

MINUTES OF THE SENATE FINANCIAL INSTITUTIONS AND INSURANCE

The meeting was called to order by Chairman Ruth Teichman at 9:30 A.M. on January 18, 2005 in Room 234-N of the Capitol.

Committee members absent: Dennis Wilson- excused
James Barnett- excused

Committee staff present: Melissa Calderwood, Kansas Legislative Research Department
Terri Weber, Kansas Legislative Research Department
Ken Wilke, Office of Revisor of Statutes
Sandy Yingling, Committee Secretary

Conferees appearing before the committee: Sandy Praeger, Kansas Insurance Department Commissioner
Scott Brunner, Director of Medical Policy

Others attending: See attached list.

The Chair announced to those who are interested that Senator Barnett is introducing his health plan today if anyone cared to attend.

Chair opened the meeting without a majority present.

The Chair introduced Doug Wareham, Vice President-Governmental Affairs, to introduce his bill.

Mr. Wareham introduced himself appearing on behalf of the Kansas Bankers Association with a request to introduce legislative language that is designed to clarify the occasions sell of repossessed collateral including vehicles by banks to insure that those sales are not subject to provision of the Kansas Consumer Protection. (Attachment 1)

Next the Chair introduced Judy Stork from the bank commissioners office. Ms. Stork had three bills to propose for introduction. 1) amendments to 9-1702 which talks about the authority to examine investment companies, holding companies and affiliated organizations of banks. Presently the approval comes from the banking board and she would like the approval to come from the commissioner; 2) an amendment to 9-1805 which talks about the removal of an officer or director of a banking position due to embezzlement or similar circumstances. Currently they have the authority but what they would like to do is have the ability to prohibit them (once they are removed) going to work at another state banking institute. Senator Teichman pointed out that would not prohibit them from going out of state. It does not prohibit them from going to a national bank either; and 3) a new section proposing a statute to allow to impose civil money penalties against banks and trust companies and any executive officer, director or employee. (Attachment 2)

The Chair asked for questions and announced the requests would be taken under consideration at the end of the meeting.

The Chair introduced Commissioner Praeger of the Insurance Department.

Commissioner Praeger began by reiterating that the NAIC (National Association of Insurance Commissioners) in Kansas City has offered at any point to go to their office and see the kind of support that they have provided to the insurance regulatory process through them. (Attachment 3)

Commissioner Praeger than went over the 2004 Fact Sheet. In regard to consumer education, the Commissioner pointed that all the information guides are posted on their web site and can be downloaded and printed off.

Commissioner Praeger than talked about the Centralized Credentialing Process. She shared what their consultants had told them. The commission contracted with Jim Mennihan to talk with people who might be affected in one way or another by a centralized credentialing process. Mr. Mennihan contacted three different

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insurer groups including Coventry, Preferred Health Systems and Blue Cross/Blue Shield of Kansas. He contacted people within the industry including the Medical Society, the Hospital Association and the Kansas Health Institute. He also contacted people within the state government, Bob Day, the Commissioner and the Board of Healing Arts.

The kind of information that would be available through a centralized credentialing process included but not limited to:

Descriptive information on the providers including gender, race, medical school they received their degree from. What specialties they are licensed to practice. The number of years in practice.

Insurance plans acceptance.

Medicaid and Medicare acceptance.

Whether or not the provider is accepting new patients.

General information from a consumer stand point including office location, hours, parking, handicap accessibility.

Specific contact information.

Malpractice information.

Finding ways to work with ERISA exempted plans to help make sure that the information that we are delivering is complete as possible.

Make available a uniform credentialing form.

Providers do believe that the credentialing process is a big paper burden and they know that sometimes it can take months for a facility to become credentialed through a health plan. Commissioner Praeger pointed that there would need to be some type of government structure. There would also need to be some uniformity in terms of the contracting language. Also, that it should be web based.

The Chair questioned how this new proposed process would differ from the existing one and Commissioner Praeger pointed out that there would be made available additional information and it would streamline the process.

The Chair asked if there were any other questions, there were not. The Chair thanked Commissioner Praeger for presenting to the committee.

The Chair announced the next speaker, Scott Brunner, Director of Medical Policy/Medicaid.

Mr. Brunner gave a brief introduction and went on to discuss the concern of children not using low income eligibility for medical programs. Mr. Brunner's responsibilities are the administration of the Medicaid program under the Title XIX of the Social Security Act and the SCHIP (State Children's Health Insurance Program). Mr. Brunner's testimony included an overview of Medicaid (attached), pointing out that Medicaid is nationally the single largest funder of health insurance in the nation surpassing Medicare. He also included an overview of HealthWave. Mr. Brunner discussed reorganization of SRS and the eligibility process for Medicaid programs (attached), which will remain the same. The state has contracted with Maximus to process the applicants. (Attachment 4)

Mr. Brunner concluded his testimony and asked for questions. Senator Wysong asked about family coverage premium. Mr. Brunner stated that at 150 % there is no premium, but at 151% it is \$20.00 per family per month, above 167% it is \$30.00 per family per month.

Senator Brungardt expressed his understanding that the federal government is doing a series of audits and questioned to what extent is ERO 33 related to that activity. Mr. Brunner stated that the ERO was not a way to make changes.

Chairman Teichman asked if Mr. Brunner had talked about the number of children or percentage of children that are not being covered. Also, what the status of the state agency children that might be eligible. Mr. Brunner estimated that there are probably another 25,000 to 30,000 children that have not been enrolled yet, but would be eligible. In the Governor's proposal there are some funds from the cigarette tax increase that could be used to cover state employee's children under SCHIP.

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Senator Brownlee asked how reliable the federal funding is. Mr. Brunner stated that some states underspent their SCHIP allocations and those funds accumulated over time would be redistributed annually to the states who had overspent and Kansas was one of the states that benefitted from that. At the end of the last congressional term there was approximately a billion dollars of unspent money that reverted to the treasury and was not redistributed to the states. Senator Teichman asked if there was a chance that the federal government will look at this and take on a use it or lose it policy? Mr. Brunner stated that would not be the case in Kansas, but overall it is a possibility.

Senator Barone asked if Mr. Brunner had readily available information on the eligibility throughout the states? Mr. Brunner answered that he was unaware of an issue across the states, but that some states have a law that they can either use it as a stand alone program and create different eligibility standards or some used it as a Medicaid expansion.

Madam Chair thanked Scott for making the extra effort and bringing this presentation to the committee.

Madam Chair announced there were four bills in front of the committee for introduction and gave a brief summary. The bill from the KBA would clarify the occasional sale of reposed vehicles.

Senator Steineger moved to introduce the bill, the motion was seconded by Senator Wysong. The motion carried.

Madam Chair announced that the three other bills introduced by the Office of the State Banking Commissioner would be taken all in one motion.

Senator Steineger moved to introduce the bills, seconded by Senator Brownlee. The motion carried.

Madam Chair announced no meeting tomorrow, January 19, due to the Kansas Health Institute in cooperation with the Department of Research will be putting on a presentation on health care located in 313-S, starting at 11:00 and ending 3:00.

There will be no meeting Thursday, January 20.

The meeting was adjourned at 10:26 a.m.

FINANCIAL INSTITUTIONS & INSURANCE COMMITTEE GUEST LIST

DATE: January 18, 2005

NAME	REPRESENTING
Chip Wheelen	Asn of Osteopathic Med.
Jeff Bo Hocking	State Farm
Amy Salisbury	Dir. of Budget
Tom Bruno	EDS
Hal Hudson	NFIB/KS
Sary Zest	HCSF
Natalia Haag	Security Benefit
Sandra Snaken	KAIFA
Bill Sneed	State Farm
Angure Miller	Dannion + associates
Chris McCauley	State of KS - Dept of Adm
Renée Munnely	CBA
DANIEL MAHILL	KAIA
Kati O'Connor-Gonzales	Federico Consulting
Amy Campbell	KS Mental Health Coalition
Doug Wareham	KBA
Kathie Olsen	"
Greg Wilt	Farmers Ins.
Chad Austin	Kansas Hosp Association
Jay Wher	First Guard
Wally MURPHY	KANS
Sandy Praeger	K. I. D.
James Rutherford	Little you Rel
Fred Plunk	BCBSKS



The KANSAS BANKERS ASSOCIATION
A Full Service Banking Association

Date: January 18, 2005
To: Senate Financial Institutions & Insurance Committee Members
From: Doug Wareham, Vice President-Government Affairs
Re: Bill Introduction Request

The Kansas Bankers Association respectfully requests the introduction of legislative language designed to clarify that the occasional sale of repossessed vehicles by banks are not subject to provisions of the Kansas Consumer Protection Act, which were designed to apply to regular suppliers (vehicle dealers).

Thank you for considering this request.

Attachment 1
1-18-05
FII

Kansas Bankers Association
Proposed Amendment to the Kansas Consumer Protection Act

50-624. Definitions. As used in this act:

(a) "Agricultural purpose" means a purpose related to the production, harvest, exhibition, marketing, transportation, processing or manufacture of agricultural products by a consumer who cultivates, plants, propagates or nurtures the agricultural products. "Agricultural products" includes agricultural, horticultural, viticultural, and dairy products, livestock, wildlife, poultry, bees, forest products, fish and shellfish, and any products thereof, including processed and manufactured products, and any and all products raised or produced on farms and any processed or manufactured products thereof.

(b) "Consumer" means an individual, husband and wife, sole proprietor, or family partnership who seeks or acquires property or services for personal, family, household, business or agricultural purposes.

(c) "Consumer transaction" means a sale, lease, assignment or other disposition for value of property or services within this state (except insurance contracts regulated under state law) to a consumer; or a solicitation by a supplier with respect to any of these dispositions.

(d) "Family partnership" means a partnership in which all of the partners are natural persons related to each other, all of whom have a common ancestor within the third degree of relationship, by blood or by adoption, or the spouses or the stepchildren of any such persons, or persons acting in a fiduciary capacity for persons so related.

(e) "Final judgment" means a judgment, including any supporting opinion, that determines the rights of the parties and concerning which appellate remedies have been exhausted or the time for appeal has expired.

(f) "Merchantable" means, in addition to the qualities prescribed in K.S.A. 84-2-314 and amendments thereto, in conformity in all material respects with applicable state and federal statutes and regulations establishing standards of quality and safety.

(g) "Person" means any individual, corporation, government, governmental subdivision or agency, business trust, estate, trust, partnership, association, cooperative or other legal entity.

(h) "Property" includes real estate, goods and intangible personal property.

(i) "Services" includes:

(1) Work, labor and other personal services;

(2) privileges with respect to transportation, hotel and restaurant accommodations, education, entertainment, recreation, physical culture, hospital accommodations, funerals and cemetery accommodations; and

(3) any other act performed for a consumer by a supplier.

K.S.A. 50-624

(j) "Supplier" means a manufacturer, distributor, dealer, seller, lessor, assignor, or other person who, in the ordinary course of business, solicits, engages in or enforces consumer transactions, whether or not dealing directly with the consumer. **Supplier does not include any bank, trust company or lending institution which is subject to state or federal regulation with regard to its disposition of repossessed collateral.**

History: L. 1973, ch. 217, § 2; L. 1974, ch. 230, § 2; L. 1976, ch. 236, § 2; L. 1983, ch. 179, § 1; L. 1991, ch. 159, § 1; L. 2001, ch. 49, § 1; July 1.

**SUMMARY OF THE OFFICE OF THE STATE BANK COMMISSIONER'S PROPOSED 2005
LEGISLATIVE CHANGES - BANKING**

K.S.A. 9-1303

The proposed changes to this statute would allow the OSBC to share information from the Commissioner's office, regarding the condition of a bank or trust company, with the Office of Thrift Supervision and with the Financial Crimes Enforcement Network (FinCEN). As currently written, the statute allows the OSBC to share information with the FDIC, Federal Reserve Bank, OCC, and other state bank, trust company, and S&L regulatory agencies. The primary reason for the amendment is so the OSBC can give information to FinCEN as part of an agreement to share information. This information sharing will assist FinCEN and the OSBC in completing Bank Secrecy Act examinations.

K.S.A. 9-1601

This statute currently provides the commissioner the ability to grant trust authority to banks. The proposed changes would allow a bank to offer medical savings accounts and health savings accounts, which invest in only time or savings deposits of the bank, to their customers, without the need for the bank to obtain trust powers.

K.S.A. 9-1702

* The changes to this statute are to allow the OSBC the authority to examine any investment company, holding company or affiliated corporation of a bank or trust company. Currently, the OSBC can examine these entities, if after doing a bank or trust exam, they request the banking board's approval to examine these affiliated businesses. This law change allows the OSBC to now do these exams without first going to the banking board for their approval. This proposed amendment was reviewed with the current banking board who found no objection to this change.

NEW SECTION

* The OSBC is proposing a new statute to allow our agency, with approval of the state banking board, to impose civil money penalties against banks and trust companies, or any executive officer, director or employee. Any person assessed a CMP has the right to a hearing. The commissioner or the board may modify or set aside the CMP. The maximum fine is \$1,000 per day. The proposed statute prohibits a bank or trust company from indemnifying their employees or directors against CMPs.

K.S.A. 9-1805

* This proposal amends the statute that allows the banking board to remove an officer or director from their position. The proposed change would add the ability for the banking board to prohibit a person's further participation in any manner in the conduct of the affairs of any state bank or trust company in Kansas, if the board finds the officer or director has been dishonest, reckless, or incompetent in performing their duties.

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Attachment 2
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Kansas Insurance Department

Sandy Praeger

COMMISSIONER OF INSURANCE

2004 Fact Sheet

Total fees, taxes and assessments collected by the Kansas Insurance Department in FY 2004: \$127,537,721

Total tax dollars contributed to the State General Fund in FY 2004: \$106,945,584

Total workers compensation paid in FY 2004 to Kansas employees who re-injured a previous injury in the workplace: \$3,895,701

Insurance dollars recovered for Kansas consumers in Calendar Year 2004: \$11,777,144

Consumer Complaints

Cases closed in *Calendar Year 2004*: 6766

Summary of Insurance companies doing business in Kansas:

	Kansas-based	Non-Kansas Based	Kansas Fraternal Societies	Total Companies
Life	20	549	31	600
Fire and Casualty	27	911	0	938
HMO	4	9	0	13
TOTAL	51	1,469	31	1,551S

FY 2004 Statewide Firefighters Relief Fund: \$8,403,897
(revenue collected & distributed to 582 Fire Fighter Relief Associations in Kansas)

Agents licensed statewide:
22,721 (Resident)
45,067 (Non-resident)

Consumer Education

During calendar year 2004, **Commissioner Praeger participated in over 90 speaking engagements and media interviews** with emphasis on educating the public on insurance issues. Other members of the **KID staff assisted in consumer education with over 125 speaking engagements**. These activities were all within the State of Kansas and include professional association meetings. In addition, KID is frequently called upon to participate in panel discussions to educate regulators and consumer groups from other states.

*Attachment 3
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Kansas Department of

Social and Rehabilitation Services

Gary Daniels, Acting Secretary

**Senate Financial Institutions and Insurance
Committee**

January 18, 2005

Update on Medicaid/SCHIP and Reorganization

Division of Health Care Policy

Scott Brunner, Director of Medical Policy/Medicaid

785.296.3981

For additional information contact:

Public and Governmental Services Division

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*Attachment 4
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**Kansas Department of Social and Rehabilitation Services
Gary Daniels, Acting Secretary**

Senate Financial Institutions and Insurance Committee
January 18, 2005

Update on Medicaid/SCHIP and Reorganization

Madame Chairperson and members of the Committee, I am Scott Brunner, Director of Medical Policy/Medicaid, in the Kansas Department of Social and Rehabilitation Services (SRS). I am here to ensure you that proposed changes in the administration of the Medicaid and HealthWave programs will not negatively affect coverage for children. To meet the needs of low-income children and families, we have combined the funding streams for Medicaid and HealthWave for a blended program that provides seamless services to some of the most vulnerable children and families in Kansas.

Overview of Medicaid

Title XIX of the Social Security Act, a Federal/State entitlement program, pays for medical assistance for certain individuals and families with low incomes. This program, known as Medicaid, became law in 1965 as a cooperative venture jointly funded by the Federal and State governments (including the District of Columbia and the Territories) to furnish medical assistance to eligible needy persons. Medicaid represents the largest source of funding for medical and health-related services for America's poorest people.

Within broad national guidelines established by Federal statutes, regulations, and policies, each State: (1) establishes its own eligibility standards; (2) determines the type, amount, duration, and scope of services; (3) sets the rate of payment for services; and (4) administers its own program. Medicaid policies for eligibility, services, and payment are complex and vary considerably, even among States of similar size or geographic proximity. Thus, a person who is eligible for Medicaid in one State may not be eligible in another State, and the services provided by one State may differ considerably in amount, duration, or scope from services provided in a similar or neighboring State. In addition, State legislatures may change Medicaid eligibility, services, and/or reimbursement during the year.

OVERVIEW OF HEALTHWAVE

As part of the Balanced Budget Act of 1997, the federal government offered states the opportunity to design a health insurance program to meet the needs of uninsured children. Title 21 was signed creating the State Children's Health Insurance Program, known as SCHIP.

Kansas created HealthWave 21 for uninsured children ages 0 - 19 living in households with income levels at or below 200% of the federal poverty level (FPL). Within the first year, HealthWave enrolled 15,500 of those children and teens. In addition, through HealthWave outreach efforts, Kansas Medicaid found an additional 17,000 previously uninsured to be eligible for coverage. In 2004, more than 32,000 children received coverage under SCHIP.

SCHIP/Title 21 comprises a Federal/State partnership created to expand health insurance coverage

to children whose families are not eligible for Medicaid based on Federal income guidelines. Federal regulations refer specifically to targeted low income children who reside in families with incomes below 200 percent of FPL or incomes 50 percent higher than a state's Title XIX Medicaid eligibility requirement. In Kansas, SCHIP provides coverage to children from birth to age 19 who live in families with incomes up to 200 percent of FPL. These children must be residents of Kansas.

In 2002, SRS integrated SCHIP with the state's Medicaid capitated managed care program for a seamless combined program known as HealthWave. Blending the two programs and providing coverage in a capitated format, as presently directed by Kansas statutes, allows SRS to provide children and eligible families with uniform and consistent health care coverage regardless of which program (i.e., Title XIX or Title XXI) funds the coverage. The State contracts with FirstGuard Health Plan of Kansas, Inc. (FirstGuard), a managed care organization (MCO), to provide a full array of physical health care services. Doral Dental serves as the dental services Administrative Service Organization (ASO) for Medicaid HealthWave and the MCO for SCHIP HealthWave. Cenpatico Behavioral Health Systems (CBH) recently received a contract through a competitive request for proposal process to provide mental health services to Title XXI children beginning on January 1, 2005.

Children are ineligible for SCHIP if they are currently covered by other health insurance, have access to the State Employee Health Plan, or are eligible for Title XIX Medicaid coverage. To be eligible for SCHIP coverage, families above 150% of the poverty level must agree to pay a monthly premium. Eligibility is determined annually and 12 months of continuous eligibility is applicable to both Title XIX and SCHIP enrollees even if family income increases above the income threshold during that time period.

Reorganization

The Governor's executive reorganization order (ERO 33) would create a Division of Health Policy and Finance (HPF) and transfer certain programs, functions, and employees from SRS and to HPF. The HPF will become part of the Department of Administration and designated as the single state Medicaid agency. The employees that will transfer are those involved with the Medicaid, MediKan and HealthWave programs, and all staff and functions that support the administration of the State Medicaid plan, including federal Medicaid reporting. SRS, the Department of Administration, and the Governor's Office will work together to identify particular staff persons that will transfer.

As part of the reorganization, SRS will become the Department of Human Services (DHS). The programs related to medical services that remain with the newly formed Department of Human Services (DHS) will include:

1. All existing Home and Community Based Service (HCBS) waivers currently managed by SRS;
2. Specialty medical services, including: mental health, behavioral management, substance abuse treatment, and disability services, including Medicaid funding related to these areas; and
3. Nursing facilities for mental health, state institutions, Institutes for Mental Disease (IMDs), and Level V and Level VI homes, and private Intermediate Care Facilities for the Mentally Retarded (ICF/MRs).

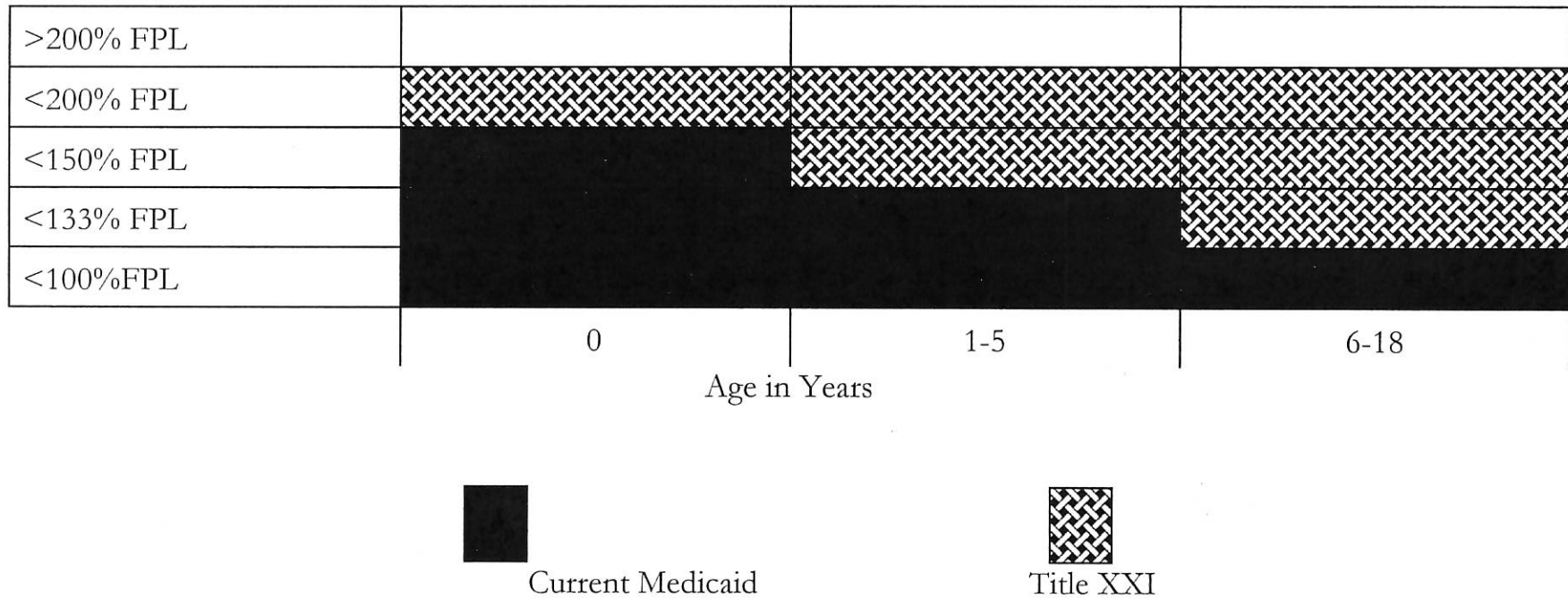
The changes outlined in ERO 33 would be effective July 1, 2005, assuming Legislative support.

Eligibility Process

The process by which Kansans apply for and are deemed eligible for Medicaid or SCHIP will remain the same, as will the levels of eligibility outlined in the attached chart. Eligibility determination will remain the responsibility of SRS/DHS, while eligibility policy will become the responsibility of the HPF. For the programs remaining with SRS/DHS, the eligibility policy decisions will be developed by SRS/DHS in cooperation with HPF. The determination of eligibility for family medical programs, like HealthWave, are primarily performed by a state clearinghouse staffed by contractor and state personnel. Some family medical cases are opened by staff within SRS regional offices, but ongoing case administration is forwarded to the clearinghouse.

That concludes my testimony. I am happy to answer any questions the Committee has at this time.

EXISTING COVERAGE UNDER TITLE XIX (MEDICAID) AND UNDER TITLE XXI (HEALTHWAVE)



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