

## MINUTES

### LONG-TERM CARE SERVICES TASK FORCE

September 27, 2004  
Room 514-S—Statehouse

#### Members Present

Senator Larry Salmans, Chairperson  
Representative Bob Bethell, Vice Chairperson  
Senator Susan Wagle  
Representative Patricia Barbieri-Lightner  
Representative Nancy Kirk  
Representative Jim Morrison  
Representative Judy Showalter

#### Non-Legislative Members Present

Mark Bailey  
Evie Curtis  
Janis DeBoer  
Linda Lubensky  
Dr. Carol Moore  
Sister Beth Stover  
Margaret Zillinger

#### Members Absent

Senator Henry Helgerson  
Senator Janis Lee  
Senator Chris Steineger  
Charles Moore  
Bob Smith  
Ray Vernon

#### Staff

Audrey Dunkel, Kansas Legislative Research Department  
Susan Kannarr, Kansas Legislative Research Department  
Terri Weber, Kansas Legislative Research Department  
Lisa Montgomery, Revisor of Statutes Office  
Mary Shaw, Task Force Secretary

## Conferees

Joseph Kroll, Director, Bureau of Child Care and Health Facilities, Kansas Department of Health and Environment  
Scott Brunner, Director of Medical Policy and Medicaid, Kansas Department of Social and Rehabilitation Services  
Pamela Johnson-Betts, Secretary, Kansas Department on Aging  
Karen Campbell, Administrator, Medicalodge Post-Acute and Rehabilitation Center  
James Huxman, Administrator, Memorial Home, Inc.  
Jalane White, Administrator, Pleasant View Home, Inc.  
Doug Frihart, Administrator, Saint Joseph Village  
Jeff Chapman, Director of Marketing and Development, Meadowlark Hills  
Sherry Rinke, Administrator, Anthony Community Care Center

### September 27 Morning Session

Senator Larry Salmans, Chairman, called the meeting to order at 10:00 a.m., and welcomed everyone to the meeting.

The Chairman welcomed Joseph Kroll, Director, Bureau of Child Care and Health Facilities, Kansas Department of Health and Environment (KDHE), who presented an update regarding the transfer of the nursing facility inspection program to the Kansas Department on Aging ([Attachment 1](#)). Mr. Kroll's testimony delineated the KDHE staffing, funding, and program administration changes resulting from the nursing facility inspection program transfer to the Kansas Department on Aging.

Audrey Dunkel, Senior Fiscal Analyst, Kansas Legislative Research Department, presented an overview of Medicare Part D, a component of the Medicare Prescription Drug, Improvement, and Modernization Act (MMA) of 2003, ([Attachment 2](#)).

Ms. Dunkel also distributed copies of the following information:

- [MMA—Medicare Part D State Budget Impact: Kansas](#). A presentation by Donna Boswell, Hogan and Hartson, L.L.P., to the Legislative Budget Committee on September 9, 2004 ([Attachment 3](#)).
- [Prescription Drug Coverage for Medicare Beneficiaries: An Overview of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 \(Public Law 108-173\)](#), prepared by Health Policy Alternatives, Inc., for The Henry J. Kaiser Family Foundation, dated January 14, 2004 ([Attachment 4](#)).

Chairman Salmans asked if the Legislative Budget Committee has made any recommendations regarding Medicare Part D. Ms. Dunkel responded that, at this time, the Committee has not made any recommendations.

In response to questions, Ms. Dunkel explained that one of the suggestions to control the “clawback” cost made by Ms. Boswell in her presentation to the Legislative Budget Committee was finding a way to reduce the number of fully dual eligibles in each month of Kansas’ payment. Ms. Boswell’s testimony to the Legislative Budget Committee noted that reducing the number of fully dual eligibles may require a waiver and that no states had requested this type of waiver. Ms. Boswell also had indicated that she was not certain the Centers for Medicare and Medicaid Services (CMS) would approve a waiver of this type.

Ms. Dunkel further explained that one of the big issues with the “clawback” formula is that the state only has control over one component of the formula—the number of dual eligibles—and, as indicated by Ms. Boswell, the extent of the state’s control is in question. Task Force discussion followed.

Representative Bethell requested Kansas-specific data regarding enrollment for the current Medicare-approved prescription drug discount card.

The Chairman welcomed Scott Brunner, Director of Medical Policy and Medicaid, Kansas Department of Social and Rehabilitation Services, who presented an overview of the Medicare Prescription Drug, Improvement and Modernization Act ([Attachment 5](#)). Mr. Brunner also distributed *Common Medicaid Eligibility Pathways for Medicare Beneficiaries, 2003* from The Kaiser Commission on Medicaid and the Uninsured ([Attachment 6](#)). In his presentation, Mr. Brunner discussed key provisions in the Medicare Modernization Act, (MMA) that are Medicaid related including:

- Dual eligibles;
- Eligibility for subsidies;
- Increased payments to Disproportionate Share Hospitals (DSH);
- The potential “woodwork effect” resulting from persons enrolling in Medicaid who are not currently enrolled;
- Restrictive formularies and wrap around coverage; and
- Coordination activities.

These topics are detailed in Mr. Brunner’s written testimony.

Mr. Brunner explained a table attached to his written testimony titled, “Estimate of Correct Clawback Amounts and Total Savings in SGF,” noting that the data is based upon actual pharmacy expenditures incurred only by Medicaid-eligible beneficiaries who were also eligible for Medicare. Also, all figures show only State General Fund dollars. The amounts shown in the “gain” column do not include consideration of additional administrative costs that would be incurred by the state.

In response to a question by Representative Kirk regarding Social Security Income (SSI) eligibility, Mr. Brunner explained that if an individual is eligible for Medicare under the existing rules, then that person would be eligible for Part D.

Mr. Brunner noted that since the signing of the MMA, a team composed of relevant SRS and Department on Aging staff are working to make certain that Kansas meets the MMA requirements for states and to ensure a smooth transition for dual eligible beneficiaries from Medicaid to Medicare coverage. Task Force discussion followed.

Chairman Salmans welcomed Pamela Johnson-Betts, Secretary, Kansas Department on Aging, who presented an overview of the Medicare Prescription Drug, Improvement, and

Modernization Act of 2003 (Attachment 7). Secretary Johnson-Betts explained that the current Medicare-endorsed Prescription Drug Discount Card can only be used until implementation of Medicare Part D. She emphasized that the Medicare-endorsed Prescription Drug Discount Card is a temporary, voluntary option for seniors. It is not a Medicare benefit.

The Secretary provided the Kansas Department on Aging's perspective on the following:

- □ The existing Kansas Senior Pharmacy Assistance Program (KSPAP);
- □ The effect that Medicare Part D will have on KSPAP;
- □ What the Kansas Department on Aging is doing specific to the MMA; and
- □ How the Kansas Department on Aging plans to inform seniors of their options regarding prescription drug coverage under the MMA.

Secretary Johnson-Betts explained that the implementation of Medicare Part D in January 2006 will have an impact on seniors who currently use the KSPAP because KSPAP will be "suspended on the day upon which payments commence under any federal law," as directed in KSA 75-5961.

The Secretary mentioned that the Kansas Department on Aging is working closely with other state agencies to monitor the activity regarding the MMA. Task Force discussion followed.

Representative Morrison mentioned a potential defect in the calculation of the federal poverty level. He inquired if disability insurance is included, in that if people receive disability insurance, that is excluded from their federal poverty income level calculation. This item will be checked out and a response will be provided.

Janis DeBoer, Deputy Secretary, Kansas Department on Aging, noted that a correction needed to be made on pages 2 and 3 of the Department's written testimony. She clarified that the parenthetical "(135 percent-150 percent FPL)" on both pages should read "(below 135 percent FPL)."

Chairman Salmans called the Task Force's attention to recommendations for the final report. Based on the testimony heard during the morning session, the Task Force requested that the following concerns, considerations, and recommendations regarding the MMA be incorporated into the final report:

- Medicare Part D—Concerns/Considerations:
  - The lack of information being provided by the CMS makes it difficult to accurately predict the impact of the Medicare Part D program on the state.
  - It is not clear from the information being provided by the CMS that Medicare Part D will work well for the population it is intended to serve.
  - Senior citizens may not be aware that if they postpone enrollment in Medicare Part D, a penalty will be attached to their premium for the period of time they have not been enrolled in the program. A distinction needs to be made between Medicare Part D and the current Medicare-approved discount card program that does not have a late enrollment penalty.

- Recommendation: That the appropriate state agencies continue to monitor and predict the impact of the Medicare Part D program on the state and report their findings, and any recommendations for policy changes, to the Senate Public Health and Welfare Committee, the House Health and Human Services Committee, the Senate Ways and Means Committee and the House Appropriations Committee during the 2005 Legislative Session.
  
- Medicare-endorsed prescription drug discount card—Concerns/Considerations:
  - The Medicare-endorsed prescription drug discount card may not be understood by consumers, in particular, that the discount card program will end and will be replaced with Medicare Part D.
  - Education about the Medicare-endorsed prescription drug discount card program and the Medicare Part D program is very important and should begin as soon as possible.
  
- Recommendation: That the appropriate state agencies ensure that a coordinated educational effort regarding the Medicare-endorsed prescription drug discount program and the Medicare Part D program is in operation.
  
- Funding for Prescription Drugs not Covered by Medicare Part D—Concerns/Considerations:
  - Seniors may not understand the Medicare formularies or how to get the drugs they need.
  - Additional legislation may be necessary to provide assistance in funding the cost of prescription drugs that are not covered by Medicare Part D.
  
- Discussion: In response to questions, staff indicated that the Senior Services Trust Fund no longer has sufficient funds to subsidize the cost of prescription drugs. Staff also noted that Ms. Donna Boswell, who is a member of the Pharmaceutical Transition Team—a committee established as part of the MMA, has recommended an option to providing “wrap-around” coverage for drugs that are not covered. Ms. Boswell recommends that states consider providing assistance to Medicare beneficiaries to appeal the denial of drug coverage from Medicare Part D plans.
  
- Recommendation: That the 2005 Legislature enact legislation that would allocate state funds to be used to subsidize the cost of prescription drugs not covered under Medicare Part D.

Chairman Salmans noted that, in December, the Task Force may want to more fully consider its role in any follow-up to the Medicare Part D recommendations. Chairman Salmans also noted that

the Task Force should review the recommendations of the Legislative Budget Committee regarding Medicare Part D at the end of the interim to ensure that the recommendations of the Task Force and the Legislative Budget Committee are in sync.

The meeting recessed at 12:00 Noon for lunch.

### **Afternoon Session**

The meeting reconvened at 1:30 p.m. Information was distributed about a scheduled book signing and reception with Bill Thomas, M.D., Founder of the Eden Alternative, on October 6, 2004, at 7:00 p.m., at the Dole Institute of Politics at the University of Kansas in Lawrence.

Chairman Salmans welcomed and congratulated the following PEAK Award Winners, who gave presentations on how they introduced the idea of culture change within their nursing facilities. Secretary Johnson-Betts introduced and congratulated the following PEAK Award Winners:

Karen Campbell, Administrator, and Lynn Hill, Director, Medicalodge Post-Acute and Rehabilitation Center, Arkansas City. (No written testimony was provided.) Ms. Campbell discussed the following changes made in their nursing facility:

- □ Cultural change began in 2002.
- □ Staffing patterns are by neighborhoods and nurses take care of all aspects of primary care nursing.
- □ More resident choices are provided.
- □ The facility has started its own chapter of the Red Hat Society for women and a Quarterback Club for men.

James Huxman, Administrator, and Pat Rupp, Director of Nursing, Memorial Home, Inc., Moundridge ([Attachment 8](#)) were introduced. Ms. Rupp noted that their change began as a result of independent fund raising efforts. She discussed the following changes made in their nursing facility and staff/resident reactions to the changes:

- Changed the appearance of their nursing home from a medical model to a social model;
- Assigned staff to a specific neighborhood, instead of having specific elder assignments;
- Restructured the nursing management positions;
- Introduced three new programs: Know Your Neighbor, Adopt a Room, and a Thrift Shop;
- Upgraded the bathing experience;

- Made structural changes to give a feel of “home”;
- Encountered more resistance from elders and community than anticipated but now are producing very positive results as evidenced by responses from staff, elders, and families. Nursing staff turnover has been relatively low for the past four years, and the facility has not had a need to use agency staff for over two years; and
- Have incorporated behavior-based interviewing in the hiring process and have a mentoring program that is instrumental in the staff retention success.

Jalane White, Administrator, and Judy Miller, Director of Nursing, Pleasant View Home, Inc., Inman ([Attachment 9](#)) were introduced. Ms. White discussed the following changes made in their nursing facility:

- Provided resident choices, such as menu choices, leisurely bathing, and activities of choice. The facility has an active resident council.
- Routines of the residents are an important consideration.
- Staff empowerment, such as self scheduling, career-building opportunities, and self-managed neighborhood teams have been added.
- Fund Scholarships. One scholarship is always devoted to a high school senior interested in entering long-term care.
- Provided a home environment that includes independent neighborhoods, social gatherings, and sunrooms with kitchenettes in which to meet with friends and family. Also have a Red Hat Society affiliated with the national organization, which includes women from the community.
- Elimination of the call “beep” and other noises in the hallways. The CNAs and nurses wear pagers programmed for their specific neighborhoods
- Community involvement, such as a computer for residents with e-mail to correspond with family and friends, church support, local school and community organization involvement, and shopping.

Doug Frihart, Administrator, and Angel Crombly, Director of Nursing, Saint Joseph Village, Manhattan were introduced. (No written testimony was provided.) Mr. Frihart discussed the following changes made in the nursing facility and community reaction to the changes:

- Culture change began more than five years ago.
- Moved to a new campus from an aging building in December 2003.
- Sought a small home environment and more flexible life style for residents. Staff thinks of residents as partners.

- Eliminated nursing stations and developed work rooms that are places where staff of all disciplines come together and talk about ways to better serve their residents.
- New design ensures that residents do not have to walk or go very far from services such as bathing, dining, cooking utensils, laundry, etc. The new design provides a more peaceful environment and technological advances.
- Have not seen a significant turnover in staff for over ten months.
- Provided supervision and leadership training for nurses.
- Reorganized the direct care and direct service staff.
- Call light pagers are placed with the core assistants and housekeeping staff so they can respond to the residents' nonclinical requests.
- Have experienced some community skepticism and comments.

Steve Shields, Administrator, Roger Beams, Director of Nursing, and Jeff Chapman, Director of Marketing and Development, Meadowlark Hills, Manhattan were introduced. (No written testimony was provided.) Mr. Chapman discussed the following changes made in their nursing facility, and commented on the survey process:

- Included in facility philosophy the commitment to enhance the quality of the resident's life by nurturing individuality and independence.
- Incorporated a program called continual dining and no shifts for dining.
- Staff turnover was up to 70 percent and now is less than 30 percent.
- Survey process has to change.

Sherry Rinke, Administrator, and Diane Powell, Director of Nursing, Anthony Community Care Center, Anthony then spoke. (No written testimony was provided.) Ms. Powell discussed the following changes made in their nursing facility and commented on the survey process:

- Have a very old building but have made improvements as money has become available. Have held fund raisers, bought items at garage sales, etc. With the community involvement of 75 people, the building has been renovated.
- Asked the elders and staff what they wanted and that was how culture change started.
- Initiated buffet dining.
- Introduced a therapy garden.
- Noted that the survey process has to change.



Task Force questions and discussion followed regarding who will follow those involved in the culture change today, and in the future, to keep culture change going. Mr. Bailey commented that he has seen more culture change in Kansas than in buildings on the East or the West Coast. The Task Force thanked the PEAK Award Winners for their presentations and efforts to improve the quality of life in their nursing facilities.

### **Possible Changes to the PEAK Award Nomination Process**

Representative Bethell mentioned that he has talked with Secretary Johnson-Betts regarding the PEAK Award nomination process. He commented that he wanted the Task Force to know of his respect for the people that have presented their experiences regarding culture changes in nursing facilities. Representative Bethell expressed concern that, given the number of nursing facilities in Kansas, very few facilities have been nominated and awarded the PEAK award. In light of Mr. Bailey's comments about the extent of culture change in Kansas, he felt that some people may not feel comfortable patting themselves on the back. Representative Bethell stated that he feels that both the PEAK Award nominations and the survey process need consideration. He suggested the following be considered for the final report:

- ☐ The Surveyors reporting to their regional directors those facilities they feel should be considered for the PEAK Award because of the outstanding job they have done with regard to cultural change in the nursing facility.
- ☐ In addition to self-nomination, also allow nominations from others.
- ☐ Beyond the dinner and press releases now given to the facility, explore other award options, possibly through the Legislature and the industry associations. Options could include monetary awards or the awarding of specific services, such as food supplies.

Chairman Salmans asked for a copy of the PEAK Award program application for the October meeting.

Chairman Salmans called the Task Force's attention to discussion of the following:

- ☐ Minutes of the August 30, 2004 meeting;
- ☐ Diabetes Presentation Review and Recommendation, Draft II (Attachment 10);
- ☐ Money Follows the Person Project, Draft I (Attachment 11); and
- ☐ Transfer of Nursing Facility Inspection program from the Kansas Department of Health and Environment to the Kansas Department on Aging (Attachment 12).

Task Force discussion followed, regarding the minutes of the August 30, 2004—meeting and the three drafted recommendations. Sister Beth Stover offered a suggested inclusion in the minutes of August 30, 2004, meeting regarding Kathy Greenlee, the newly appointed state Long-Term Care Ombudsman.

*Sister Beth Stover recommended inclusion of the following language in the minutes of the August 30, 2004, meeting of the Task Force, wording as follows: "Kathy Greenlee, the newly appointed state Long-Term Care Ombudsman, was present and was asked to address the Task Force. Ms. Greenlee expressed her commitment to the work before her. She indicated it would be a tremendous challenge to adequately represent older persons who are in Long-Term Care Facilities, due to the limited number of staff and the need for increased numbers of trained volunteers. She stated her interest and willingness to work with the Task Force in the future" (Attachment 13).*

Representative Morrison suggested an amendment on page 6 of the minutes, under discussion of recommendations for the final report, first bullet, regarding the transition of the Nursing Facility Inspection program from the KDHE to the Kansas Department on Aging, last sentence, to replace "to correct" with "to assist with" any of the transition.

Regarding page 6 of the minutes, under discussion of recommendations for the final report, Representative Kirk suggested amending in the second bullet, regarding the Money Follows the Person program referring to the waiting lists, to remove the word "waning" and replace with "active." Add sentence that "Regarding the Physically Disabled waiting list, there are community barriers to people moving out of the nursing facilities and this needs to be monitored." Margaret Zillinger noted that under the Money Follows the Person program bullet, a correction should be made that the KDHE should be Kansas Department of Social and Rehabilitation Services.

Sister Beth Stover suggested, under the discussion of recommendations for the final report, first bullet, regarding the Nursing Facility Inspection program transition from the KDHE to the Kansas Department on Aging, that the Task Force has now heard from the Kansas Department of Health and Environment. It was noted that this change will be incorporated in the final report of the Task Force.

Staff noted that, in an e-mail, Mr. Ray Vernon requested an amendment on page 7, regarding the Administrator in Training program, that the phrase "long-term care facility administrators" should be changed to "licensed operators of assisted living facilities." (Reference was to the wrong group.)

*Representative Bethell moved, with a second by Mr. Mark Bailey, to accept the minutes of the August 30, 2004, meeting as amended. Motion carried.*

The next meeting is scheduled for October 25, 2004. The meeting adjourned at 3:20 p.m.

Prepared by Mary Shaw  
Edited by Terri Weber and Audrey Dunkel

Approved by Task Force on:

October 25, 2004

(date)