Approved: March 22, 2010

Date

MINUTES OF THE HOUSE TRANSPORTATION AND PUBLIC SAFETY BUDGET COMMITTEE

The meeting was called to order by Chairman Lee Tafanelli at 3:30 p.m. on March 10, 2010, in Room 142-S of the Capitol.

All members were present except:
Representative Stan Frownfelter- excused

Committee staff present:
Scott Wells, Office of the Revisor of Statutes
Jim Wilson, Office of the Revisor of Statutes
Aaron Klaassen, Kansas Legislative Research Department
Jonathan Tang, Kansas Legislative Research Department
Gina Bowes, Committee Assistant

Conferees appearing before the Committee:

Others attending:
See attached list.

- Attachment 1 — Handout from Fred J. Lucky, Senior Vice President, Kansas Hospital Association, to the Senate Committee on Ways and Means regarding **SB 252**.

Representative Gatewood delivered a handout to Committee that the Kansas Hospital Association had presented to the Senate Ways and Means Committee regarding **SB 252** (Attachment 1).

Chairman Tafanelli explained this handout is for informational purposes and pertains to previous Committee discussion regarding the Department of Corrections budget regarding Medicaid payment rates from health care providers for services rendered to inmates.

Chairman Tafanelli stated the intent of this meeting was to take possible action on **HB 2387**. He explained this legislation addresses fire insurance premiums and distributing the amount of $200,000 to the State General Fund based on the percentage of the use of those fee funds which is 64.0 percent to the Fire Marshal, 20.0 percent to the Board of Emergency Medical Services and 16.0 percent to the Kansas Fire and Rescue Training Institute at the University of Kansas. Chairman Tafanelli reminded Committee of Revisor Wilson's recommendations that Committee consider making a technical amendment to change references in the bill from K.S.A. 2008 to K.S.A. 2009.

Representative Gatewood made a motion to move **HB 2387** with the requested amendment regarding the K.S.A. date change from 2008 to 2009 with a favorable recommendation. The motion was seconded by Representative Finney. The motion was carried on a voice vote.

Chairman Tafanelli asked if there was any further business before the Committee. Seeing none, the Chairman stated this meeting concludes the budget process for Committee. He stated there may yet be potential for bills to be referred to this Committee so there may be additional meetings.

The next meeting will be On Call of Chair.

The meeting was adjourned at 3:36 p.m.

Unless specifically noted, the individual remarks recorded herein have not been transcribed verbatim. Individual remarks as reported herein have not been submitted to the individuals appearing before the committee for editing or corrections.

TRANSPORTATION & PUBLIC SAFETY BUDGET COMMITTEE
GUEST LIST
MARCH 10, 2010

NAME	REPRESENTING
Dan McLaughlin	KSFM
Becky Bahr	KSFM
Patti Artzer	KBEMS

Tom Bell
President and CEO

TO: Senate Committee on Ways and Means

FROM: Fred J. Lucky, Senior Vice President

DATE: February 26, 2009

RE: Senate Bill 252

The Kansas Hospital Association appreciates the opportunity to provide comments on Senate Bill 252 which would amend K.S.A. 22-4612 by allowing the Kansas Department of Corrections and the Kansas Juvenile Justice Authority to receive Medicaid payment rates from health care providers for services rendered to inmates. This is not a new issue for the Legislature to consider. It has its genesis with the passage of House Bill 2893 during the 2006 session. House Bill 2893 was achieved because the two sides, hospitals and local law enforcement agencies, had issues in conflict.that needed to be corrected For hospitals, it was the practice of "un-arresting" individuals in custody to avoid paying for services. For the Sheriff's Association the issue was payment rates. In the end, both sides agreed that if providers would accept Medicaid payment rates for services rendered then the practice of "un-arresting" would be discontinued. It was a win-win for both sides.

Department of Corrections Inclusion

During the negotiations and subsequent hearings on House Bill 2893, the Kansas Department of Corrections attempted to be included in the bill. Our members were unanimous in their opposition to their inclusion for several reasons:

- The state was not responsible for the payment of claims for inmates. They had contracted that out to Correct Care Solutions.
- Correct Care Solutions had entered into contracts with many of the hospitals and physicians in the regions surrounding the prison facilities and had negotiated discounts and access provisions appropriate for the area.
- Provider Assessment-enhanced Medicaid payment rates were still below the cost of care and they were not willing to shift those loses to employers and others in their communities responsible for keeping the local hospital afloat.

TRANSPORTATION & PUBLIC SAFETY BUDGET
DATE 3-10-2010
ATTACHMENT 1

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- The costs for providing care to prison inmates far exceed the average costs for a typical Medicaid patient.

The RFP between the state and Correct Care Solutions includes several comments that should be brought to the committee's attention regarding the DOC's request:

> ***Section 5.4.2 Off-site Hospital Care:*** "The CCS Network Development Department has established a Kansas Correctional Healthcare Network (KCHN), which includes active contracts with over 100 specialty providers and hospitals throughout the state. (CCS map of contracting hospitals attached.) ..... It is important to note that CCS has worked in good faith with hospitals throughout the state. It is imperative that the KDOC and the State aggressively pursue a program where providers accept Medicaid or Medicare rates. Our present proposal cannot assure all providers will accept these rates..."
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> ***Page 1 of RFP Addendum:*** "The combination of losses, compensation and the need for CCS to generate a modest return on the project can be summarized as follows:
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> | | |
> |---|---|
> | Compensation FY '05 | $30,861,528 |
> | Operating Loss | $ 1,000,000 |
> | Profit Margin (10%) | $ 3,186,152" |
>
> ***Page 2 of RFP Addendum:*** "I am sure that there are companies suggesting that they can provide services cheaper than CCS, but how? Cut salaries? Cut staff? Better hospital discount? (We currently receive discounts in excess of 45% through strong relationships and prompt payments)." – signed Jerry Boyle, President and CEO.
> ***Page 30 of RFP Addendum:*** 8% Operation Margin is slim, – Options One and Three – Example two (*example one dealt with pharmaceuticals*): Should events and standard costs increase 10% each, **we would lose almost 1/3 of our total budgeted profit or $1,000,000.** An aging population and increased violence with the facilities, compounds this issue.

Background on Medicaid Payment Rates to Hospitals and Physicians

Until the passage of the Medicaid Provider Assessment legislation during the 2004 session, Medicaid payment rates to hospitals and physicians had not received an "inflationary" update since the early 1980's. Some fees on the schedule remained at the same level as when they were first developed in the early 1970's. Growth in state expenditures was solely due to case load increases and additional mandates from the federal government, not from indexed increases in payments. Cost report data showed that the Medicaid program was paying less than 54 percent of the costs for outpatient services and 20 percent for inpatient.

It became evident that these rates were not sustainable and the Medicaid Provider Assessment program was created. In essence, hospitals were asked to contribute to the

state's share to draw down federal matching dollars to improve payment rates. Hospitals are taxed nearly $35 million annually which in turn creates nearly $88 million in payment increases for hospitals and physicians. And while this is welcome relief it still does not cover the cost of providing services to Medicaid beneficiaries. The provider assessment "enhanced" fee schedule is still far below that of other payers.

Milliman, one of the world's largest independent actuarial and consulting firms, was commissioned by the America's Health Insurance Plans, the Blue Cross and Blue Shield Association, and the American Hospital Association in 2008 to evaluate the financial impact to insurers and employers of the "cost shift" resulting from Medicaid and Medicare underpayments. They determined that the cost shift resulted in a 15 percent hidden tax. Jon Pickering, Principal and Consulting Actuary at Milliman, Inc., who co-authored the report concluded "As we consider approaches to expand coverage ..., we need to keep in mind the disparity among Medicare, Medicaid, and commercial provider payment rates, and the pressure that this disparity places on hospitals, physicians, and commercial payers."

Hospital's are already contributing their fair share – by providing $35,000,000 annually to support the Medicaid fee schedule and by providing services to every Medicaid patient at a loss. The rationale our members expressed during last session are still valid. Asking hospitals and employers to underwrite losses for providing health care services to inmates while the company responsible for paying for and providing those services is guaranteed a profit from the Department is wrong. While we support efforts to work cooperatively with the Department of Corrections and their contractors, imposing arbitrary payment levels such as those from Medicaid or Medicare that are inadequate and inappropriate for inmate services is not something the legislature should mandate.

Thank you for your consideration of our comments.