

## MINUTES

### JOINT COMMITTEE ON HOME AND COMMUNITY BASED SERVICES OVERSIGHT

July 18, 2008

Room 783-Docking State Office Building

#### Members Present

Representative Bob Bethell, Chairperson  
Senator Pat Apple, Vice-Chairperson  
Senator David Haley  
Senator Laura Kelly  
Representative Jerry Henry  
Representative Brenda Landwehr  
Representative Melody McCray-Miller (via phone conference)  
Representative Sharon Schwartz

#### Members Absent

Senator Dwayne Umbarger

#### Staff Present

Amy Deckard, Kansas Legislative Research Department  
Terri Weber, Kansas Legislative Research Department  
Kelly Navinsky-Wenzl, Kansas Legislative Research Department  
Nobuko Folmsbee, Office of the Revisor of Statutes  
Renaë Jefferies, Office of the Revisor of Statutes  
Florence Deeter, Committee Secretary

#### Conferees

Don Jordan, Secretary, Kansas Department of Social and Rehabilitation Services  
Kathy Greenlee, Secretary, Kansas Department on Aging  
Bill McDaniel, Commissioner of Program and Policy, Kansas Department on Aging  
Frank Stahl, Assistant Director, Community Supports and Services, Kansas  
Department of Social and Rehabilitation Services  
Deb Schwarz, Director of Transitions and CARE, Kansas Department on Aging

#### Others Attending

See attached list.

## Morning Session

The meeting was called to order at 9:00 a.m. The Chairperson welcomed Committee members and guests and requested members and staff introduce themselves.

Nobuko Folmsbee, Office of the Revisor of Statutes, presented an overview of SB 365, stating the bill is designed to provide both long-term care services and home and community services through a coordinated system across the state ([Attachment 1](#)). The Department on Aging (KDOA) and the Department of Social and Rehabilitation Services (SRS), in consultation with the Kansas Health Policy Authority (KHPA), are authorized to design and implement the system. A required annual summary report on the long-term care system is to be submitted to the Governor and the Legislature during the first week of the session. The bill enumerates the responsibilities of the Joint Committee and authorizes the establishment of a savings fund in the state treasury to be administered by the Secretary of SRS.

Amy Deckard, Kansas Legislative Research Department, directed attention to the conference committee report brief for House Sub. for SB 365 ([Attachment 2](#)), and the report of the Legislative Budget Committee making recommendations for a public developmental disabilities system. Ms. Deckard briefly discussed the Home and Community Based Services Waiver expenditures contained in HB 2946 and commented on the graph and pie chart of waiver expenditures approved by the Legislature ([Attachments 3, 4, 5 and 6](#)).

Don Jordan, Secretary of the Department of Social and Rehabilitation Services, provided background information on the Home and Community Based Services (HCBS) program, explaining the federally approved Medicaid waiver of certain rules ([Attachment 7](#)). Secretary Jordan stated that the HCBS waivers give the state access to federal Medicaid matching funds for community support and services. The services are available to each person eligible for institutional placement who decides to return to live in his or her respective community. Secretary Jordan explained the various tenets of the six disability waivers, each of which targets a specific need of the individual. The Secretary also noted the total expenditures for each program.

Secretary Jordan responded to questions from Committee members by stating:

- Case managers are in place to determine the level and quality of service needed when individuals transition to another program;
- Any excess monies can be used for local crisis services including assistance and intervention on a short term basis;
- Monies designated for programs supporting mental health for the elderly will remain in those programs;
- Children with autism are selected randomly from a waiting list. A functional assessment must be completed before a child is accepted for assistance; and
- When a child is institutionalized, parental income is waived after a specified amount of time.

Frank Stall, Assistant Director of Community Supports and Services, SRS, responded to a question on economic and functional assessment, stating the score compiled in diagnostic testing determines eligibility for services. Mr. Stall indicated that each state sets its own poverty level; Kansas chooses 300 percent of the federal poverty level to configure the amount of payment required for services.

Kathy Greenlee, Secretary of the Department on Aging, provided the Committee with

information regarding the process involved in her report ([Attachment 8](#)). Secretary Greenlee indicated that a joint public budget meeting was held between SRS and KDOA to ascertain the concerns of Kansas residents and to gather information regarding the involvement in community services of other agencies. Secretary Greenlee stated that choices need to be offered and support given to individuals using community services.

Bill McDaniel, Commissioner of Program and Policy, KDOA, provided background and a description of HCBS programs available for the frail elderly. Each program delineates eligibility guidelines, client obligations, numerous services, and the dollar amounts for those services. A chart showing the cost per hour for Medicaid customers is included in the report, as well as a graph depicting Medicaid expenditures.

Mr. McDaniel responded to questions from Committee members by stating:

- Companion Services will be implemented on August 1, 2008, and is designed for cognitively impaired adults to have an advocate who can assist with incidental care;
- Costs for services are determined by levels and the amount of supervision required;
- The cost effectiveness of the program is centered in the determination of services needed. A different billing process is needed for reimbursement;
- The basic purpose of Companion Services is to provide care for clients who are self-directed and able to remain in their respective homes;
- Models used by other states have been observed; “cash and counseling” is used in some states, while Kansas uses “fee for services” on a statewide basis; and
- A number of individuals were on a waiting list for services between April 2002 and April 2004.

Copies of cost differences will be provided to the Committee, as well as statistics showing the number of customers being monitored in the Wellness program.

Secretary Jordan returned to elaborate on the Money Follows the Person (MFP) Grant. Both SRS and the KDOA are joint recipients of this grant. The federal program is in place to assist individuals transitioning from institutional care to home and community services. The primary goal of MFP is for money to follow an individual to the designated HCBS waiver when that person is leaving an institutional setting. MFP is funded by an enhanced 80-20 percent federal-state match for the first year.

Secretary Jordan reported 48 percent of individuals residing in Intermediate Care Facilities for the Mentally Retarded (ICF/MR) have chosen community homes which have HCBS waivers. The Secretary cited New Horizons in Pittsburg, Kansas, where large numbers of transitions began on July 1, 2008. The Secretary noted that the real savings occur when the ICF/MR bed is closed behind the individual and then the facility is closed. Secretary Jordan stated there are two challenges involved in moving individuals to the community: one is refraining from forcing an individual to move; the other is finding a more equitable way to offer viable choices.

## Afternoon Session

Deb Schwarz, Director of Transitions and CARE, KDOA, provided detailed information regarding the MFP, saying it is a five-year demonstration grant to help residents meet their goal of transitioning to the community ([Attachment 9](#)). A dollar amount of \$2,500 is allowed for setting up their home and acquiring needed amenities. The process includes a community bridge-building team to meet with the resident and provide information regarding resources available in the community. Ms. Schwarz said a targeted case manager, who has been trained in transitioning, will be in place to monitor the MFP recipient. After 365 days, individuals transitioning under the MFP grant will have access to the regular HCBS waivers with all services intact.

Ms. Schwarz provided additional information using a flow chart involving the Community Bridge Building Teams ([Attachment 10](#)). An MFP program sheet explaining services and how the money follows the person is included in her report ([Attachment 11](#)). A chart giving details regarding qualified HCBS services, HCBS demonstration services and supplemental services is contained in ([Attachment 12](#)).

Ms. Schwarz responded to the Committee's questions by stating:

- There is no limit to the number of individuals residing in a community home; however, all persons living in the residence must have their names listed on the lease;
- An estimated 20 percent of funds are held to cover the cost of recovery in the event an individual discovers he/she is unable to remain self-sufficient in the community;
- Individuals such as the elderly and physically disabled making the transition to home community care illustrates a market-driven choice rather than a mandatory move; and
- It is anticipated that the migration during the next 15 to 20 years will lessen the demand for institutional care and provide adequate choices for assisted and independent living arrangements.

At the Committee's request, Secretary Greenlee will provide data at a later date on the ranking of over-bedding in Kansas.

Secretary Jordan offered additional information on the Autism waiver, saying it is the newest of HCBS waivers (reference Attachment 7, page 6 and 8). The Secretary explained the waiting list for the HCBS services for individuals who have mental and developmental disabilities (MR/DD) is quite high and they are not receiving services at this time. There are 798 individuals in day care and residential care who want additional services and have not yet received those services. Secretary Jordan said it will require time to have well-trained and qualified staff to provide those services. He said a study is being conducted to determine various aspects of services, including salary and compensation. Secretary Jordan further stated that an analysis is being formulated for a 2010 report to the Governor regarding a no-waiting-list policy.

Secretary Jordan responded to the inquiry of the Chairperson regarding the 2 percent rate increase for the MR/DD, PD, and TBI waivers (reference Attachment 7, page 9), saying a memorandum had been sent to various agencies and providers with recommendations to follow the intent of the Legislature in implementing the increase in wages and benefits that direct care staff are qualified to receive ([Attachment 13](#)).

In answer to a Committee member's question regarding an audit of wages and benefits to employees in direct care facilities, Secretary Jordan said that because of individual performance scores, some employees did not receive an increase in wages. He said that providers are doing their best to get the money distributed as intended. He also indicated that an ongoing rate study is being conducted by the Department.

Amy Deckard, Kansas Legislative Research Department, briefed the Committee on the scope statement (Attachment 14). She said the topic originated in a Senate Ways and Means subcommittee and was referred to this Committee by the Legislative Coordinating Council for consideration during the Interim. After discussion, the Chairperson urged all parties to work together to construct a viable program for a long-term care system in Kansas. Ms. Deckard indicated staff will conduct further research on the policies of other states and locate advocates who can provide pertinent information on the topic.

A document on the subject of benchmarks was referenced for the Committee (Attachment 15).

The Chairperson requested Committee members submit any additional topics for future consideration to legislative staff for inclusion at future meetings. Representative Henry asked that the topic of budget cutting and retaining the current capacity-building be addressed. He suggested that crisis services in rural communities be considered for discussion as well as an update on Case Management issues. Representative Schwartz requested a discussion regarding means testing for the various programs.

The Chairperson reported the Legislative Coordinating Council has approved four meetings for the Joint Committee on Home and Community Based Services Oversight. By consensus, the next meeting was scheduled for August 27, 2008.

The meeting was adjourned at 3:00 p.m. The next meeting is scheduled for August 27, 2008, at 9:00 a.m.

Prepared by Florence Deeter, Secretary  
Edited by Amy Deckard and Terri Weber

Approved by Committee on:

August 27, 2008

(Date)