engage and Achieve Long Term Health) is the new health and well-being program for certain low-income adults and their families. Kentucky will begin to enroll non-disabled adult and children beneficiaries in July 2018. An individual may be Medicaid eligible if a household size is from one to four or more with an income beginning at less than \$16,394 up to \$33,534. Medicaid populations not included in Kentucky HEALTH are individuals who qualify for traditional Medicaid that covers the aged, blind, and disabled. Medicaid populations included in Kentucky HEALTH are non-disabled income-eligible caretakers of a child, income-eligible adults, pregnant women, children, medically fragile adults, former foster youth up to age 26, and adult expansion individuals. Income-eligible adults will have the Kentucky HEALTH Alternative benefit plan and medically frail adults, former foster youth to age 26, income-eligible parents or guardians and transitional medical assistance, pregnant women, and children will be covered under the Kentucky HEALTH Medicaid State Plan or CHIP.

Adam Meier, Secretary, Cabinet for Health and Family Services, stated that the key components of Kentucky HEALTH are cost sharing, deductible account, My Rewards Account, PATH (Partnering to Advance Training and Health) Community Engagement Program, and employer sponsored insurance that begins in 2019.

Deputy Secretary Putnam stated that some adults on Medicaid will need to participate in 80 hours of Community Engagement activities each month to keep their medical benefits. Individuals can choose community engagement activities based on their goals and skills. Kentucky HEALTH is working with Kentucky Career Centers and adult education agencies across the Commonwealth. If a beneficiary is receiving SNAP or KTAP benefits, the SNAP or KTAP work program and applicable exemptions apply instead of PATH. Qualifying activities include job skills training, Kentucky Career Center (KCC) skills and goals assessment, job search activities, GED programs, employment, apprenticeships or internships, community service or volunteering, caregiving services, or participation in a substance use disorder treatment. Statistics from the National Skills Coalition analysis of Bureau of Labor Statistics Occupational Employment Statistics by State, May 2015 and American Community Survey data, 2015, indicate that middle-skill jobs account for 58 percent of Kentucky's labor market, but only 48 percent of the state's workers are trained to the middle-skills level. According to the Kentucky Chamber of Commerce, 2016 data shows that Kentucky would need to add more than 165,000 people to the workforce to reach the national average participation rate of 62.7 percent. PATH Community Engagement will roll out on a county by county basis starting with Campbell

County on July 1, Boone County on August 1, and Kenton County on September 1. All counties will roll out the program by December 1, 2018 except eight counties in eastern Kentucky.

Stakeholder Advisory Forums provide an avenue for constructive feedback and solutions to help ensure a successful transition for eligible Medicaid beneficiaries. Contact KYHealthTeam@KY.gov to be included on future communications regarding these meetings. The Kentucky HEALTH website www.KentuckyHEALTH.ky.gov was launched on January 12, 2018 and provides detailed information on how to enroll, questions and answers, and helpful resources.

Beginning April 1, 2018, individuals who qualified for Kentucky HEALTH and who had a My Rewards Account were able to view the My Rewards Account balance on Citizen Connect. Citizen Connect is a citizen-facing system used for reporting activities and tracking a recipient's benefits. Individuals can take courses on Citizen Connect and get preventive health services to continue earning My Rewards dollars that go toward their My Rewards Account balance. Currently, there is \$7.8 million in active accounts. Some beneficiaries were able to use the dollars in their My Rewards Account when Kentucky HEALTH went live in July 2018. Populations that may have a My Rewards Account are income eligible adults, medically frail adults and former foster youth up to age 26, income eligible parents or guardians, and pregnant women. Children do not have access to a My Rewards Account. Pregnant women do not need to pay premiums access to a My Rewards Account. Dental and vision services are paid by the Managed Care Organization (MCO) for all populations except income eligible adults. There is no cap on how many dollars can be earned for the My Rewards Account. Webinars are being offered for providers in the month of June. Additional information can be found on the Kentucky HEALTH website about more webinars that will be provided in the future.

Secretary Meier stated that oral arguments to the federal lawsuit were held on June 15, 2018 in Washington D.C., and the judge stated a ruling would occur prior to July 1, 2018. An adverse ruling could have the following consequences: (1) technology changes and/or costs; (2) communication changes could cause significant confusion among recipients, providers, and MCOs; (3) immediate benefits cuts to dental and vision and possibly pharmacy benefits removed for low-income adult eligibility groups; and (4) inability to maintain expanded Medicaid.

In response to questions by Representative Jenkins, Deputy Secretary Putnam stated that DMS worked with DCBS and the Kentucky Coalition Against Domestic Violence (KCADV) to try to designate victims of domestic violence and interpersonal violence as a medically fragile category and be exempt from Kentucky HEALTH but be in the state benefit plan. Unfortunately, CMS would not allow Kentucky to establish victims as a medically frail category through the amendment process. At the initial application is filed at a DCBS office or an open case already exists, a domestic violence and interpersonal

violence victim an exception would be applied. Although it would not be ready on July 1, DMS is working on a solution that would allow someone to input information into the self-service portal.

In response to questions by Representative Marzian, Secretary Meier stated that the Kentucky Career Centers will be a clearinghouse where members can have an assessment done and a career plan developed to help choose the best way to be engaged in the community. Each workforce area will have 1 to 2 hubs with several spokes throughout the county. Individuals can also go to any non-profit and self-serve if they already have a job or volunteer opportunity. Individuals can use smart phones and input the number of hours, and it will automatically let them know how many hours they have worked or completed in another activity. The cabinet has automated and streamlined the process for Medicaid and Supplemental Nutrition Assistance Program (SNAP) and is now looking to do the same for Temporary Assistance for Needy Families (TANF) program. The \$300 million budgeted includes upgrading the infrastructure for multiple programs such as Medicaid Management Information System (MMIS) and enterprise data warehouse and some administrative costs. Currently, the cabinet has spent less than \$10 million in state funds. The cost savings from switching from kynect to healthcare.gov should cover the state's share of the implementation costs.

In response to questions by Senator Meredith, Secretary Meier stated a large part of investment is in the enterprise data warehouse to upgrade technology. The cabinet and the University of Pennsylvania will submit an annual report to CMS and it will be publicly available. Deputy Secretary Putnam stated that quarterly monitor reports would be submitted to CMS as well.

In response to questions by Representative Moser, Deputy Secretary Putnam stated that having a felony does not disqualify someone for Medicaid benefits. Many employers and businesses have suggested that they need to revisit hiring practices and what is or is not allowed to be a part of its workplace.

In response to questions by Senator Thomas, Deputy Secretary Putnam stated a person with 30 hours of employment does not need to engage in community activities. If the hours fall below 30 for a month, it would need to be reported. A person meeting 20 hours is still considered meeting the requirement. Secretary Meier stated that someone's hours will be averaged on a monthly basis.

In response to questions by Senator Danny Carroll, Secretary Meier stated that the amount Medicaid recipients on an employer's insurance pay depends on what categories of insurance are offered to all employees, and the employer pays the rest. The requirement does not go into effect until 2019. Employees may receive better coverage in private market plans. Medicaid recipients would receive wraparound services for what is not offered through an employer's insurance coverage.

In response to questions by Representative Gibbons Prunty, Deputy Secretary Putnam stated that changes in income for longer than 30 day period is a Medicaid requirement because it may impact eligibility for different programs. As a general rule for Medicaid eligibility, income is reconfirmed at the time of redetermination on an annual basis. If someone's income has a change up or down during the year, it has to be reported. Secretary Meier stated that this is not a new requirement.

In response to questions by Representative George Brown, Secretary Meier stated that paper forms are still an option to maintain accessibility for everyone who does not have access to technology. The goal is to teach and encourage individuals to learn and use technology needed for successful employment. Deputy Secretary Putnam stated that there is a 90-day grace period for the community engagement and premium payment before a suspension goes into effect. The cabinet is implementing strategies so no one slips through the cracks.

In response to questions by Representative Wuchner, Secretary Meier stated that traditional Medicaid is impacted by the expansion of Medicaid. Initially there was no match to the Commonwealth for expanded Medicaid, so there were no funds allocated for the expansion. There is no way to drive enrollment to private market coverage or a way to increase better utilization through incentives, so there is no way to have the financial sustainability of the expansion. The 1115 is a comprehensive waiver where all the pieces work together, and if one is taken away, it cannot work. Eligibility, mandatory and optional benefits, and the budget appropriation control spending in Medicaid. The expansion population added an entirely new category to eligibility that takes away from the traditional Medicaid population if there is no additional revenue to cover this population.

In response to questions by Representative Jenkins, Secretary Meier stated that Kentucky would see savings within the first year after implementation of Kentucky HEALTH. When the waiver was first submitted, actuaries predicted that the savings would be \$2.4 billion, and of this amount, approximately \$340 million would be state general fund dollars. Because the waiver was something new, the census forecast group did not try to forecast any savings when the budget was being put together. Low-income parent caretakers are a traditional Medicaid category that will be included in the Kentucky HEALTH waiver. A person who is not a primary caretaker of a dependent or not in SNAP or TANF would be required to fulfill the community engagement requirement. Through the community engagement piece of the waiver, these individuals would potentially find better employment with a higher income and would transition from Medicaid to private market coverage. These parent caretakers will have no change in benefits of traditional Medicaid, but would be covered under the waiver to promote family coverage. The parent caretakers are in the traditional Medicaid category and do not have the same eligibility as the adult expansion group covered under the waiver.

In response to questions by Senator Alvarado, Deputy Secretary Putnam stated as part of the approval from CMS, there is a requirement that Kentucky has to have the measures in place to stop the capitation payment when someone is suspended from eligibility. There is a 60-day grace period plus the extra 30 days where someone shows as pending suspension, and MCOs have enhanced efforts to assist in community engagements.

In response to questions by Senator Givens, Secretary Meier stated that the CMS is given a wide degree of discretion when approving 1115 waivers as long as the waiver is consistent with the objectives of the Medicaid program. The lawsuit is about whether or not a comprehensive program designed to improve health outcomes is consistent with the objectives of the Medicaid program. The cabinet and CMS both think the waiver is consistent with the objectives of the Medicaid program. Deputy Secretary Putnam stated that the administrative regulations for the waiver will be filed before the July 1. Secretary Meier stated that to avoid any confusion about having to refile the administrative regulations if there is an adverse ruling, the cabinet is waiting to file the administrative regulations close to the July 1 court ruling. Brandon Smith, Executive Director, Legislative and Regulatory Affairs, stated that some of the administrative regulations are finished and others are very close to being finished and ready to file when necessary.

Legislative Review of Executive Order 2018-325 Relating to Reorganization of the Cabinet for Health and Family Services

Eric Clark, Chief of Staff, Cabinet for Health and Family Services, stated that the cabinet will have the following changes in organization structure: The Office of Health Data and Analytics is created and the Division of Health Benefit Exchange, Division of Health Information, and Division of Analytics are created within this office. The Office of Health Policy is abolished and all function are transferred to the Division of Analytics. The Division of Certificate of Need is created within the Office of Inspector General. The Governor's Office of Electronic Health Information is abolished and functions are transferred to the Division of Health Information.

The Public Protection Cabinet shall have the following changes: The Division of Kentucky Access and the Kentucky Health Care Improvement Authority within the Department of Insurance are abolished and the functions of each are transferred to the Office of Health Data and Analytics within the Cabinet for Health and Family Services.

The organizational enhancements being made to the cabinet are designed to improve efficiencies, advance capabilities, and appropriately satisfy state and federal requirements for an exchange that is a state-based model on the federal exchange platform.

Federal Health Benefit Exchange: Kentucky Enrollment and Call Center

Maik Schutze, Chief Analytics Officer, Cabinet for Health and Family Services, stated that 89,569 individuals signed up on HealthCare.gov during the 2018 benefit year, and 27,598 of them were new consumers. Open enrollment ran from November 1, 2017 to December 15, 2017 compared to November 1, 2016 to January 30, 2017. A new Direct Response Outreach strategy using email, texts, and voice messages was used instead of formal print or media advertising. The website listed assister contact and event information. The Centers for Medicare and Medicaid Services (CMS) has set the user fee for state-based exchange –federal platforms (SBE-FP) at 3.0 percent of premium for the 2019 benefit plan year which is an increase from 2.0 percent in 2018. Plan management and rate review is handled by the Department of Insurance. Decommissioning for kynect.ky.gov started in October 2016 and Phase 5 will be completed by 2025. Eric Clark, Chief of Staff, Cabinet for Health and Family Services, and Robert Butt, Executive Director, Office of Health Data and Analytics, Cabinet for Health and Family Services were available for questions.

Department for Community Based Services Out-of-Home Placements Update

Representative Addia Wuchner provided members with a copy of the Statewide Foster Care FACTS for all children in Out of Home Care as of June 3, 2018 from the Cabinet for Health and Family Services.

1915 Waiver Redesign

Jill Hunter, Acting Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services, stated that the cabinet hired Navigant to assess the waiver programs and make recommendation for improvements. Anne Jacobs stated that Navigant submitted preliminary recommendations to the cabinet on April 20, 2018. The three areas Navigant was to assess were the operational redesign, the waiver redesign, and stakeholder engagement. The operational design focused on existing policies and procedures and other tools that influence how cabinet staff do their work and how they work with providers, participants, and other stakeholders. The waiver redesign involved setting goals for the waiver programs and then looking at ways to manage and configure the waivers to help meet those goals. The cabinet realizes change impacts people, so the cabinet wants to take the time to really understand policies and the contents of the waivers and make informed decisions about which options will help achieve the goals. Stakeholder engagement has been a critical part of the assessment by using different methods of engagement such as focus groups, town halls, general information sharing at public meetings, public comment email inbox, and engaging with the General Assembly.

Anything the cabinet does with the home and community based services (HCBS) waiver programs has to be feasible. The goals are to enhance the quality of care to participants, maximize consistency of definitions and requirements across waivers, implement a universal assessment method and individual budgeting methodology, slow preventable increase in the total spent for HCBS programs, establish procedures for all waiver management administration activities, diversify and grow the provider network,

design services that address participant's community based needs, including populations who are underserved or not served by today's waivers, make provider funding consistent with reasonable and necessary HCBS program costs, and optimize case management to support person-centered planning and abide by conflict free case management regulation.

Jason Gerling, stated that Navigant has been working diligently behind the scenes to identify recommendations to improve the HCBS waiver process. A very important element of HCBS is quality care and the home of a person's choosing. HCBS waivers that are not well written and lack sound underlying policy and methodologies that everyone can understand are at risk for problems. Program elements include the case management system and a well-designed participant directed services system for individuals who choose to self-direct their own care. Waivers must meet local and state requirements as well as federal requirements enforced by CMS that help protect participants from abuse or poor quality service delivery. Stakeholder engagement acknowledges how important it is to work in a partnership to have a strong HCBS system. Instead of just focusing on what needs to be fixed now, the Department for Medicaid Services (DMS) and the cabinet can start to work with stakeholders to identify broader improvements that are needed to drive future outcomes and participant's experience on waivers. Navigant looked at the cabinet's entire structure to understand how different changes may have different impacts.

Navigant's recommendations are: (1) Standardize provider and service definitions across 1915(c) waivers, including waiver-specific Kentucky administrative regulations; (2) Move to needs-based care planning with a universal assessment tool, completed by an independent entity; (3) Implement needs-based individual budgeting methodology, moving away from retrospective budgeting; (4) Develop a sound rate-setting methodology, informed by a study of the reasonable and necessary costs incurred by providers to serve waiver participants; (5) Develop consistent operational guidelines and update training and workflows for each waiver oversight unit with the cabinet; (6) Establish and implement case management standards and training for both traditional case management and support brokers; (7) Streamline Participant Directed Service (PDS) delivery by reducing the disparity between fiscal management agency (FMA) operations, and strengthening program policies and procedures; (8) Centralize operations and oversight under one quality management business unit such as DMS; (9) Implement an ongoing, formal stakeholder engagement process including improved use of Technical Assistance Committees (TACs) and Medicaid Advisory Committee (MAC); (10) Implement a quality improvement strategy to increase emphasis on improving service outcomes and participant experience; and (11) Conduct a future assessment of the need for waiver reconfiguration, once aforementioned recommendations are implemented and reviewed for effectiveness.

Acting Commissioner Hunter stated that the cabinet conducted statewide town halls including a period for stakeholder testimony. The cabinet has spent the past year assessing the current system, and Navigant has released its preliminary recommendations to the public. Now that the town halls are finished, Navigant will consider stakeholder reactions

to the recommendations. By the end of June, Navigant will issue its final recommendations, and the cabinet will make decisions on which recommendations to implement. While the public comment period for the initial recommendations has ended, the cabinet continues to seek out and value input. Comments from the public can still be submitted to Medicaidpubliccomments@ky.gov.

Representative Jenkins thanked Acting Commissioner Hunter for addressing her concerns so quickly.

In response to questions by Senator Danny Carroll, Acting Commissioner Hunter stated that the public will have an opportunity to submit comments after the final recommendations are released. The cabinet is already communicating with CMS about changes to the HCBS waivers. Senator Carroll stated that the 10 percent increase in the Supports for Community Living (SLC) waiver will make a huge impact statewide for providers.

Representative Wuchner stated that while there has been an increase in the number of participants in the exchange, less money has been spent.

Adjournment

There being no further business, the meeting was adjourned at 12:13 p.m.

Committee meeting materials may be accessed online at <http://www.lrc.ky.gov/CommitteeMeetingDocuments/7>