

INTERIM JOINT COMMITTEE ON HEALTH, WELFARE, AND FAMILY SERVICES

Minutes of the 3rd Meeting of the 2020 Interim

August 26, 2020

Call to Order and Roll Call

The 3rd meeting of the Interim Joint Committee on Health, Welfare, and Family Services was held on Wednesday, August 26, 2020, at 1:00 PM, in Room 171 of the Capitol Annex. 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, Tom Buford, Danny Carroll, Julian M. Carroll, David P. Givens, Denise Harper Angel, Alice Forgy Kerr, Morgan McGarvey, 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, Cherlynn Stevenson, Nancy Tate, Russell Webber, and Lisa Willner.

Guests: Mackenzie Longoria, Director of Public Policy, Greater Kentucky & Southern Indiana Alzheimer's Association; Betsy Johnson, President, Executive Director, Executive Vice President, Emily Weber, Director of Communications and Digital Marketing, Kentucky Association of Health Care Facilities, Kentucky Center for Assisted Living; Amy Staed, Executive Director, Kentucky Association of Private Providers; Bradley Stevenson, Executive Director, Child Care Council of Kentucky, Incorporated; Adam Mather, Inspector General, Office of the Inspector General, Keith Knapp, Senior Advisor, Office of the Secretary, Laura Begin, Staff Assistant, Department for Community Based Services, and Donna Little, Deputy Executive Director, Office of the Secretary, Cabinet for Health and Family Services.

LRC Staff: DeeAnn Wenk, Ben Payne, Chris Joffrion, Becky Lancaster, Hillary Abbott, and Shyan Stivers.

Approval of Minutes

A motion to approve the minutes of the July 29, 2020 meeting was made by Senator Alvarado, seconded by Representative Burch, and approved by voice vote.

The Impact of COVID-19 with the Alzheimer's and Dementia Population

Mackenzie Longoria, Director of Public Policy, Greater Kentucky & Southern Indiana Alzheimer's Association, stated that due to COVID-19, one of the biggest issues for patients with Alzheimer's in long-term care (LTC) is social isolation. The social isolation is leading to a more rapid decline for patients with Alzheimer's mentally and physically. Patients with Alzheimer's also have behavioral issues, anxiety, loneliness, and depression. People with dementia make up 48 percent of the residents in nursing homes and 42 percent of residents in other LTC communities. More than 95 percent of people with Alzheimer's and other forms of dementia have an additional chronic health condition that may increase the likelihood of complications from COVID-19. The Alzheimer's Association believes that rapid testing at all facilities must happen before resuming visitation. The COVID-19 testing is logistically challenging and facilities need help from elected officials.

Ms. Longoria stated that On July 14th, the United States Department of Health and Human Services (HSS) announced that each nursing home will be provided with one rapid, point-of-care diagnostic test instrument and the associated tests. The one-time distribution is limited to nursing homes. Assisted living facilities and other residential LTC communities regulated by the states will not be served by the program. Kentucky has a projected increase of 12.1 to 17.3 percent of people living with Alzheimer's between now and 2025. The Alzheimer's Association recommends creating a permanent position within the Cabinet for Health and Family Services (CHFS) to coordinate Alzheimer's and dementia services and supports. The dementia coordinator would be able to study and work on tuition assistance, scholarships, pay raises, and caregiver tax credits. The Alzheimer's Association also recommends dementia-specific training, setting a base level of training requirements for home direct-care workers, and incentives for direct-care workers.

In response to questions and comments from Representative Bojanowski, Ms. Longoria stated that individuals diagnosed with Alzheimer's disease or dementia can benefit from the Home and Community-Based Services 1915(c) waiver. The Kentucky Home Care Program has a waiting list and different financial eligibility requirements than the waiver programs.

The Impact of COVID-19 on Health Care Facilities

Betsy Johnson, President, Executive Director, Kentucky Association of Health Care Facilities (KAHCF), Kentucky Center for Assisted Living (KCAL), stated that COVID-19 has been extremely hard on Kentucky's LTC community. The number of COVID-19 deaths in LTC settings have nothing to do with the quality of the facility. LTC communities need help with funding to retain the workforce, to acquire more personal protective equipment (PPE), and to support ongoing COVID-19 testing. The Centers for Medicare and Medicaid Services (CMS) reported that in Kentucky 63.5 percent of all COVID-19 related deaths are in LTC facilities. There were five LTC staff members that have died due to COVID-19. She shared a graph that illustrated how the rate of community spread of COVID-19 is linked to the number of cases of COVID-19 in nursing homes. She gave

examples of how other states have either increased the federal medical assistance percentage (FMAP) add on for providers or used the Coronavirus Aid, Relief, and Economic Security (CARES) Act funding that they received to assist LTC providers.

Ms. Johnson gave a timeline and summaries of KAHCF/KCAL requests that were sent to the Governor and the responses from CHFS regarding the COVID-19 Medicaid rate add on. CHFS provided a \$270.00 per day add-on for positive COVID-19 Medicaid residents, who are in a facility. Not all residents in a LTC facility are Medicaid eligible such as Medicare or private-pay clients who are not eligible for the add-on payments. CHFS provided ways for easier and quicker enrollment into Kentucky Medicaid. CARES act funding provided strike teams and state-wide surveillance testing. A total of \$33.6 million HHS funding was paid to nursing facilities in Kentucky. However, nursing facilities received only 7.1 percent of the total \$474.5 million of funds allocated. She shared results from a July 2020, KAHCF and KCAL member workforce survey regarding the day-to-day impacts of COVID-19 in its facility. She also shared results from an April 2020, KAHCF and KCAL member survey regarding the day-to-day impacts of COVID-19 on PPE. Kentucky has seen an average of an eight percent drop in census since COVID-19 whereas early data has shown that nationwide it was around 10 percent. Due to COVID-19 there has been expanded access to healthcare by utilizing telehealth services. She stated there have also been positive changes in the workforce, training, and certification of nurse aides.

In response to questions and comments from Senator Alvarado, Ms. Johnson stated that nursing facilities are instructed to call the local health department to report a positive case of COVID-19. They are also working with the Kentucky Department for Public Health. There have been mandates issued to facilities without the understanding that the skilled nursing facilities have been managing infectious disease before COVID-19 and may have alternate, successful procedures and treatment plans already in place. She stated that nursing facilities would like their needs to be heard and to see more support given accordingly rather than dictating what should happen inside the building. KAHCF and KCAL would like to see the Kentucky Department for Public Health have an expert in long-term care on staff to combat the serious lack of understanding of how skilled nursing facilities operate.

In response to questions and comments from Representative Moser, Ms. Johnson stated that Tennessee provided across the board Medicaid funding to LTC facilities. In Kentucky, there was not an immediate focus on LTC facilities.

In response to questions and comments from Senator Danny Carroll, Ms. Johnson stated that she has heard stories of staff staying in-house to isolate the facility from the community and possible outbreaks of COVID-19 but the staff was not mandated by state or local government to do so. She hopes there will a more open dialogue and collaboration on what is needed by LTC facilities rather than a mandated, one-size fits all solution.

The Impact of COVID-19 on Kentucky Private Providers

Amy Staed, Executive Director, Kentucky Association of Private Providers (KAPP), stated that KAPP members provide community-based services through Kentucky's 1915(c) waivers. KAPP members work with individuals with intellectual and developmental disabilities. Adult day trainings are furnished in certified adult day training centers or licensed adult day health centers. Adult day training and health centers were ordered closed by the Governor on March 20, 2020 and allowed to reopen on June 29, 2020 but many have been unable to reopen due to low utilization. When comparing 2019 to 2020 the capacity has been reduced by an average of 93 percent between April and June. In the same time period, the revenue has decreased by approximately 90 percent but employee wages have only decreased approximately 30 percent. The facility costs remain the same. The centers do not receive any CARES Act funding. Telehealth has only been utilized in rare cases. The patients do not have access to internet or cannot tolerate telehealth. The providers applied for Paycheck Protection Program (PPP) loans that supplied eight weeks of payments. The centers also got funding from a federal government emergency relief fund that supplied seven days of revenue. The centers are now out of options.

She stated that 30 percent of KAPP members report that they know a day center that has gone out of business. If the services are not available to the clients, the clients will suffer. Parent caregivers need access to the adult day training and health centers so that they are able to go to work. Other services, such as therapy, are also offered at the adult day training and health centers including the social aspects in gathering. She has offered a solution outlined in a letter addressed to the Secretary of CHFS and located with the meeting materials on the Legislative Research Commission (LRC) website.

In response to questions and comments from Representative Frazier, Ms. Staed stated that the skilled nursing care reimbursement of \$11.32 an hour is at an adult day health center. The day training programs offered in the centers are reimbursed at approximately two to three dollars per 15 minutes.

In response to questions and comments from Senator Danny Carroll, Ms. Staed stated that CHFS has developed a risk assessment tool. A problem that was found is that if a healthy person is eligible to go to a day training program in a congregate setting, that person generally has a roommate with significant health risks. Balancing both individuals' rights and state guardianship has been difficult. State guardians have been unwilling to allow the individuals to return to congregate settings.

The Impact of COVID-19: Update on Child Care Providers

Bradley Stevenson, Executive Director, Child Care Council of Kentucky, Inc. stated that the number of child care providers in Kentucky from 2013 to 2020 has decreased approximately 50 percent. Prior to COVID19, Kentucky's child care capacity was 165,314. The survey conducted by Prichard Committee for Academic Excellence found that 11

percent to 15 percent of child care providers may close permanently due to COVID-19. The Child Care Council survey found that there were 44,333 children enrolled prior to COVID-19 and 25,728 enrolled after reopening in June. The Child Care Council survey found that 84 percent of respondents accept Child Care Assistance Program (CCAP). The current CCAP enrollment of the respondents is 8,206 children. He stated that 43 percent of respondents would have to close, if group size restrictions in child care are not removed. He stated that 315 respondents reported weekly income loss averaging \$3,605 per center. The survey found that 57 percent reported a need for in-person tours to build enrollment. Kentucky invested approximately \$67 million into the child care infrastructure through COVID-19 funds. There were also hero incentive payments for essential workers who cared for child during the peaks of COVID-19.

In response to questions and comments from Senator Givens, Mr. Stevenson stated that when child care providers begin closing in Kentucky the demand for providers is still there. There are regulated slots for children to be in care, yet children are being placed in unregulated care due to the restrictions.

Items Received for Review

Representative Moser recognized that the half-year block grant status reports for the Child Care and Development Fund (CCDF), Community Services Block Grant (CSBG), Social Services Block Grant (SSBG), and Temporary Assistance for Needy Families (TANF) block grants are available in the meeting materials for review.

Consideration of Referred Administrative Regulations

The following referred administrative regulations were placed on the agenda for consideration: **201 KAR 009:270** Proposed (deferred from July 29, 2020) - Professional standards for prescribing or dispensing buprenorphine-Mono-Product or Buprenorphine-Combined-with – Naloxone. The administrative regulation above was reviewed by the committee. Leanne Diakov, General Counsel, Kentucky Board of Medical Licensure, was available for questions.

The following referred administrative regulation was placed on the agenda for consideration: **921 KAR 003:025 Proposed** - Technical requirements; and **921 KAR 003:025 Emergency** - Technical requirements. Donna Little, Deputy Executive Director, Office of the Secretary, and Laura Begin, Staff Assistant, Department for Community Based Services, Cabinet for Health and Family Services, were available for questions. Comments were made by Senator Alvarado. A motion to defer this administrative regulation was made by Senator Alvarado and seconded by Senator Danny Carroll, and accepted by voice vote. The administrative regulation **921 KAR 003:025 Proposed** and **921 KAR 003:025 Emergency** were deferred.

The Cabinet for Health and Family Services and the Department for Public Health Response to COVID-19: CARES Act Funding and Guidance for Long-Term Health Care Facilities

Adam Mather, Inspector General, Office of the Inspector General, Cabinet for Health and Family Services, stated that he would like to present the entire presentation at a later meeting date and time due to time restraints of this meeting. Representative Moser stated that may be a possibility and requested that the Inspector General answer questions.

In response to comments and questions from Senator Alvarado, Inspector General Mather stated that the Kentucky Department for Public Health (DPH), local health departments, healthcare acquired infections (HAI) group, and the Office of the Inspector General work together to follow the Centers for Disease Control and Prevention (CDC) guidelines and the White House Coronavirus Task Force recommendations. He stated that there have been robust services wrapped around LTC facilities. He stated that in the latest CMS data Kentucky is ranked 20th in the country for COVID-19 deaths in LTC facilities. Tennessee has a 50 percent occupancy rate in LTC facilities. Tennessee's LTC environment is a more community-based system. There are individual calls with every LTC facility when there is a COVID-19 outbreak to help with action plans to properly follow CDC guidelines and White House Coronavirus Task Force recommendations. When a LTC facility has a COVID-19 outbreak there is not a one-size-fits-all response.

In response to comments and questions from Senator Givens, Inspector General Mather stated that a significant amount of PPE provided by the federal government was delivered to local health departments and then to LTC facilities. He stated that Kentucky has one of the more robust programs in the country for global testing. Kentucky has received money from the CARES Act funding to provide ongoing testing. Both LTC associations and assisted living associations members were engaged on how to operationalize the on-going testing. He stated that the [kycovid19.ky.gov](https://www.ky.gov/covid19) website shows how to become a lab provider, a specimen collection provider, and get reimbursed almost immediately.

Adjournment

There being no further business, the meeting was adjourned at 3:02 PM.