

MINUTES OF THE HOUSE APPROPRIATIONS COMMITTEE

The meeting was called to order by Chairman Melvin Neufeld at 9:00 A.M. on February 2, 2006 in Room 514-S of the Capitol.

All members were present except:

Representative Joe McLeland- excused  
Representative Kevin Yoder- excused  
Representative Tom Sawyer- excused

Committee staff present:

Alan Conroy, Legislative Research Department  
J. G. Scott, Legislative Research Department  
Becky Krahl, Legislative Research Department  
Mike Corrigan, Revisor of Statutes  
Nikki Feuerborn, Administrative Assistant  
Shirley Jepson, Committee Secretary

Conferees appearing before the committee:

Kathy Greenlee, Acting Secretary, Department on Aging  
Scott Brunner, Division of Health Policy and Finance

Others attending:

See attached list.

- Attachment 1 Testimony by Kathy Greenlee
- Attachment 2 Testimony by Scott Brunner
- Attachment 3 Updated List of Payments for Medicare Part D by the State

Representative Light moved to introduce legislation regarding court admissions to the Reception and Diagnostic Center. The motion was seconded by Representative Sharp. Motion carried.

Representative Light moved to introduce legislation regarding claims settlement authority for the Secretary of Corrections. The motion was seconded by Representative Pilcher-Cook. Motion carried.

Continued discussion from February 1<sup>st</sup> on Medicare Part D Prescription Plan:

Chairman Neufeld recognized Kathy Greenlee, Acting Secretary, Department on Aging, who presented an overview of the implementation of Medicare Part D in Kansas (Attachment 1). Ms. Greenlee noted that the State has been working for three years to put together a team of individuals to respond to problems associated with the implementation of the drug program. She noted that one problem with the training involved the lack of final details and resources. In addition, the Plan Finder, the Center for Medicare and Medicaid Services (CMS) internet tool to find providers, is very complicated and difficult to understand. Even with all the preparation, Ms. Greenlee stated that there were serious problems with the implementation of the drug program on January 1<sup>st</sup>. Approximately one-quarter of the dual-eligibles were lost in the system because an edit feature was dropped from the computer system.

Of the 400,000 Kansans eligible for the Medicare Part D Prescription Drug coverage, 40,000 are dual-eligibles. Approximately one-quarter of these dual-eligibles live in nursing homes. The plan design indicates that these individuals, who live in nursing homes, do not have to pay a co-pay. The remaining three-quarters of the dual-eligibles, have a co-payment because of the plan design. These individuals who are now being asked to make a co-payment, did not have a co-payment in the past. Ms. Greenlee stated that the problem needs to be analyzed to identify these individuals, the cost of the co-payment and how the State can fix the problem if they choose to do so.

Ms. Greenlee felt it is important to determine jurisdiction, provide on-going assistance, correct the problems with dual-eligibles and eliminate the problems experienced by the pharmacists. She noted it will be necessary to go to Congress to correct the malfunctions in the design plan.

## CONTINUATION SHEET

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Responding to questions from the Committee, Ms. Greenlee stated that CMS approved the 41 prescription drug plans available to Kansans eligible for Medicare Part D. Ms. Greenlee noted that providers of assistance can answer questions and provide assistance to eligible individuals but they are unable to make a decision for the individual on the choice of an insurance company drug plan. Ms. Greenlee stated that the individual who can make these decisions is left to State law.

With regard to the penalty clause for those eligible individuals who do not enroll in a plan, Ms. Greenlee felt that this provides for a good mix of participants for the insurance companies, providing healthy individuals as well as those in need of prescription drugs. The Committee felt it is important to correct the problems associated with the program and not create a "panic" among eligible citizens. The Committee indicated that it may seek a resolution to extend or eliminate the May 15<sup>th</sup> deadline when the penalty clause becomes effective.

The Chair recognized Scott Brunner, Division of Health Policy and Finance, who presented testimony on Medicare Part D and Dual Eligibles (Attachment 2). Mr. Brunner felt that the State is taking a positive approach in resolving the problems associated with the implementation of the Medicare Part D program.

Because CMS has created a central electronic point of sale electronic system to take care of all Part D enrollees, plan assignments and benefit coverage, the State, on January 1<sup>st</sup>, blocked their Medicaid Management Information electronic system to prevent pharmacy payments for Medicare eligible beneficiaries. The CMS system was not responsive or correct during the first week of the Part D program causing the State to reverse their action and allow Medicaid to be billed for these prescription drugs in order for the individual to have their prescriptions filled. As of January 30, the State has expended approximately \$2.9 million to correct the problem caused by the malfunction of the CMS system. This temporary measure was offered until February 1<sup>st</sup>, has been extended to February 6<sup>th</sup> and will be evaluated to determine if further action is necessary. CMS has indicated that they are working to provide full federal reimbursement for costs incurred by states providing this transitional coverage for dual eligibles. CMS has indicated that this reimbursement will be effective until February 15<sup>th</sup>. Mr. Brunner noted that the State is "payer of last resort" and pharmacies should be using the CMS system first before turning to the State.

Responding to a Committee question with reference to the fact that dual-eligibles in nursing homes do not have a co-payment on prescription drugs, Mr. Brunner indicated that he felt the individuals have limited income and limited interaction with the pharmacist. He also indicated that this group of individuals were not addressed when the program was designed and there was a lack of understanding with this issue.

Mr. Brunner provided an updated list of payments made by the State (Attachment 3).

The Committee requested additional information:

- If Jayhawk Pharmacy of Topeka, has used the temporary State program; and if so, why they had not received any reimbursement.

The Chairman thanked Mr. Brunner for his testimony.

The Committee requested that a special committee be appointed to address the Medicare Part D Prescription Drug program, review possible state solutions and items to offer the federal government in a resolution.

Chairman Neufeld appointed the following members to a Special Committee on Medicare Part D Prescription Drug to review program issues:

Representative Landwehr, Representative Ballard, Representative Williams, Representative Henry, Representative Bethell, Representative McCreary and Representative Schwartz.

**HB 2194** was withdrawn from Appropriations and referred to Economic Development Committee. **HB 2565** was withdrawn from Appropriations and referred to Select Committee on Veterans Affairs.

CONTINUATION SHEET

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The meeting was adjourned at 10:25 a.m. The next meeting will be held at 9:00 a.m. on February 7, 2006.

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Melvin Neufeld, Chairman