

MINUTES

JOINT COMMITTEE ON HEALTH POLICY OVERSIGHT

December 17, 2009
Room 143-N—Statehouse

Members Present

Senator Jim Barnett, Chairperson
Representative Brenda Landwehr, Vice-chairperson
Senator Jeff Colyer
Senator David Haley
Senator Laura Kelly
Senator Roger Reitz
Senator Vicki Schmidt
Representative Bob Bethell
Representative Don Hill
Representative Peggy Mast
Representative Louis Ruiz
Representative Jim Ward

Staff Present

Terri Weber, Kansas Legislative Research Department
Melissa Calderwood, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Nobuko Folmsbee, Office of the Revisor of Statutes
Doug Taylor, Office of the Revisor of Statutes
Ken Wilke, Office of the Revisor of Statutes
Jan Lunn, Committee Secretary

Conferees

Dr. Andy Allison, Acting Executive Director, Kansas Health Policy Authority
Doug Farmer, Deputy Director, Kansas Health Policy Authority
Laura Howard, Deputy Secretary, Kansas Department of Social and Rehabilitation Services
Roderick L. Bremby, Secretary, Kansas Department of Health and Environment
Martin Kennedy, Acting Secretary, Kansas Department on Aging
Aaron Dunkel, Deputy Secretary, Kansas Department of Health and Environment
Dr. Helen Connors, Chairperson, e-Health Advisory Council
Larry Pitman, Chief Executive Officer, Kansas Foundation for Medical Care

Others Attending

See attached list.

Morning Session

Chairperson Barnett called the meeting to order at 9:30 a.m. and welcomed those attending.

Update on Kansas Health Policy Authority (KHPA) Operations and Strategic Plan

Doug Farmer, Deputy Director and Director of the State Employee Health Plan, Kansas Health Policy Authority (KHPA), was recognized to provide testimony on behalf of Dr. Andy Allison, Acting Executive Director, who had laryngitis. Mr. Farmer introduced Mr. Ken Daniels, KHPA board member. Mr. Farmer began his testimony (Attachment 1) by highlighting key points including KHPA's new focus, KHPA's budget summary, and agency "next steps." The new focus is required due to changing circumstances related to the economy, new state leadership, and a new federal administration that is quickly advancing national health care reform. Mr. Farmer discussed with Committee members the necessity of soliciting feedback from policymakers, the refocus of resources on core program operations, the task of repositioning the State for national health care reform, and the securement of federal American Recovery and Reinvestment Act (ARRA) funding for health information technology (HIT) and health information exchange (HIE). To accomplish these goals, a revised four-year strategic plan was approved by the KHPA Board in November 2009. The strategic plan includes the agency's new priorities, performance targets, the focus on advancing a medical home, core agency operations, cost management, and alignment of individual roles with organizational activities and goals. Mr. Farmer provided an update on recent achievements that included the securing of a \$40 million grant to replace the State's Medicaid enrollment system and the expansion of health insurance coverage to children below 250 percent of the 2008 federal poverty level (FPL). A summary of the Kansas Access to Comprehensive Health (KATCH) project was distributed which described the grant and its goal of enrolling uninsured individuals in public health programs including the technology to accomplish this (Attachment 2).

KHPA—Impact of Governor's November Allotments

Mr. Farmer provided an account of the impact of recent budget reductions for FY 2009 and FY 2010. Discussion followed on the impact of the Governor's November 2009 allotment for KHPA operations; specifically, on the elimination of extra contract funding for the eligibility Clearinghouse, the reduction in staff overtime dedicated to the Clearinghouse eligibility backlog, the elimination of the Call Center for Medicaid providers and the reduction of Call Center capacity for Medicaid beneficiaries.

Concerning the elimination of Call Center funding, which was projected to save the agency approximately \$250,000 SGF, Senator Schmidt asked how much the fiscal agent was paid to process each claim received in the Call Center. Mr. Farmer responded the cost was 76 cents per transaction. Senator Schmidt expressed concern that with the elimination of Call Center support, more claims would be filed, thereby resulting in higher long-term costs. She provided the example of a provider who files a claim (without the assistance of Call Center support); the claim is denied; and the provider files a second, and possibly a third or fourth claim. Senator Schmidt stated that

without the assistance of a liaison to the provider, more funds will be spent in claims filing, thereby causing delays in provider payments. She further stated that critical access hospitals may close because of funding decreases and delays, and caseload costs will increase due to decreased claim accuracy. Senator Schmidt encouraged an immediate reassessment of the decision to eliminate the Call Center services.

With respect to the Governor's across-the-board 10 percent reduction in Medicaid provider rates included in the November allotment, Senator Schmidt questioned the impact on pharmacies' reimbursement based upon federal upper limits for drugs in the Medicaid program. Mr. Farmer responded that it is his understanding that the 10 percent cut would apply only to the dispensing fee; the product claim would remain untouched by the reduction. Senator Schmidt pointed out such reductions in Medicaid provider rates subsequently reduce federal matching funds. In her role as a registered pharmacist, Senator Schmidt reported there is an opportunity for significant cost savings with the improved management of Schedule II through Schedule V narcotic drugs prescribed to Medicaid recipients. She questioned why other cost-savings strategies such as this had not been evaluated by KHPA instead of cutting funding that results in lost federal funding matches. Mr. Farmer stated a written response would be distributed at a later time.

Senator Schmidt inquired as to why federal government drug rebates to the State are deposited in the State General Fund rather than in the Pharmacy Fund or other public health medical funds. Mr. Farmer indicated a written response would be forwarded to Senator Schmidt and other Committee members.

Mr. Farmer reported that one of the reduction options included in the agency's FY 2011 budget submission was to align all professional rates in Medicaid to 86 percent of the average Medicare rate for similar groups of services. Senator Schmidt asked to what extent that percentage would be affected by the Governor's across-the-board 10 percent reduction. Mr. Farmer indicated the 86 percent would not be affected that dramatically; however, a written reduction estimate would be provided to the Committee.

Representative Mast noted that KHPA reductions in customer and support services could impact the State's ability to comply with federal requirements for timely claims processing. She asked what plan is in place to address any federally imposed penalties. In addition, with increased Medicaid applications for services, she asked if there is a cost estimate for funding matching dollars required by the federal government. Mr. Farmer indicated he would provide the agency's estimated cost for funding Medicaid recipients in a written response to Committee members. Also, he reported that communication has occurred with the Centers for Medicare and Medicaid Services (CMS) requesting input on the KHPA recommendation. Representative Mast also asked whether the Inspector General position would be filled in the near future. Dr. Allison responded that the Board had offered the position to Mr. Nick Cramer, and that he would be officed in the Mills Building. He will serve as Acting Inspector General until confirmation by the Senate.

Representative Bethell reiterated Senator Schmidt's concern related to cost reductions that eliminate federal matching funds. He asked if the purpose of reducing Medicaid costs was to curtail Medicaid growth, or to force evaluation of revenue enhancements. Mr. Farmer responded that the agency was unaware of an intentional decision to cut operational Medicaid costs for the purpose of slowing growth and the use of services. Representative Bethell also expressed concern regarding the possibility of becoming non-compliant with federal requirements for matching funds and for ARRA funding. Representative Bethell asked Mr. Farmer to furnish the percentage of Medicaid usage in Kansas compared to the national percent. Mr. Farmer stated that the information would be provided to the Committee at a later date.

Senator Colyer asked what alternatives, other than the 10 percent Medicaid cut, were discussed. Mr. Farmer indicated there was nothing close to the scale of the approved recommendation. Senator Colyer questioned whether consideration was given to out-of-state service rates for the Medicaid program, which has resulted in significant savings for some states. Mr. Farmer indicated that the out-of-state rates issue had been examined, and that he would discuss this with Senator Colyer.

Considerable discussion from Committee members followed regarding KHPA's effort to ensure on-going analyses for cost reductions and cost savings, the lack of alternatives presented for evaluation, and the potential for federal penalties with implementation of the recommendations provided in testimony.

Senator Kelly echoed concerns of eliminating the Call Center support services, particularly in light of a recessive economy which forces more Kansans to apply for assistance as well as the depth of reductions already taken. She encouraged restoration of funding for Call Center support services. Senator Kelly also requested additional information concerning the \$250,000 projected savings, in particular, whether the savings was for a full year.

Department of Social and Rehabilitation Services (SRS)—Impact of Governor's November Allotments

Laura Howard, SRS Deputy Secretary, was recognized to discuss the impact of the Governor's November Allotments ([Attachment 3](#)). Ms. Howard presented information regarding the details of the FY 2010 budget reductions included in the 2009 allotments. She discussed various programs impacted by the reduction. Included in the reductions are various grants that are expected to affect community mental health centers, developmental disability assistance, and General Assistance. In an attempt to lessen the effect of the reductions, SRS implemented a staffing plan that included a hiring freeze and organizational restructuring. Ms. Howard discussed the categories of services that are tied to federal programs and funding that includes mandatory requirements. Ms. Howard indicated that further reductions of the state hospital budgets would necessitate ceasing voluntary admissions at State mental health hospitals and possibly closing patient units. The Governor's November allotments will cause policy changes, including limiting personal care assistant hours; eliminating dental care for the Developmental Disability (DD) Waiver, Physical Disability (PD) Waiver, and Traumatic Brain Injury (TBI) Waiver; and eliminating emergency respite care for the DD Waiver. Ms. Howard reported that if additional reductions are required, the elimination of total programs would be evaluated to attain further savings.

Following discussion regarding Ms. Howard's testimony, Chairperson Barnett asked about the provisions and restrictions for beneficiaries using a Kansas Vision Card (SRS Food Assistance Program) and whether there were programs for monitoring fraud or abuse of the program. Ms. Howard stated that additional information would be provided to Committee members.

Kansas Department of Health and Environment (KDHE)—Impact of Governor's November Allotments

Secretary Roderick Bremby distributed copies of his testimony ([Attachment 4](#)) and discussed the effects of budget reductions for FY 2010, which included:

- A hiring freeze;

- The abolishment of vacant positions;
- The elimination of oral health educational activities for the Maternal and Child Health Program;
- An overall reduction in Environmental Laboratory services;
- A decrease in the contract for the Kansas Association of the Medically Underserved (KAMU) which will impact the State's Primary Health Program;
- Elimination of funding for the Teen Pregnancy Case Management Program and the methamphetamine clean up program; and
- A funding reduction to the Infant Toddler Program, the Coordinated School Health Program, vaccine purchases, and the State Water Plan expenditures.

Kansas Department on Aging (KDOA)— Impact of Governor's November Allotments

Acting Secretary Martin Kennedy discussed the impact of the Governor's November allotments and adjustments to the FY 2010 and FY 2011 budgets (Attachment 5). FY 2010 budget adjustments included reductions to the Senior Care Act funding; Medicaid reimbursements were reduced along with the corresponding loss of federal matching funds; the Home and Community Based Services (HCBS) Frail Elderly (FE) Waiver was held at the 2009 level; nursing home rates were held flat; and the Area Agencies on Aging (AAA) core funding was suspended. Secretary Kennedy reported that scrutiny of programs continues on a month-by-month basis and operating costs will continue to be constrained for FY 2011. Mr. Kennedy noted that the impact of these reductions may cause layoffs in nursing homes, may restrict or eliminate Medicaid admissions to nursing homes, and may negatively impact quality of care in nursing facilities for the mentally ill. Secretary Kennedy reported that all available Medicaid spaces for the Program of All-Inclusive Care for the Elderly (PACE) currently are filled.

Afternoon Session

Senator Barnett requested that Committee members review the minutes of the June 12, 2009, meeting (previously distributed to Committee members). *Upon a motion by Representative Landwehr and a second by Representative Ruiz to accept the minutes of the June 12, 2009, meeting as submitted. The motion passed.*

Update on Statewide Health Information Technology and Health Information Exchange Initiative

Secretary Roderick Bremby provided information on the progress of the Statewide Health Information Technology and Health Information Exchange (HIE/HIT) initiative (Attachment 6). (Note - because of a scheduling conflict, Secretary Bremby's presentation on the HIT/HIE Project was presented in the morning session). Secretary Bremby reported that KDHE is the state designee for the HIT/HIE project oversight. In this role, KDHE is accountable to facilitate the creation of strategic

and operational plans for a HIE infrastructure. Discussion was heard related to funding from federal grants and federal stimulus dollars by the inclusion of the Health Information for Economic and Clinical Health Act (HITECH) in ARRA. Secretary Bremby stated that, although there will be an initial infusion of stimulus dollars for implementation, on-going expenses will occur and must be addressed to ensure the implemented model is sustainable. Information on the e-Health Advisory Council (eHAC), its structure and membership, its five domain workgroups and chairpersons of the workgroups, and other partners and stakeholders involved in the project were discussed.

Dr. Helen Connors, professor at the University of Kansas School of Nursing and Executive Director for the University of Kansas Center for Health Informatics, was introduced. Dr. Connors chairs the eHAC which was established to guide the continued development of Kansas E-Health initiatives based on the final recommendations of the Health Information Technology/Health Information Exchange Policy Initiative, the Kansas Health Information Exchange Commission, and the Health Information Security and Privacy Collaborative (HISPC). Dr. Connors presented testimony related to the Advisory Council's five domain work groups and their chairpersons; the structure and purpose of the domain work groups; and an organizational chart outlining the state's HIT governance structure, including the HIT (Attachment 7).

Dr. Connors also described the work of the eHAC since August 2009. Proposals submitted include expanding the Chronic Disease Electronic Management System with a grant request of \$2.8 million; a funding request for \$4.3 million to provide essential workforce training through seven community colleges, as well as Kansas State University and the University of Kansas; a funding request for \$9 million for the creation of a Regional Health Information Technology Center (RC) for the state; and a funding request for \$10 million to develop the infrastructure to achieve a widespread and sustainable health information exchange within and among states through the meaningful use of certified electronic health records (EHR). All funding request notifications will occur in the next several months. Dr. Connors discussed the challenges involved in the project, such as implementation of broadband in rural areas, long-term sustainability, and statutory or policy revisions within federal and state law.

Questions from Committee members included whether legislation related to this project is anticipated in 2010; how the exchange of medical information is accomplished; who owns the medical record; whether information contained in the patient's secure record could be used for public health initiatives; and whether various operational models (public, private, public/private) are being evaluated, particularly where other states have implemented similar plans.

Dr. Connors reported that Jeff Ellis, Chairperson of the Legal Policy Workgroup, has engaged the voluntary services of 26 healthcare attorneys from across the country to review the package being recommended by the Legal Policy Workgroup. The draft will be submitted to the KDHE Secretary, eHAC, and subsequently to the Legislature with a request for statutory changes in 2010. Dr. Connors explained that to transmit and receive records, all parties must have an electronic health system. The transfer of medical information is exchanged via a master patient index with a patient locator system to transfer the record as needed. She explained that typically, the owner of the record is the patient's primary care physician using a medical home concept. Dr. Connors noted that the Legal Policy Workgroup has focused on privacy and security requirements for system development and use. At the current time, it is hoped that the electronic health record (EHR) will be interactive, which would allow the patient to access diagnostic test results and to enter information related to the patient's health condition and self-care management. In addition, data points within the EHR could be used for public health initiatives. Dr. Connors assured Committee members that the various operational models are being evaluated by the workgroups.

Senator Barnett expressed concern that with reductions in Medicaid reimbursement, a fragile healthcare system with limited providers is being created which could jeopardize “the medical home” as it currently is defined.

Larry Pittman, President and CEO, Kansas Foundation for Medical Care (KFMC), discussed his involvement in the project. Since KFMC’s purpose is to facilitate the improvement of healthcare in Kansas, that entity was invited to submit a proposal to the Office of the National Coordinator (ONC) for Health Information Technology to serve as the Regional Extension Center for Kansas. If awarded, KFMC will provide expert technical support (subsidized by federal funds) to over 1,200 primary care providers who are interested in adopting EHRs or using existing systems to achieve “meaningful use” incentives (Attachment 8). Mr. Pittman reported incentives up to \$44,000 per Medicare provider over five years and up to \$63,750 per Medicaid provider over six years are possible. Incentives must meet “meaningful use” definition, exchange health information, and providers must report on quality measures. Family practice, OB/GYN, internal medicine, and pediatrics practitioners are eligible for incentives as well as community and rural health centers serving under- and uninsured Kansans. Mr. Pittman also reported on the project’s scope and its short- and long-term program goals. Committee members discussed the EHR and how to ensure a standard e-health system purchased by providers is capable of information exchange. Mr. Pittman reported that any system that is approved by the Certification Commission for Healthcare Information Technology (CCHIT), the United States certification authority for EHR and their networks, guarantees the system’s capability for health information exchange.

Annual Review of the State Children’s Health Insurance Plan (SCHIP)

Barbara Langner, PhD, Acting Medicaid Director, KHPA, presented information related to managed care contractors who provide Medicaid and SCHIP services to 173,462 HealthWave members (Attachment 9). (The Medicaid managed care program and SCHIP have been combined into one program called HealthWave.) Features of the Plan were reviewed as well as outcomes, measurement benchmarks, and patient satisfaction surveys. Requirements for data collection were reviewed, and identified improvement areas were presented. Plan expenditures and rates were discussed. Dr. Langner indicated that in FY 2010, goals include creating new coverage options in western Kansas, adjusting Mental Health benefits for SCHIP members, ensuring a smooth process for SCHIP expansion, monitoring performance improvements, and assessing the net impact of managed care organizations on State expenditures.

Committee members discussed the request by the KHPA Board to analyze the effect of consolidating HealthWave claims payment and care management into the Medicaid fee-for-service operation. In addition, considerable discussion was heard regarding the federal mandate that requires citizenship and identity verification for all SCHIP applicants and the challenges this adds to the Clearinghouse difficulties and delays.

Chairperson Barnett requested data related to the immunization rates for children in HealthWave compared to those in commercial plans and the cost for HealthWave children compared to private insurance plans. Dr. Langner stated that information would be provided to Senator Barnett and the other Committee members.

Recommendations for the Committee Report to the 2010 Legislature

Committee members recommended that the following items be included in the Committee Report to the 2010 Legislature:

- That the Kansas Health Policy Authority restore total funding for the Call Center support services because of the potential that elimination of support services could result in the submission of multiple claims for one visit from each provider, could create claim inaccuracies, could delay provider reimbursement payments, could negatively impact quality of care, and could cause hospitals to close or providers to eliminate caring for the Medicaid population;
- That the Kansas Health Policy Authority evaluate and provide information to the 2010 Legislature on other alternatives for budget reductions, including improved program efficiencies or reduction of fraud and abuse, such as narcotic prescription drug abuse by Medicaid beneficiaries;
- That the Kansas Health Policy Authority include in the evaluation of its budget reduction recommendations for the amount of lost federal match funding which could result in an increase in State long-term health expenditures and health care access issues;
- That SRS provide additional information to the Committee and the 2010 Legislature regarding the Kansas Vision Card, particularly the quality of food purchased with these funds and how the program is monitored for fraud and abuse; and
- That all members of eHAC, the HIT/HIE domain workgroups, the chairpersons of these groups, and others who have volunteered and dedicated their time and skills to the Statewide Health Information Technology and Health Information Exchange Initiative be publicly acknowledged, applauded, and thanked by the Joint Committee on Health Policy Oversight. The Committee believes that the magnitude of this project will have far-reaching effects on the future of health care in Kansas.

Chairperson Barnett thanked the Committee, staff, and conferees for their support, ideas, and input. The meeting was adjourned at 3:10 p.m.

Prepared by Jan Lunn
Edited by Terri Weber

Approved by Committee on:

March 26, 2010
(Date)