INTERIM JOINT COMMITTEE ON HEALTH, WELFARE, AND FAMILY SERVICES

Minutes of the 5th Meeting
of the 2019 Interim

September 9, 2019

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Health, Welfare, and Family Services was held on Monday, September 9, 2019, at 1:00 PM, at the Cabinet for Health and Family Services Building, Department for Public Health, Hearing Rooms A, B, and C, 275 East Main Street, Frankfort, Kentucky. Representative Kimberly Poore Moser, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Ralph Alvarado, Co-Chair; Representative Kimberly Poore Moser, Co-Chair; Senators Julie Raque Adams, Danny Carroll, Julian M. Carroll, Denise Harper Angel, Alice Forgy Kerr, Stephen Meredith, and Max Wise; Representatives Danny Bentley, Tina Bojanowski, Adam Bowling, George Brown Jr, Tom Burch, Daniel Elliott, Deanna Frazier, Robert Goforth, Scott Lewis, Mary Lou Marzian, Melinda Gibbons Prunty, Josie Raymond, Steve Riley, Steve Sheldon, Nancy Tate, Russell Webber, and Lisa Willner.

Guests: Kristi Putnam, Deputy Secretary, Cabinet for Health and Family Services; Eric Lowery, Executive Director, Office of Finance and Budget, Cabinet for Health and Family Services; Steve Bechtel, Chief Financial Officer, Department for Medicaid Services, Cabinet for Health and Family Services; Angela Dearinger, Commissioner, Tricia Okeson, Deputy Commissioner, Virginia Hamilton, Environmental Health Inspection Program Evaluator, Pamela Hendren, Environmental Health Branch Manager, Brenda Adams, Devon McFadden, Division Director, Kyra Vermillion, Executive Administrative Secretary, Tisha Johnson, Contractor Supervisor, Department for Public Health, Cabinet for Health and Family Services; Michele Blevins, Assistant Director, Division of Behavioral Health, Justin Peach, Grants Administrator, Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services; Jim Musser, Executive Director, Office of Legislative and Regulatory Affairs, Cabinet for Health and Family Services; Allison Adams, President, Kentucky Health Department Association; Glenna Goins, Governor's Office for Policy and Management; Phill Gunning, Executive Director, Shannon Baker, Director of Development and Communications, National Alliance on Mental Illness (NAMI) Lexington; and Ron Coleman, Benevis.

LRC Staff: DeeAnn Wenk, Ben Payne, Chris Joffrion, Dana Simmons, Becky Lancaster, Hillary McGoodwin, and Sean Meloney.

Approval of the Minutes

A motion to approve the minutes of the August 9, 2019 meeting was made by Representative Burch, seconded by Senator Alvarado, and approved by voice vote.

Consideration of Referred Administrative Regulations

The following administrative regulations were placed on the agenda for consideration: 201 KAR 008:581 - establishes requirements for charitable dental practices; 902 KAR 002:070 - establishes uniform procedures for diagnosis, prevention, and control rabies, and for operating as a rabies clinic; 902 KAR 015:010 - establishes standards for community construction and layout, sanitary standards for operation, the permitting and inspection fee schedule, and other matters necessary to insure a safe and sanitary manufactured or mobile home community operation; 902 KAR 045:075 - establishes the responsibilities of tanning facilities, the procedures for their registration and monitoring, and the required registration fee structure; 902 KAR 045:090 - establishes efficient administration and enforcement of home-based processors and home-based microprocessors; 910 KAR 002:020 - establishes referral requirements for adult guardianship; and 922 KAR 001:310 - establishes basic standards for child-placing agencies; and 922 KAR 001:350 - establishes criteria for public agency foster homes, adoptive homes, and respite care providers caring for foster or adoptive children.

Consideration of Referred Administrative Regulations as Amended

The following administrative regulations amended after comments were placed on the agenda for consideration: 902 KAR 045:065 - establishes the standards for tattooing; 902 KAR 045:070 - establishes the standards for body piercing and ear piercing; and 922 KAR 001:495 - establishes minimum training requirements for foster parents, adoptive parents, and respite care providers caring for foster or adoptive children in the custody of the cabinet.

Cabinet for Health and Family Services Department and Office Overview

Kristi Putnam, Deputy Secretary, Cabinet for Health and Family Services (CHFS), stated that CHFS is the primary state agency responsible for protecting and promoting the well-being of Kentuckians through the delivery of health and human services. CHFS employs 6,700 people that includes approximately 1,400 contractors. The CHFS budget is $14.4 billion which is 33 percent of the total state operating budget of $33.4 billion. Ms. Putnam listed all of the offices that are within the Office of the Secretary and the other cabinet agencies. CHFS has been working to transform Kentucky Medicaid with the Kentucky HEALTH 1115 waiver and the 1915(c) Home and Community-Based Services (HCBS) waiver. The child welfare system transformation is making strides to have

Kentucky's foster and adoption programs be the best in the nation. CHFS is leading the way with a collaborative and strategic approach to combat the opioid and addiction crisis.

The major areas of focus for the Department for Community Based Services (DCBS) are child welfare transformation, adult protective services, child care, and public assistance. DCBS serves 1.75 million Kentucky families including one million children. Kentucky has 813,000 families in poverty with 233,300 households receiving the Supplemental Nutrition Assistance Program (SNAP) benefits and 14,252 households receiving Kentucky Transitional Assistance Program (K-TAP) benefits. Ms. Putnam presented a list of programs and grants that are administered by DCBS.

The Department for Medicaid Services (DMS) has approximately 1,385,788 people in Kentucky that are eligible and receiving Medicaid benefits with 90.64 percent of total eligibles enrolled in managed care. Approximately 92 percent of Kentucky's providers are enrolled with DMS. In state fiscal year (SFY) 2019, DMS' budget for expenditures on administrative and benefits combined was $10.64 billion. Ms. Putnam listed the different divisions within DMS. DMS is working on the development and implementation of a Medicaid Enterprise Management System (MEMS), a partner portal for providers to use online, and an electronic visit verification system. She stated that the Kentucky HEALTH 1115 waiver will help to engage members and achieve long term health goals.

Ms. Putnam stated that the Department for Behavioral Health, Developmental and Intellectual Disabilities (BHDID) administers state and federally funded mental health, substance use disorder, developmental and intellectual disability programs and services throughout the Commonwealth. BHDID has an array of hospitals, specialty clinics, community-based residential substance abuse programs, intermediate care facilities, personal care homes, long-term care facilities, and community mental health centers (CMHCs) as part of the network for individuals with disabilities. There are approximately 800 clients that are served daily in inpatient facilities owned and operated, or contracted for operation by BHDID. She explained that the goal of BHDID is to preserve and enhance the behavioral health safety network. BHDID is working on programs to expand the recovery-oriented system of care to address the opioid crisis.

Ms. Putnam defined the different divisions within the Department for Public Health (DPH). She listed the DPH programs and services that focus on many different areas such as the Kentucky Health Access Nurturing Development Services (HANDS) program, emergency preparedness, immunizations, food manufacturing inspections, and prescription drug assistance. She stated that the Department for Aging and Independent Living (DAIL) serves older adults, adults with physical disabilities, and individuals under state guardianship. DAIL has programs and services that are federally and state funded. By 2035, it is projected that older adults will outnumber children. According to the United Health Rankings Senior Report 2018, Kentucky ranks as 49 out of 50 in overall health and 50 out of 50 in preventable hospitalizations. The average caseload of state guardianship for

fiscal year (FY) 2018-2019 was 265 cases however best practice recommends the average should be between 55 and 70 cases.

Ms. Putnam stated that the Office of Inspector General (OIG) licenses and regulates health facilities, health services, child care providers, and child adoption or placement agencies. The OIG serves as the State Survey Agency under contractual agreement with the Centers for Medicare and Medicaid Services (CMS) to monitor health facilities that participate in Medicare and/or Medicaid. The OIG investigates fraud, waste, abuse, mismanagement, or misconduct by CHFS clients, employees, vendors, providers, and contractors. The OIG operates the Kentucky All Schedule Prescription Electronic Reporting (KASPER) Program and houses the Kentucky National Background Check Program.

The Office of Health Data and Analytics includes the CHFS privacy program, the Kentucky telehealth program, the Division of Health Benefit Exchange, the Division of Health Information, and the Division of Analytics. The consolidation of the oversight of policy and research matters regarding healthcare and social services allow Kentucky to be more readily able to address systemic drivers impacting these program areas for its citizens. The Office for Children with Special Health Care Needs (OCSHCN) provides comprehensive care for Kentucky residents that are younger than 21 years of age, meet medical eligibility, and meet financial eligibility. OCSHCN has 11 offices and 6 satellite locations throughout Kentucky that provide services. The Department for Income Support provides the Disability Determination Services program and the Child Support Enforcement program.

Ms. Putnam stated that the Division of Family Resource and Youth Services Centers' (FRYSC) mission is to enhance students' ability to succeed in school by developing and sustaining partnerships that promote early learning and successful transitions to school, academic achievements, graduation, and positive transitions into adult life. Serve Kentucky, the state service commission, works to engage Kentuckians in volunteerism and service to positively impact communities.

In response to questions and comments from Representative Frazier, Ms. Putnam stated that it is not likely that the Office of Health Data and Analytics would apply specific information gathered on an individual level but the information would be applied to the aggregate. The Office of Health Data and Analytics will review the aggregate data to see if there are trends. CHFS can change policy and enhance how it supports the providers according to data gathered and reviewed. The Kentucky Health Information Exchange (KHIE) is working to allow CHFS access to medical encounters but there are many different data bases that have to be merged together before information can be shared.

In response to questions and comments from Representative Goforth, Ms. Putnam stated that electronic reporting is the preferred method for the community engagement

requirement for the Kentucky HEALTH 1115 waiver. However, there is also a paper form available that can be mailed or turned in to CHFS. Regarding implementation of the Kentucky HEALTH 1115 waiver, CHFS is in the appeals process. The other states that have pursued a community engagement requirement have also been stopped. Indiana has a voluntary community engagement option so they have not encountered the same challenges to move the waiver forward. The oral arguments for the waiver appeal are scheduled for October 11, 2019. After the arguments, the appeal opinion is expected to be given within a 30 to 45 day period. CHFS made an update to the waiver's reporting language in response to a request from CMS.

In response to questions and comments from Senator Wise, Ms. Putnam stated that she does not know how the $3.1 million that will be granted to Kentucky from federal funds for opioid efforts will be dispersed. CHFS wants to combine the grant money with ongoing efforts. CHFS would like support additional transformational employment.

In response to questions and comments from Senator Alvarado, Ms. Putnam stated that having experienced the rollout of managed care for the foster population in Florida by a separate cabinet, her opinion is that it makes more sense to put all of health and human services together under one cabinet. Separating CHFS would inhibit the ability to innovate across agencies to work effectively for the child and family. She stated that the peak number of Kentucky Medicaid enrollees covered under the Medicaid expansion was approximately 489,000. In SFY 2019, the average of total eligibles was down by approximately 67,000.

In response to questions and comments from Representative Burch, Ms. Putnam stated that the frontline social workers say that caseloads are overwhelming. CHFS has brought in a private child caring agency to help with the backlog of child protective services investigations in Jefferson County. CHFS recognizes that there are retention issues for frontline social workers. CHFS believes that implementing a culture of safety would help frontline social workers in all departments. DCBS also relies on each community to help with child welfare and to support the frontline staff. The foster parent payment is based on completion of a series of background screenings, trainings, and home inspections that many relatives and grandparents do not want to complete. CHFS has revised the relative caregivers support program so there is access to resources such as SNAP benefits, Medicaid services, and some cash assistance. The benefits are offered to the relative or grandparent to offset the cost of caring for a child. The foster parent payment is available to relatives who choose to complete the foster parent certification requirements.

In response to questions and comments from Representative Gibbons Prunty, Ms. Putnam stated that there is more data from Indiana regarding the implementation of the 1115 HEALTH waiver about the premium payments and the higher utilization. The individuals who are paying a premium are more likely seek preventative care. There is some data on community engagement but it is not known how robust the referral to

resources process is in Indiana. During the interim, CHFS is working with community partners on how to connect systems and expand access to resources while waiting on the waiver approval.

In response to questions and comments from Senator Meredith, Ms. Putnam stated that the rankings in the Senior Report in five years depends on many factors. CHFS hopes to be out of the bottom five for all the categories and closer to the middle rankings. She stated that more money is not always the answer. In some circumstances, funds can be redirected to private contractors. Private contractors are sometimes able do more with less money. CHFS agrees that the same rankings are repeated for many years which is not uncommon in the health and human services industry. Kentucky seems to have more problems than other states but CHFS is looking into ways to do things differently to achieve better outcomes. CHFS is looking to be more of a prevention model of health and human services.

In response to questions and comments from Senator Harper Angel, Ms. Putnam stated that CHFS would prepare and send a report with data regarding the applications for grandparent assistance.

Cabinet for Health and Family Services Budget Overview

Eric Lowery, Executive Director, Office of Finance and Budget, Cabinet for Health and Family Services, stated that everyone in Kentucky utilizes a service provided by CHFS and benefits from its protection. For FY 2019, CHFS expenditures were over $13 billion. CHFS' focus is on maximizing the federal funds with most of the grants requiring a federal match. For FY 2019, 86 percent of every general fund dollar that CHFS received was tied to a federal match. In FY 2019, CHFS' expenditures were paid with 71 percent federal funds, 21 percent general funds, 8 percent restricted funds, and less than 1 percent of tobacco funds. In FY 2019, 92 percent of the expenditures were for grants, loans, and benefits, leaving only 8 percent for overhead expenditures. Kentucky Medicaid expenditures were 82 percent of the CHFS budget. The remaining 18 percent of the CHFS budget, which is approximately $2.4 billion in expenditures, covered all other CHFS departments.

Mr. Lowery stated that after DMS, DCBS is the next largest department with over $1.2 billion in expenditures. At the beginning of FY 2019 there was a general fund budget reduction of $144.9 million and an $83.3 million increase in total expenditures. There was an $82.8 million increase in retirement contributions, $131.1 million decrease in Medicaid benefit expenditures, and $69.7 million increase in out-of-home care expenditures.

Steve Bechtel, Chief Financial Officer, Department for Medicaid Services, Cabinet for Health and Family Services, stated that number of Medicaid eligible persons in the presentation is an average for the past twelve months. There were approximately 1,385,788 eligible persons covered by Kentucky Medicaid in SFY 2019. There are approximately

88,928 children covered under the Kentucky Children's Health Insurance Program (KCHIP). Over 46,000 of Kentucky's providers are enrolled with the DMS. The total of expenditures for fee-for-service is approximately 28 percent of the DMS budget. He stated that 10 percent of the Medicaid population consumes almost 30 percent of the budget. The total expenditures to managed care organizations (MCOs) was approximately $7.4 billion or 71 percent of the expenditures. The yearly benefit expenditures decreased in SFY2019 for only the third time in the past 20 years.

Mr. Bechtel shared a graph that illustrated a comparison of the original MCOs eligible persons forecast, the actual MCOs eligible persons, and the updated MCO forecast. The graph showed that the updated forecasts are more in line with the actual experience. He stated that the number of eligible persons has declined by approximately 69,000 since March 2018 but has established some stabilization the past six months. In SFY 2019, DMS had a total of $241 million in expenditures and has an enacted budget for SFY 2020 of approximately $234 million. DMS spent approximately 2.26 percent for administrative costs in SFY 2019. Eligibility, appropriations, and budget drive the DMS budget. When one of those components receives pressure then another area must be offset to keep the budget on track. After three years of work, DMS is current on payments to the MCOs and payments are no longer being pushed to the next fiscal year.

In response to questions and comments from Senator Raque Adams, Mr. Bechtel stated that DMS has a budget neutrality piece that must be met on the 1915(c) HCBS waiver. He did not know if the 1915(c) HCBS waiver redesign will have an impact on the Medicaid expenditure totals. He stated that he is trying to get a fiscal impact on the 1915(c) HCBS waiver redesign because it will impact the DMS budget.

In response to questions and comments from Senator Danny Carroll, Mr. Lowery stated that if there is any dramatic shift in the overall funding at a federal level, CHFS would come to the legislature first to discuss options because the changes could have policy implications. Mr. Bechtel stated that there are several provider networks that are proposing a provider tax or adjustment to increase the rates.

In response to questions and comments from Representative Frazier, Mr. Bechtel stated that the $600,000 savings to DMS caused by 156 people being approved for the Kentucky Integrated- Health Insurance Premium Payment (KI-HIPP) program is a small amount in comparison to the overall budget. He also stated that any amount that can be saved to help the budget is good and DMS expects those savings to grow.

In response to questions and comments from Senator Alvarado, Mr. Bechtel stated that the Medicaid expenditures include all traditional and expansion members. The members covered under the Medicaid expansion have copayments for pharmaceuticals but the traditional members do not have a cost for pharmaceuticals.

In response to questions and comments from Representative Moser, Mr. Bechtel stated that the MCOs' contract request for proposal (RFP) is in the procurement process. DMS cannot disclose or comment on the details in the RFP.

Public Health Transformation

Angela Dearinger, Commissioner, Department for Public Health (DPH), Cabinet for Health and Family Services, stated that the DPH is working to be an efficient, sustainable, and accountable public health system focused on producing better health outcomes for all Kentuckians. The public health transformation goals are to relieve the fiscal instability, to introduce a simplified public health model with clearly defined priorities, to create accountability at all levels of the system, to improve public health leadership capacity, to prevent duplication of effort, to reduce waste internally and externally, and to support data-driven decisions that promote the best community health outcomes.

Fiscal instability is a challenge in developing a sustainable public health system. There are 41 local health departments representing 4 districts that are at risk for fiscal default in calendar year 2020. The current fiscal analysis shows a $40 million deficit for the public health system in 2020. According to America's Health Rankings by the United Health Foundation, Kentucky is ranked 45 out of 50 in overall health outcomes. The current programmatic services are not reflective of the community's public health needs. Bureaucratic layering needs to be removed from the system to achieve operational efficiency and effectiveness. The public health laws are broad and voluminous. The statutes and regulations regarding public health do not allow for proper operational restructuring. The hybrid structure of public health makes change difficult. The local health departments must use local funds to match or supplement federal funds. Public health transformation will allow communities to evaluate community assets and define local health priorities.

Tricia Okeson, Deputy Commissioner, Department for Public Health, Cabinet for Health and Family Services, stated that the five focus areas with statutory and regulatory defined services are: population health, enforcement of regulation, emergency preparedness and response, administrative and organizational infrastructure, and communicable disease control. The HANDS program, the Women, Infant and Children (WIC) nutritional program, the harm reduction programs, and the substance use disorder (SUD) programs are not in statute but are important to public health. Community partners can offer these programs on behalf of the local health departments.

The Public Health Advisory Board is made up of the Kentucky Health Department Association president, the Kentucky Association of Local Boards of Health president, the Kentucky Public Health Association president, a university representative rotated on a two year cycle, and the commissioner of the Department for Public Health. The Public Health Council will review evidence-based and best practices to develop public health. The Council may request revision, clarification, approve, or deny submitted plans. The five

components of a local health priority review are data-driven needs, evidence-based solutions, adequate funding identified, performance and quality management plans, and an exit strategy. Ms. Okeson stated that the planning and preparation of the public health transformation began in May of 2018. The statewide implementation of the public health transformation began on July 1, 2019 and the legislative initiatives are scheduled to be proposed in January of 2020.

Allison Adams, President, Kentucky Health Department Association (KHDA), stated that KHDA is grateful for the opportunity to partner with CHFS and the DPH in the transformation. KHDA has vetted and is supportive of the public health transformation. KHDA acknowledges that change is hard and there are limited resources. The actions taken in the public health transformation will have a positive impact for better health outcomes in Kentucky. She requested that the legislature stay active and engaged during the process of transformation.

In response to questions and comments from Senator Julian Carroll, Ms. Adams stated that there many issues at the local level with emergent and hospital care but public health has strayed away from its mission. The public transformation will focus on simplifying, focusing, and prioritizing the department. The transformation will be considered an investment into prevention. The partners in the transformation can drive solutions or programs to improve health outcomes at a broader level.

In response to questions and comments from Representative Bentley, Ms. Okeson, stated that ideally if the local health department had an issue with a disease or illness spreading, they would contact the Division of Epidemiology and Health Planning to work together regarding the definition and criteria of an outbreak. She stated that with the Hepatitis A outbreak in Northern Kentucky, the message eventually got out to not release the name of a restaurant unless the person with Hepatitis A truly put the patrons of the restaurant at risk.

In response to questions and comments from Representative Sheldon, Ms. Adams, stated that the cost savings will not just be in public health but also in other areas such as Medicaid. The transformation is an investment in leveling the health costs that are plaguing Kentucky.

Legislative Hearing on the FFY 2020-2021 Unified Block Grant

Michele Blevins, Assistant Director, Division of Behavioral Health, Department for Behavioral Health, Developmental and Intellectual Disabilities, Cabinet for Health and Family Services, stated that Unified Block Grant contains the Community Mental Health Services Block Grant and the Substance Abuse Prevention and Treatment Block Grant. The Unified Block Grant is a noncompetitive discretionary formula grant with an annual award of $29 million. The grant will go to BHDID to be distributed with 84 percent going to services. Community mental health services along with substance abuse prevention and

treatment have the most acute need at the community level. The grant rules stipulate that the goods and services be used for community based services and not institutional care. There are some maintenance of effort requirements. The block grant application has been sent and will either be approved or have revisions requested. The application is open for public comment and can be reviewed on the CHFS website.

In response to questions and comments from Representative Bentley, Ms. Okeson, stated that there is a concerted effort to not overlap funding from different sources. With the Kentucky Opioid Response Effort (KORE) BHDID has been very diligent to make sure all viable partners are at the table. There are regular state level implementation team meetings that include all departments within CHFS and other participants from other cabinets as well. There are 14 community mental health centers with defined regions that cover all of Kentucky. The centers provide mental health, substance use prevention and treatment, as well as developmental and intellectual disability services. A motion to accept the block grant was made by Representative Sheldon, seconded by Representative Tate, and accepted by voice vote.

Adjournment

There being no further business, the meeting was adjourned at 3:25 PM.