INTERIM JOINT COMMITTEE ON HEALTH, WELFARE, AND FAMILY SERVICES

Minutes of the 5th Meeting of the 2020 Interim

October 28, 2020

Call to Order and Roll Call

The 5th meeting of the Interim Joint Committee on Health, Welfare, and Family Services was held on Wednesday, October 28, 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 Tom Buford, Danny 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, 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: Eric Friedlander, Secretary, Carrie Banahan, Deputy Secretary, Cabinet for Health and Family Services; Dr. Steven Stack, Physician Commissioner, Department for Public Health Cabinet for Health and Family Services; Bob Babbage, Rebecca Hartsough, Ph.D., Policy Director, Babbage Cofounder; Julie Babbage, National Executive Director, Diabetes Patient Advocacy Coalition, Babbage Cofounder; Kelli Rodman, Executive Director, Office of Legislative and Regulatory Affairs, Jennifer Harp, Executive Director, Office of Application Technology Services, Jonathan Scott, Executive Advisor, Department for Medicaid Services, Cabinet for Health and Family Services; and Morgan G. Ransdell, General Counsel, Kentucky Board of Nursing.

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 September 23, 2020 meeting was made by Representative Bowling, seconded by Senator Alvarado, and approved by voice vote.

The kynect Relaunch

Eric Friedlander, Secretary, Cabinet for Health and Family Services (CHFS), stated that kynect Self Service Portal (SSP) portal was launched on October 5, 2020. The SSP provides one common platform to access kynect benefits, kynect resources, and kynect health coverage. The previous benefits portion was called Benefind and the previous resources program was called Backyard. The redesigned look increased access to all areas and allowed for a new mobile design. The state based exchange was not included in the design of the new kynect SSP. In the SSP, citizens can input their information to get assistance and a better understanding of what benefits are available to them. Members can track their application progress on the SSP. He listed different benefit programs related to food assistance, financial assistance, health assistance, child care assistance and premium assistance. CHFS is hoping to add more programs as the SSP expands.

Secretary Friedlander stated that through the Kentucky Health Benefit Exchange (KHBE), qualified health plans (QHP) may qualify for advance premium tax credits (APTC) and cost sharing reductions. The kynector assistance is provided to guide members to the right coverage. There has been a 50 percent increase of intakes and a 112 percent increase in document uploads from kynect benefits in comparison to the Benefind daily average in 2020. There were 157,000 users that visited the kynect benefits in the first 2 weeks of the kynect relaunch. There have been over 129,000 logins into kynect benefits. CHFS is partnering with United Way of Kentucky to provide the information for the resource guide across the state. He shared a timeline of events for the kynect relaunch.

Carrie Banahan, Deputy Secretary, Cabinet for Health and Family Services, stated that the key stakeholders and users are residents, community partners, the Department for Community Based Services staff, Kentucky Career Centers, and the kynectors. She explained how each group works with or for the kynect relaunch. She shared an example provided by the state's integrated eligibility and enrollment system. The example gave a holistic view of a resident's situation with notes from community partners that can be shared with other community partners.

In response to questions and comments from Representative Moser, Secretary Friedlander stated that CHFS has an open enrollment period set to begin on November 2, 2020. CHFS reviewed the options and will comply with Judge Shepherd's order and proceed with the enrollment. The open enrollment will proceed with all six managed care organizations (MCOs). CHFS disagrees with the judge's order but his emphasis on continuity of care and no disruption of the marketplace is well placed. CHFS is seeing a higher enrollment in Medicaid. The Federal Medicaid Assistance Percentage (FMAP) was a 7.6 percent increase, given to states for such a time when eligibility numbers would increase. With the FMAP extension through March 2021, CHFS is good with the eligibility increase in Medicaid. Presumptive eligibility is normally limited to hospitals, FQHCs, pregnant women, and specific entities. CHFS believes the vast majority that have enrolled with presumptive eligibility are eligible for Medicaid services. CHFS has extended presumptive eligibility into nursing facilities, to shorten the time frame for acceptance to

ease the financial difficulties during the pandemic. If someone has insurance, they cannot be eligible for Medicaid and will be disqualified. He stated that CHFS does not have enough time to prepare a new RFP and have a proper open enrollment period.

Ms. Banahan stated that there is no federal funding for the state-based exchange changes and it will cost $5 million. The Kentucky Access Assessment is used to fund the state based exchange on a federal platform and any funds remaining from the Medicaid program are used to fund the Kentucky Health Information Exchange. Secretary Friedlander stated that the Kentucky Health Benefit Exchange, Medicaid administration, and the Kentucky Health Information Exchange will be funded by the Kentucky Access Assessment funds from the insurers.

In response to comments and questions from Senator Alvarado, Secretary Friedlander stated that with presumptive eligibility, CHFS deems someone eligible for Medicaid until CHFS finds out that they are not eligible. He stated that a person would have to repay funds to Medicaid if they already had insurance and did not disclose that to CHFS. He stated that part of the kynect relaunch was funded under the previous administration, particularly the resources, the benefits, and the SSP. He stated that when Benefind was rolled out it was too complex for users and workers. The new SSP will allow easier, mobile access to upload documents. The kynect marketing campaign which is spread across programs will cost $3 million. He stated that he believes that as the pandemic ends, CHFS will see a significant return on investment in terms of the workforce and the amount of time spent by individuals engaging directly with office staff.

Secretary Friedlander stated that there will be six MCOs contracted with CHFS. He stated that CHFS disagrees with Judge Shepherd's order but proceeding with the open enrollment because CHFS is under a time constraint. CHFS believes that it will be able to fulfill the terms of the contracts for Molina Healthcare, United Healthcare, and Anthem. Secretary Friedlander stated that he does not have an opinion regarding Emily Parento or Molina Healthcare violating the law in the code of ethics.

In response to comments and questions from Senator Meredith, Secretary Friedlander stated that CHFS will reach decisions as the case is processed through the court system. He stated that the plan is for the MCOs' contracts to be multiple year contracts. CHFS is concerned with stability in the marketplace and continuity of care. He stated that five of the MCOs' contracts have been signed for multiple years.

In response to questions and comments from Representative Bowling, Ms. Banahan stated that CHFS has contracted and non-contracted kynectors. There are three organizations that have a contract with CHFS and those organizations employee 93 individuals. There are 331 non-contracted kynectors who are navigators and certified application counselors employed by hospitals, federally qualified health centers, healthcare providers, and social services agencies. The non-contracted kynectors do not receive

funding from CHFS. All kynectors are required to complete system, policy, privacy, and security, and on-demand trainings. She stated that the funding stream for contracted kynectors is from the Medicaid program and the Kentucky Health Benefit Exchange.

In response to questions and comments from Representative Bojanowski, Secretary Friedlander stated that CHFS wants to provide more opportunities for access to services on kynect. However, CHFS will begin with services within CHFS. As CHFS moves forward, the Cabinet will review what other systems or opportunities outside of CHFS are feasible. Ms. Banahan stated that advance premium tax credits, which lower monthly premiums, are available for individuals to purchase health insurance if their income is between 138 percent and 400 percent of the federal poverty level (FPL). If their income exceeds that level then they are not eligible for a tax credit to help with the premium cost.

In response to questions and comments from Representative Bentley, Secretary Friedlander stated that all six MCOs will be involved with 2020 Regular Session Senate Bill 50 requirements. He stated that the timeline from 2013 to 2020 in the presentation shows the progression of different technology upgrades. Ms. Banahan stated that in 2013, CHFS implemented the kynect program and used the system as a platform to build Benefind. In 2016, CHFS implemented an integrated eligibility enrollment system for all programs. Benefind was implemented in February of 2016.

In response to questions and comments from Representative Willner, Secretary Friedlander confirmed the state share for the Medicaid expansion is 10 percent and that the federal government pays the remaining 90 percent.

COVID-19 Vaccine

Dr. Steven Stack, Physician Commissioner, Department for Public Health (DPH), Cabinet for Health and Family Services, stated that McKesson was announced as the federal COVID-19 vaccine distributor on Aug. 14, 2020. On September 16, 2020, the Centers for Disease Control and Prevention (CDC) released the Vaccination Program Interim Playbook containing guidelines for states to create their own state-based distribution plans. Each state was asked to submit its plan within 30 days. The first draft of the Kentucky vaccination plan was submitted to the CDC on Oct. 16, 2020. The federal government announced partnerships with CVS and Walgreens for long-term care facilities. He stated that it is not likely that any state will have access to the vaccine until early or mid-December 2020. The vaccines have unprecedented challenges, particularly with storage and handling. The earliest vaccines will include one that must be stored at -80 degrees Celsius or -114 Fahrenheit.

Dr. Stack stated that some vaccines require extreme storage conditions will require elegant distribution systems. The vaccines will be supplied in vials of 100 doses or 1,000 doses. Some vaccines will only be good for six hours once the vaccine vile has been accessed. Kentucky will rely on large healthcare entities and providers such as hospitals,

pharmacies, and clinics to deliver the vaccine. Providers must sign a COVID-19 provider agreement. Vaccine providers must be connected to the Kentucky Immunization Registry (KYIR) and Kentucky Health Information Exchange (KHIE) to order, receive, and document the administration of the vaccine. KYIR is connected to the CDC software platform for ordering, tracking, and documenting doses. CHFS will have visibility of all vaccine doses shipped into the state and where they are administered. McKesson, a wholesale pharmaceutical distributor, will direct ship vaccines to enrolled vaccination providers. He shared a diagram from the CDC that displays the multiple critical components to the vaccine implementation. He stated that as the volume of the vaccine doses increases, the DPH will be able to vaccinate broader populations. He shared a four phase distribution chart of who will be given the vaccine with first doses going to high-risk health workers, first responders, people with underlying health conditions, and older adults living in congregated settings.

Dr. Stack stated that the CDC has a complex, established process for evaluating vaccines. Vaccines are safe in the United States and people should have confidence in the vaccines. Once the Food and Drug Administration (FDA) approves a vaccine for use, the vaccine will quickly be reviewed by the Advisory Committee and Immunization Practices (ACIP). All states will review the ACIP recommendations and align those with each state's distribution plan. He shared a chart of the vaccine developmental life cycle with safety as a top priority during each phase and cycle. Vaccine manufacturers will submit Emergency Use Authorization (EUA) applications to the FDA when there is sufficient data. He stated that multiple vaccine candidates are in phase three trials. He shared a diagram that lists various COVID-19 vaccine manufacturers that are in the human clinical trial phase in the United States.

In response to comments and questions from Representative Moser, Dr. Stack stated that the implementation of the vaccine delivery is a multiple stakeholder collaboration across nonprofit organizations and others in the state. He considers the statewide assessment survey as typical immunity surveillance and information seeking. It is important to be sensitive to the concerns, anxieties, and uncertainties that people have regarding the vaccine. DPH plans to address people's concerns, offer information in relatable, understandable ways, and allow people to make their own informed choice regarding the vaccine.

In response to comments and questions from Representative Tate, Dr. Stack stated that the federal government is directly contracting with commercial chain pharmacies regarding the COVID-19 vaccine. DPH was told via federal government webinars that health departments would not need to purchase -80 degree Celsius freezers and other equipment. He stated that it is DPH's intention to partner and support the local health departments. He is in regular communication with the local health departments but that does not guarantee that everyone has the same information. The Coronavirus Aid, Relief, and Economic Security (CARES) Act funding expires December 30, 2020. The absence of

additional resources from the federal government to help at the beginning of the year will make it difficult for every state to navigate the transitions regarding the vaccine roll-out. He stated that it is DPH's intention to support all 60 health departments.

In response to comments and questions from Representative Webber, Dr. Stack stated that DPH has not discussed mandating the vaccine but DPH hopes to make the COVID-19 vaccine available to everyone who can potentially benefit from it. DPH wants to assure the public that the COVID-19 vaccine is safe. He stated that DPH wants the public to get back to regular activities and if it is proved that the COVID-19 vaccine provides immunity then other measures, such as social distancing and masking, could be relaxed.

In response to comments and questions from Representative Burch, Dr. Stack stated that it will take all of 2021 to get through all of Phase Three of the COVID-19 vaccine implementation. There will be individuals who do not want to take the vaccine early, it will be their choice but those individuals may then not be able to get a vaccine until Phase Four. It is a massive, logistical challenge with approximately 334 million people in the United States and all but one of the vaccines requires two doses.

In response to comments and questions from Representative Bowling, Dr. Stack stated that in Phase 1 and most of Phase 2, hospitals and retail pharmacies will have the COVID-19 vaccine. The requirements for the CDC to allow a provider to receive shipments of the COVID-19 vaccine are very strict. If all doses of the COVID-19 vaccine given are not reported every day on a daily basis, the provider will no longer receive COVID-19 vaccine doses going forward. The COVID-19 vaccine vials come in large doses. He stated that the requirements for receiving, documenting, handling, and administering the COVID-19 vaccine will not be things regular doctors' offices or clinics will be able to meet early on in the process. Many of the larger hospitals in Kentucky are signed up and ready for COVID-19 vaccine to be distributed. The logistic side of the federal government is telling states to be ready to receive COVID-19 vaccines on November 15, 2020, even before the COVID-19 vaccine is available to be distributed.

In response to comments and questions from Representative Willner, Dr. Stack stated that with most vaccine processes, the public is not aware of the stages of implementation and the federal government has never moved as quickly on a vaccine development. More public attention has been drawn to the vaccination approval process because of the speed to approval. Many parts of the process are happening at the same time that previously may have happened sequentially. Plans for distribution will have to be modified when complete distribution details are released.

In response to comments and questions from Representative Gibbons Prunty, Dr. Stack stated that the administration fees for vaccines are already established by Medicare, Medicaid, and private insurers. Providers will have to collect insurance information and

bill for the fee. There will be a vaccine registry that will be a validating step to show that a real person received a vaccine dose.

Obesity, Diabetes, and COVID-19 - Three Epidemics Converge

Bob Babbage, Babbage Cofounder, stated that COVID-19 does not cause obesity or diabetes and that obesity or diabetes does not COVID-19 but the converging of these conditions is proving to be more deadly than imagined. Rebecca Hartsough, Ph.D., Policy Director, Babbage Cofounder, stated that in May, New York doctors began noticing the elevated risks associated with obesity. Obese individuals had a 46 percent increased risk of testing positive for COVID-19. People with a body mass index (BMI) greater than 30 are at a greater risk of contracting the virus, being hospitalized, needing intensive care, and dying. Obesity is associated with hyper inflammation and shortness of breath, making immune responses more difficult. Coronavirus enters the body through an enzyme found in cells that line the lungs and fat tissue. The virus has an easier job replicating itself in patients with obesity because there are more targets. In multiple studies, immune cells examined from 30-year-old people with obesity looked like immune cells found in 80-year-old people.

Julie Babbage, National Executive Director, Diabetes Patient Advocacy Coalition, stated that approximately 107 million people, over 42 percent, of the United States' adult population is obese. She stated that chronic conditions put people at greater risk of illness and death. Kentucky has a significant population that falls into the obese category. In August, the CDC expanded its definition of elevated risk for severe COVID-19 to include individuals with a BMI greater than 25. This expansion means that up to 72 percent of all Americans are at high risk of severe COVID-19 outcomes. She stated that 37 percent of Kentucky adults are obese. Kentucky ranks number one in the United States for childhood obesity. Kentucky Diabetes Ranking is the fifth worst nationally. Since 1990, obesity in Kentucky increased over 200 percent. Since 2000, diagnosed diabetes in Kentucky doubled. The medical costs for people who have obesity is 42 percent higher than those of normal weight. During the pandemic, chronic diseases have the potential to gain new attention.

Mr. Babbage stated that Medicare and Medicaid do not allow adequate access for anti-obesity medications that can help individuals lose body weight. Individuals on Medicare and Medicaid may have some access to nutritional counseling or bariatric surgery but not the medications that may help to avoid the surgery. Weight loss medications must be tied to another condition and deemed necessary by the doctor to be covered by Medicaid. Medicare Part D was created in 2003 when the drugs and treatments had not been created to treat and reduce obesity. He stated that to add the drugs and treatments for obesity into the Part D program would make a tremendous difference in the cost of human suffering. There are also other treatments in process that seem promising to help fight against obesity.

Consideration of Referred Administrative Regulations

The following referred administrative regulation with amendments was placed on the agenda for consideration: **201 KAR 020:065 Proposed** - Professional standards for prescribing Buprenorphine-Mono-Product or Buprenorphine-Combined-with-Naloxone by APRNs for medication assisted treatment for opioid use disorder (Deferred from 09/23/2020). A motion to accept the referred administrative regulation with amendments was made by Senator Alvarado, seconded by Representative Bowling, and approved with no objection.

The following referred administrative regulations were placed on the agenda for consideration: **907 KAR 001:604 Proposed and Emergency** – Recipient cost-sharing. Comments and concerns regarding the regulation were made by Senator Alvarado. Jonathan Scott, Executive Advisor, Department for Medicaid Services, Cabinet for Health and Family Services and Kelli Rodman, Executive Director, Office of Legislative and Regulatory Affairs, Cabinet for Health and Family Services, testified in regards to the regulations. A motion to defer the administrative regulations were made by Senator Alvarado and seconded by Representative Gibbons Prunty, and accepted without objection. The administrative regulations **907 KAR 001:604 Proposed and Emergency** were deferred.

The following referred administrative regulations were placed on the agenda for consideration: **201 KAR 025:011 Proposed -** Approved schools; licensure application; fees; **201 KAR 025:021 Proposed -** Annual renewal notice for licenses, fees; **201 KAR 025:031 Proposed** - Continuing education; **201 KAR 032:110 Proposed –** Telehealth; **201 KAR 032:110 Emergency –** Telehealth; **201 KAR 046:010 Proposed -** Definitions for 201 KAR Chapter 46; **201 KAR 046:035 Proposed -** Practice standards, scopes of practice, and ethical standards; **201 KAR 046:040 Proposed -** Medical imaging technologist, advanced imaging professional, radiographer, nuclear medicine technologist, and radiation therapist licenses; **201 KAR 046:050 Proposed -** Provisional training license for medical imaging technologists and radiation therapists; **201 KAR 046:060 Proposed -** Continuing education requirements; **201 KAR 046:070 Proposed -** Violations and enforcement; **201 KAR 046:081 Proposed -** Limited X-ray machine operator; **201 KAR 046:100 Proposed -** Medical Imaging and Radiation Therapy Scholarship and Continuing Education Fund; **900 KAR 005:020 Proposed -** State Health Plan for facilities and services; **902 KAR 004:140 Emergency -** Enhanced HANDS services in response to declared national or state public health emergency; **902 KAR 030:010 Emergency -** Enhanced early intervention services in response to a declared national or state public health emergency; **922 KAR 006:010 Proposed -** Standards for community action agencies; **922 KAR 006:010 Emergency -** Standards for community action agencies; and **922 KAR 008:010 Proposed -** Standards for rape crisis centers. The administrative regulations were reviewed.

Adjournment

There being no further business, the meeting was adjourned at 3:08 PM.