

PROGRAM REVIEW AND INVESTIGATIONS COMMITTEE

Minutes

August 23, 2019

Call to Order and Roll Call

The Program Review and Investigations Committee met on Friday, August 23, 2019, at 8:00 AM, in Room 131 of the Capitol Annex. Senator Danny Carroll, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Senator Danny Carroll, Co-Chair; Representative Rob Rothenburger, Co-Chair; Senators Tom Buford, Perry Clark, Reginald Thomas, Stephen West, and Phillip Wheeler; Representatives Lynn Bechler, Chris Fugate, Adam Koenig, Ruth Ann Palumbo, Steve Riley, and Walker Thomas.

Legislative Guest: Senator Jimmy Higdon.

Guests: OJ Oleka, Deputy State Treasurer and Chief of Staff, Kentucky State Treasurer; Eric Evans, Associate State Director of Advocacy & Outreach, AARP Kentucky; Anne-Tyler Morgan, Senior Fellow, Pegasus Institute, McBrayer, PLLC; Mark Tresh, Executive Director, Insurance Institute of Kentucky; Eric M. Perez, Executive Director of Office of Transportation Delivery, Transportation Cabinet; Jeremy Thompson, Human Services Transportation Delivery Branch Manager, Transportation Cabinet; Tabitha Martin, Public Transit Branch Manager, Transportation Cabinet; and Eddie Newsome, Benefit Policy Branch Manager, Department for Medicaid Services.

LRC Staff: Greg Hager, Committee Staff Administrator; Christopher T. Hall; Van Knowles; Sarah Ortkiese; Jeremy Skinner; William Spears; Shane Stevens; Susannah Stitzer; Joel Thomas; and Christy Young, Committee Assistant.

Minutes for July 12, 2019

Upon motion by Senator Wheeler and second by Representative Rothenburger, minutes for the July 12, 2019 meeting were approved by voice vote without objection.

Retirement Savings Options For Private Sector Employees

Mr. Evans thanked the co-chairs and committee members for the opportunity to present. Mr. Oleka said that Treasurer Allison Ball has a vested interest in seeing that citizens of Kentucky are set for retirement. The Treasurer's office is not advocating for a

particular plan, but Kentucky needs a plan that includes employers and employees. The Treasurer is willing to take the lead on this issue.

Mr. Evans said that the United States has had a retirement crisis for decades. Half of households are at risk of not having enough money in retirement to afford basic necessities such as food, utilities, and health care. Over 45 percent of working-age households have no retirement account; this includes more than 40 percent of those aged 54 to 64 who have no account. Only 55 percent of private sector workers have access to a retirement plan at work, which has not improved over the past 40 years. Only a small percentage of individuals open a retirement account on their own. Kentucky ranks among the middle of states on a scorecard of retirement financial security. Approximately 51 percent of Kentucky private sector workers (795,000) do not have a way to save for retirement out of their paycheck.

Work and Save is a potential program that would allow private sector workers to save out of their paychecks. Possible design features of the program are that enrollment is automatic, participation is voluntary because employees can opt out, and that employees can take their retirement savings with them when they leave a job. Of those auto-enrolled in an employer plan, 91 percent save in an IRA. According to a study from AARP, Kentucky could save more than \$46 million in public assistance over the period 2018 to 2032 if lower-income retirees save enough to increase their retirement income modestly.

Ms. Morgan said that the large number of people who have not saved for retirement affects small businesses and diverse populations, especially those with lower incomes. When people do not save for retirement, this affects taxpayers who must pay for government aid for those who cannot support themselves. There is no government solution for this problem. Businesses can help through public-private partnerships or through private options. It is important for all stakeholders to consider available options. AARP is here today to ask that this issue be considered by the committee at some point.

In response to a question from Senator Carroll, Mr. Evans said that AARP is not advocating for a public solution, but for a public-private partnership. For example, a private company could bid for the project. All solutions would have a private element.

In response to a question from Senator Carroll, Mr. Oleka said the Treasurer has the capacity to do a study of this topic. The Financial Empowerment Commission has work groups, one of which could address this issue. Information could be gathered from experts and other states.

Representative Bechler said the committee is not voting today on whether to study this issue. The idea that government should be responsible for getting people to do what the government feels is correct for them is the opposite of his way of thinking. KentuckyWired is an example of a public-private project that did not go well, which makes

him skeptical that this one would work better. The Treasurer already has a working group in place to look at this issue. Any plan should be opt in, not opt out. Anyone can set up automatic savings at a bank. This seems to be a solution looking for a problem. He hopes that the committee does not take on this issue as the Treasurer's office seems capable.

Mr. Evans said that AARP wants a study to get possible solutions to the lack of savings, not government overreach.

Senator Carroll asked whether there could be a commitment today for the Treasurer to look at this issue. Mr. Oleka said that authorization would have to come from the commission, which meets in early October.

Representative Rothenburger said that there is general agreement that savings should be encouraged. There will need to be a strong financial literacy component to whatever is done, so that people do not dip into savings early.

Mr. Tresh said that he agrees for the need for more retirement saving but is concerned about state mandates or requirements. A bill offered in 2015 by AARP and the previous treasurer would have established a state-mandated program with opt outs. State-run programs in seven other states have proven to be financial burdens. The California program is in litigation as to whether it is in violation of ERISA [US Employee Retirement Income Security Act]. Saving for retirement requires the will and ability to do so. A healthy economy helps.

Senator Carroll said that most of the lower-paid employees of the nonprofit he runs do not take advantage of a matching program. The best scenario is a good economy with good pay.

Mr. Tresh said that an option could be incentives such as tax credits for private employers instead of a mandate.

Senator Carroll asked Mr. Oleka to report back to the committee after the commission meeting in October.

Medicaid Transportation

Mr. Perez gave an overview of the two branches in the Transportation Cabinet's Office of Transportation Delivery. The main role of the Public Transit Branch is to secure statewide formula and competitive grants from the Federal Transit Administration. The branch distributes grant funding to rural, small urban, and large urban areas. All counties have some type of public transportation. In most counties, it is a demand-response system.

Among the responsibilities of the Human Service Transportation Delivery Branch is non-emergency medical transportation, which is for Medicaid members who do not have

access to free transportation that suits their medical needs and need to be transported to a medically necessary, Medicaid-covered service. He described the requirements to be met to qualify for non-emergency transportation. Transportation is provided through annual agreements with brokers in each of 15 regions, who in turn have subcontractors.

In response to questions from Representative Rothenburger, Mr. Perez said that although brokers can provide transportation, typically they are responsible for scheduling and subcontract with other entities to transport clients. Brokers are paid a set amount per Medicaid recipient in the region. Brokers' costs may end up being more or less than what is provided via the capitated rate. Capitation rates are set by an actuary based on the previous year's rates with the goal that payments per region are 85 percent of the medical loss ratio. The amount subcontractors get is set by the Transportation Cabinet, currently approximately \$1.65 per person per mile with extras for services such as picking up a client with a wheelchair. Mr. Perez said that the cabinet favors a set rate per trip based on a formula. Last year, the statewide cost was \$104 million. The average cost per trip is \$32; the average trip is 12 miles. Urban areas have a flat fee per trip because trips are shorter.

Continuing the presentation, Mr. Perez said brokers are responsible for dealing with complaints and assuring that vehicles are maintained by subcontractors and that drivers are qualified and tested for drugs and alcohol. The cabinet works with brokers on complaints. There is also an 800 number. In FY 2018, there were more than 3.4 million Medicaid trips and 12,889 denials issued for ineligible trips. The branch does monthly surveys of recipients of service. In FY 2018, customer satisfaction was 100 percent.

Through a relatively new program, non-emergency medical transportation is provided for released inmates from correctional facilities to go directly to approved residential substance abuse programs upon release. Eligibility is limited to those who are pregnant, 16 to 18 years old, or former foster children up to age 26. Starting this year, methadone treatment is an option.

He described an upcoming pilot program that is anticipated to start October 1, 2019: a partnership with the Department of Corrections to provide transportation for those on probation or parole to activities such as visits to substance abuse facilities, medical appointments, job interviews, and probation/parole meetings.

Representative Fugate asked whether the cost for transporting someone 55 miles to a methadone clinic would be \$1.65 per mile. He said that some have been in a clinic in his district for years. He asked whether transportation is still paid for although the program is supposed to be 18 months. Mr. Perez said that transportation for methadone treatment has only been provided for specific groups since October 1, 2018. The program provides transportation as long as the client meets the criteria. Representative Fugate said that there should be restrictions to keep people from taking advantage of the system.

Senator Carroll said that the organization he runs serves disabled people who use transportation services. An unintended consequence to lowering the capitation rate is that some people with disabilities are losing services because household members may not take the initiative to meet requirements. The provider of services sometimes has to pay for transportation themselves. When the rate is higher, people are more likely to get services.

In response to questions from Senator Carroll, Mr. Perez said that the actuary that sets rates is chosen by the Department for Medicaid Services. The alternative favored by the Transportation Cabinet is the SAVE formula, which would have lowered costs by \$50 million over 5 years. Under the formula, services would be provided and then reimbursed by the cost divided by 0.85. A drawback to the formula is the incentive for brokers to approve everyone. The Transportation Cabinet would have to do more oversight. All current brokers are nonprofits. Pursuing an alternative to the current funding system would depend on approval from the Department of Medicaid Services and the US Centers for Medicare and Medicaid Services.

Senator Carroll said that as the population eligible for non-emergency transportation expands, there are consequences for the disabled and other populations within Medicaid.

Senator Carroll said that his understanding is that the \$2 million for the Corrections pilot comes from Medicaid funding, which is wrong given the other populations that need services.

In response to a question from Senator Higdon as to whether brokers are audited, Mr. Perez said that the loss ratio is tracked by region.

In response to questions from Senator Higdon, Mr. Perez said that there are programs that provide transportation to bus stations and airports but they are not part of non-emergency services. Programs may be targeted to low-income residents but anyone is eligible. Such eligibility is not a requirement of the federal grants that are the sources of funding. Senator Higdon said that he is aware of those with substantial incomes who use this service. Service should be only for low-income residents. His understanding is that some are paying nothing for these trips. Mr. Perez said they should be paying a fare; he will check into this. When funding from the Federal Transit Administration is targeted to low-income clients, the administration favors everyone being eligible so that there is no stigma for using the services.

Senator Wheeler said that he is concerned that he often sees a mini-bus sent to transport one person. He asked whether there is a mandate that a broker have so many of this type of vehicle. Mr. Perez said that the only requirement is that ADA-compliant vehicles be available, which could be a mini-bus in some cases. Agencies have been buying smaller vehicles in recent years.

In response to question from Representative Bechler, Mr. Perez said that the hours of operation of the Human Services Transportation Delivery branch are local time depending on the area of the state.

In response to a question from Senator Carroll, Mr. Newsome said that he would get information on funding of the prisoner re-entry program.

Senator Carroll said that committee members should notify the co-chairs if they have suggestions for testimony at future meetings.

The meeting was adjourned at 9:36.