

# **INTERIM JOINT COMMITTEE ON HEALTH SERVICES**

## **Minutes of the 6th Meeting of the 2024 Interim**

**November 18, 2024**

### **Call to Order and Roll Call**

The sixth meeting of the Interim Joint Committee on Health Services was held on November 18, 2024, at 9:00 AM in Room 149 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, Danny Carroll, Donald Douglas, Shelley Funke Frommeyer, Michael J. Nemes, and Lindsey Tichenor; Representatives Emily Callaway, Adrielle Camuel, Ryan Dotson, Robert Duvall, Deanna Frazier Gordon, Amy Neighbors, Felicia Rabourn, Rebecca Raymer, Steve Riley, Rachel Roarx, Scott Sharp, Lisa Willner, and Susan Witten.

Guests: Stephanie Bates, Assistant Director, Office of Health Data Analytics, Legislative Research Commission; Lisa Lee, Commissioner, Department for Medicaid Services, Cabinet for Health and Family Services; Steve Bechtel, Chief Financial Officer, Department for Medicaid Services, Cabinet for Health and Family Services; and Angela Sparrow, Behavioral Health Specialist, Department for Medicaid Services, Cabinet for Health and Family Services.

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

### **Approval of Minutes**

A motion to approve the minutes of the October 23, 2024, meeting was made by Senator Douglas, seconded by Senator Carroll, and approved by voice vote.

### **Consideration of Referred Administrative Regulations**

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

**201 KAR 020:056 Proposed**

**201 KAR 020:215 Proposed**

**201 KAR 020:230 Proposed**

**201 KAR 020:390 Proposed**

**902 KAR 045:001 Emergency**  
**902 KAR 045:012 Emergency**  
**902 KAR 045:021 Emergency**  
**902 KAR 045:031 Emergency**  
**902 KAR 045:031 Proposed**  
**915 KAR 001:020 Proposed**

All of the above listed administrative regulations were reviewed.

The following referred administrative regulation with amendments was placed on the agenda for consideration: **902 KAR 045:001 Proposed**. A motion to accept the referred administrative regulation as amended was made by Representative Duvall, seconded by Senator Funke Frommeyer, and approved by voice vote.

The following referred administrative regulation with amendments was placed on the agenda for consideration: **902 KAR 045:021 Proposed**. A motion to accept the referred administrative regulation as amended was made by Representative Callaway, seconded by Representative Duvall, and approved by voice vote.

The following referred administrative regulation with amendments was placed on the agenda for consideration: **915 KAR 001:010 Proposed**. A motion to accept the referred administrative regulation as amended was made by Senator Berg, seconded by Representative Dotson, and approved by voice vote.

### **The Legislative Research Commission Office of Health Data Analytics**

Stephanie Bates, Assistant Director, Office of Health Data Analytics, Legislative Research Commission (LRC), discussed her experience in Medicaid policy and administration and the duties of the new Office of Health Data Analytics.

In response to Senator Berg, Ms. Bates said questions from members of the General Assembly will be researched on a case-by-case basis.

In response to Senator Funke Frommeyer, Ms. Bates stated the Office of Health Data Analytics was formed in late October, will be built from the ground up, and requests will be assessed on a case-by-case basis.

In response to Representative Moser, Ms. Bates stated she is working to put structure to data governance for health information at LRC and will report back on how information will be dispersed.

### **State of the Medicaid Program Update**

## **General Medicaid Update**

Lisa Lee, Commissioner, Department for Medicaid Services (DMS), Cabinet for Health and Family Services (CHFS), discussed DMS' organizational structure, numbers of member groups and providers, enrollment trends, and budgeted funds and expenditures. Steve Bechtel, Chief Financial Officer, DMS, CHFS, discussed FY 23 to FY 24, FY 24 directed payments increase, and waiver programs budget increases.

In response to Senator Tichenor, Mr. Bechtel stated individuals who were disenrolled from Medicaid were mainly low utilizers and the increase in the Medicaid budget is due to existing members that have higher acuity levels, costs, and care levels. Commissioner Lee stated the increase is also due to the prevalence of high-cost drugs, behavior health services, and other assistance.

In response to Senator Meredith, Mr. Bechtel shared that some of the budget increase is related to the change in the Federal Medical Assistance Percentage and 2024 Regular Session Senate Bill 280.

In response to Senator Funke Frommeyer, Commissioner Lee stated she can send members a report on the FY 2024 Division of Program Integrity regarding fraud, waste, and abuse.

In response to Senator Douglas, Commissioner Lee stated when the budget is developed, the enrollment trends are based on current trend lines and historic utilization. Mr. Bechtel said the eligibility forecast is within 0.45 percent of the estimated forecast. Commissioner Lee said there has not been a decrease in hospitalizations and she can provide the average cost of an enrollee in Medicaid.

In response to Senator Raque Adams, Mr. Bechtel said the total direct drug rebate received by DMS in FY 2024 is approximately 1.56 billion, it is an offset of expenditure, and is built into the general fund. Commissioner Lee stated there are prior authorizations on in-patient and residential behavioral health services, and there are discussions regarding prior authorizations moving forward.

In response to Representative Duvall, Commissioner Lee stated the percentage of Medicaid members is similar to surrounding states.

In response to Senator Berg, Commissioner Lee testified DMS ensures that each MCO spends at least 90 percent of funds on direct patient care. DMS is withholding two percent of total capitation payments, so that MCOs meet certain quality measures to obtain the two percent back.

In response to Representative Moser, Commissioner Lee stated penalties on infractions are in each contract and could include a corrective action plan or monetary penalties. She said there is an integrated eligibility and enrollment system and DMS can better assist members between available programs.

In response to Senator Carroll, Commissioner Lee said there are quality measures, such as the number of immunizations, that MCOs must meet and complaints on MCOs are tracked and evaluated by DMS.

### **Managed Care Organizations Contracting and the Termination of Anthem's MCO Contract**

Commissioner Lee discussed the transition timeline for the termination of Anthem as a MCO, the reassignment plan for existing Anthem members, communications to notify members of the changes and where assistance is available, MCO contract extensions, behavioral health provider enrollment, increase in behavioral health utilization, and MCO policy changes related to behavioral health.

In response to Representative Willner, Commissioner Lee said DMS is ensuring that members who are dually eligible for Medicaid and Medicare Advantage are transitioned into a dual needs special population (DNSP) program.

In response to Senator Meredith, Commissioner Lee stated every Medicaid member has an opportunity to select their MCO, she is not sure why some MCOs have less members than other MCOs, and DMS can review if there are reasons for the varied number of enrollees across MCOs.

In response to Senator Carroll, Commissioner Lee said DMS will monitor and resolve issues with providers that arise prior to the end of the contract, monitor claim payments, claim run-out, and provider complaints prior to and extending beyond the transition.

In response to Senator Douglas, Commissioner Lee stated CHFS extended the MCOs contracts for a two-year period and her understanding is that individuals with behavioral health needs continue to go to the emergency room at a higher utilization rate than members treated by peers.

In response to Representative Roarx, Commissioner Lee said non-clinical billing is related to peer support specialists and peer support specialists do receive a lower reimbursement rate. CHFS leadership met with members of the provider community and MCOs to discuss behavioral health issues. The group drafted policy clarifications related to non-clinical

services and distributed it to Medicaid providers. She stated the increase in behavioral health needs did not cause nor factor into the termination of Anthem as an MCO.

In response to Representative Moser, Commissioner Lee said the code for psychoeducation was added to the behavioral health fee schedule in 2016, previously there were two fee schedules for behavioral health that caused some confusion for providers, and in 2023 the schedules were combined causing an increase in the code for psychoeducation.

In response to Senator Carroll, Commissioner Lee stated Medicaid can only compare rates to Medicare because it is nationally published and the rates for private insurance are typically proprietary with no access to compare. Mr. Bechtel stated all fee for service rates on the fee schedule are below the upper payment limit which is the Medicare rate.

In response to Senator Berg, Mr. Bechtel stated directed payments have a quality measure that providers have to meet to receive payment.

### **Update on 1915(c) and 1115 Medicaid Waivers**

Angela Sparrow, Behavioral Health Specialist, DMS, CHFS, discussed the TEAMKY Section 1115 reentry project, provisions of Medicaid services for incarcerated individuals, the reentry project timeline from submission to implementation, the institutions for mental diseases expansion, and the Recuperative Care Pilot Program.

Commissioner Lee discussed the 1915(c) Home and Community Based Services (HCBS) waivers' rate methodology, FY 25 and FY 26 waiver slot allocations, waiver wait list assessment findings and recommendations, and steps to develop the children specific waiver to begin in FY 26.

### **University of Kentucky Contract to Study Medicaid Network Adequacy**

Commissioner Lee discussed the two-year research project partnership, the topics in the final report, and the 2026 continuation of the project.

### **The Long-Term Care 30-Day Rule**

Commissioner Lee discussed the complexity of eligibility determination for an individual to receive Medicaid coverage for long term care, the Kentucky Level of Care System, possible retroactive eligibility, and the types of beneficiaries regarding enrollment and reimbursement.

### **Early and Periodic Screening, Diagnostic, and Treatment (EPSDT) Services**

Commissioner Lee discussed how the EPSDT benefit provides comprehensive and preventive health care services for children under the age of 21 who are enrolled in Medicaid to receive appropriate preventive dental, mental health, and specialty services.

In response to Representative Frazier Gordon, Ms. Sparrow stated she would send information regarding felons receiving SNAP benefits because it is not a part of the 1115 waivers.

In response to Representative Willner, Commissioner Lee stated DMS is working to modernize waiver wait list management to ensure individuals and stakeholders are aware of their status, along with standardizing the waiver application and eligibility review process.

In response to Representative Roarx, Commissioner Lee said she can send information regarding the waiver wait list sorted by each 1915(c) waiver. DMS coordinates participant directed services with the Department for Aging and Independent Living, and collaborates to identify areas with a lack of support brokers.

In response to Representative Neighbors, Commissioner Lee stated each Medicaid long term care facility is unique. DMS can research cases that deal with less than a 30-day timeline and provide more information.

In response to Senator Carroll, Commissioner Lee said she can provide the number of children on the waiver waitlist and there are six HCBS waiver applications waiting approval from the Centers for Medicare and Medicaid Services (CMS) with updated rates and aligning policy within the waivers.

### **Adjournment**

There being no further business, the meeting was adjourned at 11:00 AM.