

INTERIM JOINT COMMITTEE ON HEALTH SERVICES
Minutes of the 7th Meeting of the 2023 Interim
December 13, 2023

Call to Order and Roll Call

The seventh meeting of the Interim Joint Committee on Health Services was held on December 13, 2023, at 1:00 PM in Room 154 of the Capitol Annex. Senator Stephen Meredith, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Kimberly Poore Moser Co-Chair; Senator Stephen Meredith Co-Chair; Senators Julie Raque Adams, Karen Berg, Donald Douglas, Greg Elkins, Shelley Funke Frommeyer, Michael J. Nemes, Lindsey Tichenor, and Max Wise; Representatives Danny Bentley, Steve Bratcher, Josh Bray, Lindsey Burke, Emily Callaway, Robert Duvall, Amy Neighbors, Ruth Ann Palumbo, Rebecca Raymer, Steve Riley, Rachel Roarx, Scott Sharp, Russell Webber, and Susan Witten.

Guests: Lisa Lee, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services; Laura Begin, Staff Assistant, Department for Community Based Services, Cabinet for Health and Family Services; Paul Houchens, Principal, Consulting Actuary, Milliman; Katherine Wentworth, Senior Healthcare Management Consultant, Milliman; Steve Bechtel, Chief Financial Officer, Department for Medicaid Services, Cabinet for Health and Family Services; Veronica Judy Cecil, Deputy Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services; Andrea Day, Director, Division of Child Care, Department for Community Based Services, Cabinet for Health and Family Services; and Todd Trapp, Division of Family Support, Department for Community Based Services, Cabinet for Health and Family Services.

LRC Staff: DeeAnn Wenk, Chris Joffrion, Logan Bush, and Becky Lancaster.

Approval of Minutes

A motion to approve the minutes of the November 6, 2023, meeting was made by Representative Moser, seconded by Senator Douglas, and approved by voice vote.

Consideration of Referred Administrative Regulations

Katelyn Meckes, Director of Operations, United States Hemp Roundtable, testified regarding 902 KAR 045:190 Emergency administrative regulation about the labeling and packaging of hemp products.

The following referred administrative regulations were placed on the agenda for consideration:

- 201 KAR 002:020 Proposed** - Examination.
- 201 KAR 002:040 Proposed** - Registration of pharmacist interns.
- 201 KAR 002:050 Proposed** - Licenses and permits; fees.
- 201 KAR 002:105 Proposed** - Requirements for wholesalers, medical gas wholesalers, wholesale distributors, and virtual wholesale distributors.
- 201 KAR 002:205 Proposed** - Pharmacist-in-charge.
- 201 KAR 002:225 Proposed** - Special limited pharmacy permit – Medical gas.
- 201 KAR 002:240 Proposed** - Special limited pharmacy permit – Charitable.
- 201 KAR 002:320 Proposed** - Requirements for manufacturers and virtual manufacturers.
- 201 KAR 002:340 Proposed** - Special limited pharmacy permit - clinical practice.
- 201 KAR 002:390 Proposed** - Requirements for third-party logistics providers.
- 201 KAR 020:620 Proposed** - Licensing requirements for licensed certified professional midwives.
- 201 KAR 022:170 Proposed** - Physical Therapy Compact Commission.
- 202 KAR 007:550 Proposed** - Required equipment and vehicle standards.
- 900 KAR 006:080 Proposed** - Certificate of Need emergency circumstances.
- 902 KAR 020:300 Proposed** - Operation and services; nursing facilities.
- 902 KAR 045:190 Emergency** - Hemp-derived cannabinoid products; packaging and labeling requirements.
- 902 KAR 100:019 Proposed** - Standards for protection against radiation.
- 902 KAR 100:050 Proposed** - General licenses.
- 902 KAR 100:058 Proposed** - Specific licenses to manufacture, assemble, repair, or distribute products.
- 902 KAR 100:065 Proposed** - Reciprocal recognition.
- 902 KAR 100:165 Proposed** - Notices, reports, and instructions to employees.
- 902 KAR 100:185 Proposed** - Standards for protection against radiation from radioactive materials.
- 902 KAR 100:195 Proposed** - Licensing of special nuclear material.
- 902 KAR 100:200 Proposed** - Licenses and radiation safety requirements for irradiators.
- 908 KAR 002:300 Emergency** - Kentucky problem gambling assistance account.

The administrative regulations above have been reviewed by the committee.

The following referred administrative regulation was placed on the agenda for consideration: **902 KAR 045:190 Emergency** - Hemp-derived cannabinoid products; packaging and labeling requirements. There was an agency amendment offered by the Department for Public Health with the Cabinet for Health and Family Services. A motion

to accept the agency amendment was made by Representative Moser and seconded by Senator Douglas, and approved by voice vote.

Legislative Hearing on the Temporary Assistance for Needy Families (TANF) Block Grant

Laura Begin, Staff Assistant, Department for Community Based Services, Cabinet for Health and Family Services (CHFS), gave an overview of the TANF Block Grant preliminary state plan. A motion to approve the TANF Title IV-A State Plan was made by Representative Moser, seconded by Representative Bray, and approved by voice vote.

Presentation of Reports Submitted Pursuant to 2023 Regular Session House Joint Resolution 39 Related to Efforts to Address the Benefits Cliff in Kentucky

Laura Begin, Staff Assistant, Department for Community Based Services, CHFS , discussed the background of 2023 Regular Session House Joint Resolution 39 to address the benefits cliff.

Andrea Day, Director, Division of Child Care, Department for Community Based Services, CHFS, discussed the Child Care Assistance Program (CCAP), the average cost of child care per child, and the CCAP eligibility and reimbursement rate changes. Ms. Begin discussed the educational campaign regarding earned income tax credit and free tax filing services, the review of all public assistance programs administered by CHFS, specific details on the Supplemental Nutrition Assistance Program and Kentucky Transitional Assistance Program.

Lisa Lee, Commissioner, Department for Medicaid Services, CHFS, discussed the Medicaid program recipients, additional ways Medicaid is addressing the benefits cliff, expanded coverage for postpartum women, and Medicaid income eligibility standards. Ms. Begin discussed the integration of a benefits cliff calculator two-phase plan.

In response to questions and comments from Senator Meredith, Commissioner Lee stated that CHFS can review the number of the individuals who enroll in the advance payment tax credit and that the outreach program's progress is measured by the number of uninsured individuals in the state. Ms. Begin stated that CHFS is planning to sustain the CCAP funding at all levels. Todd Trapp, Division of Family Support, Department for Community Based Services, CHFS, stated that DCBS implemented an elderly simplified application program with a mass household conversion on October 1, 2023.

In response to questions and comments from Representative Moser, Ms. Begin stated that she would follow up with information regarding outreach and participation goals reached from use of the benefits cliff calculator.

In response to questions and comments from Senator Douglas, Mr. Trapp stated that DCBS tracks monthly participation numbers in the Supplemental Nutrition Assistance Program (SNAP) program.

Presentation of Report Submitted Pursuant to 2023 Regular Session Senate Joint Resolution 54 Related to Medicaid Reimbursement Rates and Area Deprivation Index Scores

Lisa Lee, Commissioner, Department for Medicaid Services, CHFS, discussed the requirements of 2023 Regular Session Senate Joint Resolution 54, what is and is not included in the Milliman report.

Paul Houchens, Principal, Consulting Actuary, Milliman, discussed the Area Deprivation Index (ADI) background, methodology, and values assigned by zip codes, the key aspects of the ADI analysis for different healthcare utilizations, and the analysis of the policy options of four states.

Katherine Wentworth, Senior Healthcare Management Consultant, Milliman, discussed the evaluation of policy options related to the ADI scores, healthcare payment models to address health related social needs, strategies to increase utilization of preventative care, and gave a summary of multiple strategies that align with potential state goals.

In response to questions and comments from Senator Meredith, Commissioner Lee stated that addressing health related social needs is a very complex topic with a variety of factors to consider, the cost of healthcare continues to increase, and with a focus on various quality measures Medicaid will better serve its members.

In response to questions and comments from Senator Douglas, Mr. Houchens stated that there is additional room for additional follow up studies based on details from the initial analysis.

In response to questions and comments from Senator Berg, Mr. Houchens stated that there are disadvantaged block groups with higher ADI values in the northern Kentucky area and there is data that suggests higher income populations have longer life spans.

Anticipated Medicaid Reimbursement Rates Increases and Presentation of 2023 Regular Session Senate Joint Resolution 54 Report on Rates for Pediatric

Audiology, Behavioral Health Services, Occupational Therapy, Physical Therapy, and Speech Therapy

Lisa Lee, Commissioner, Department for Medicaid Services, CHFS, discussed the 2023 Regular Session Senate Joint Resolution 54 section 3 report with data regarding pediatric claims versus adult claims, fee-for-service versus managed care organizations (MCOs) paid claims, various reimbursement rates, charges, provider types, fee schedules, and the number of codes for specific fee schedules. She discussed reimbursement rates of various therapies in separate multi-state comparisons, relevant information regarding the data gathered, and key considerations while reviewing the state amendment to be approved by Centers for Medicare and Medicaid Services (CMS).

In response to questions and comments from Senator Meredith, Commissioner Lee stated that MCOs are not contractually obligated to pay according to the Medicare fee schedule, MCOs contract with providers, and the CHFS contracts with MCOs do not specify a reimbursement methodology. She stated that Medicaid reimbursement for psychiatric services does not rise to the level of great concern because the comparison of all states includes all psychiatric services and various provider types.

In response to questions and comments from Representative Bentley, Commissioner Lee stated that early periodic screening diagnosis and treatment services (EPSDT) increase in payments depend on the provider type and that some providers may not have had an increase in at least 20 years. She agrees with a rate increase for any Medicaid provider as long there is a state-match amount such as the hospital improvement program.

In response to questions and comments from Senator Douglas, Commissioner Lee stated that there is one fee schedule for non-facility, independent providers and another fee schedule for facilities. Veronica Judy Cecil, Deputy Commissioner, Department for Medicaid Services, CHFS, stated that Medicare also has two separate fee schedules based on the costs from a facility to a non-facility to deliver the services.

In response to questions and comments from Representative Moser, Commissioner Lee stated that CHFS is reviewing a report regarding behavioral health patient outcomes, including an increase for peer support specialists and services, and prior authorizations are in place for inpatient and residential services. She stated that there is preliminary information related to costs with no significant difference in costs when the prior authorization request was lifted during the pandemic.

Update on Post-Pandemic Medicaid Unwinding Efforts and Medicaid Enrollment Trends

Veronica Judy Cecil, Deputy Commissioner, Department for Medicaid Services, CHFS, discussed the public health emergency unwinding overall trends in Medicaid enrollment, renewals, qualified health plan enrollment, and the continuing Appendix K flexibilities including all six 1915(c) Home and Community Based waivers with rate increases.

In response to questions and comments from Senator Meredith, Ms. Judy Cecil stated that CHFS has a team that will call a member at least three times prior to their termination or renewal date. She stated that the team also tries to contact the member by text and email if the contact information is available. She stated that CHFS is tracking reinstatements and terminations for possible reinstatement within 90 days if eligible.

In response to questions and comments from Senator Berg, Ms. Judy Cecil stated that if Medicaid members move to a qualified health plan up to a set percentage of the federal poverty level they can access the advance premium tax credit, to possibly make the premium free.

In response to questions and comments from Representative Duvall, Commissioner Lee stated that Kentucky has a six percent uninsured rate and that prior to 2014 the uninsured rate was high with adults.

In response to questions and comments from Representative Witten, Commissioner Lee stated that she would research the food limitations of SNAP and report it to the committee.

Update on Cost Savings Achieved by the Single Medicaid State Pharmacy Benefit Manager

Veronica Judy Cecil, Deputy Commissioner, Department for Medicaid Services, CHFS, discussed the combined federal and state funds for 2021 and 2022, changing and emerging drug lists, the creation of a single preferred drug list for MCOs leading to significant increases in rebates to offset costs, that using one pharmacy benefit manager (PBM) creates less administrative duties, and more transparency with the implementation of 2020 Regular Session Senate Bill 50.

In response to questions and comments from Senator Meredith, Ms. Judy Cecil stated that the medical loss ratio (MLR) is set at 90 percent, MCOs are required to spend at least 90 percent of the capitation payments received from the state on healthcare services, if they do not then claw-backs are possible. She stated that the MLR is based on CMS federal regulations and over the entire MCO contract not for a specific area such as pharmacy.

In response to questions and comments from Representative Callaway, Ms. Judy Cecil stated that at the federal level it is required for rebates to go to state Medicaid agencies to offset expenditures. Representative Moser discussed the 340B program in relation to rebates.

Medicaid Budget Request for the 2024-2026 Fiscal Biennium

Steve Bechtel, Chief Financial Officer, Department for Medicaid Services, CHFS, discussed the total Medicaid budget spend for state fiscal year (SFY) 2020, SFY 2021, SFY 2022, and SFY 2023, for each payment type made and collected, the breakdown of federal, state general, and state restricted funds, He discussed the forth coming SFY 2026 \$395 million general fund request for continuation of services.

In response to questions and comments from Senator Meredith, Commissioner Lee stated that more information will be coming from DMS regarding the move to sepsis-3 coding and reimbursement, the most current standard being used in the medical community in 2025. Ms. Judy Cecil stated that there would be a work group with the hospitals to understand the impact of the move to sepsis-3.

Adjournment

There being no further business, the meeting was adjourned at 3:07 PM.