MINUTES

JOINT COMMITTEE ON HOME AND COMMUNITY BASED SERVICES OVERSIGHT

November 19-20, 2009
Room 143-N—Statehouse

Members Present

Senator Carolyn McGinn, Chairperson
Representative Bob Bethell, Vice-chairperson
Senator Laura Kelly
Senator Kelly Kultala
Senator Dwayne Umbarger
Representative Jerry Henry
Representative Peggy Mast (November 20)

Members Absent

Representative Brenda Landwehr
Representative Melody McCray-Miller

Staff Present

Terri Weber, Kansas Legislative Research Department
Reed Holwegner, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Kathie Sparks, Kansas Legislative Research Department
Doug Taylor, Office of the Revisor of Statutes
Nobuko Folmsbee, Office of the Revisor of Statutes
Jan Lunn, Committee Secretary

Conferees

Carole Jordan, Director, Rural Development Division, Kansas Department of
    Commerce
Don Jordan, Secretary, Kansas Department of Social and Rehabilitation Services
Craig Kaberline, Executive Director, Kansas Area Agencies on Aging Association
Martin Kennedy, Acting Secretary, Kansas Department on Aging
Tina Langley, Director of Information and Community Resources, Kansas Department
    on Aging
Corey Mohn, Coordinator, Office of Rural Opportunity, Kansas Department of
    Commerce

Heather Pierce, 2-1-1 Coordinator, 2-1-1 Information and Referral Search Service, United Way of the Plains

Dr. Jane Rhys, Executive Director, Kansas Council on Developmental Disabilities

Mark Shiff, Section Director, Children and Youth with Special Needs Section, Kansas Department of Health and Environment

Tom Akins, Vice President for Development and Planning and CEO, Brewster at Home, Brewster Place

Monte Coffman, Executive Director, Windsor Place

Dr. Helen Connors, Chairperson, e-Health Advisory Council

Aaron Dunkel, Deputy Secretary, Kansas Department of Health and Environment

Doug Farmer, Deputy Director, Kansas Health Policy Authority

Bill McDaniel, Commissioner, Senior Services, Kansas Department on Aging

Larry Pittman, CEO, Kansas Foundation for Medical Care

Dr. Ryan Spaulding, Director, Center for TeleMedicine and TeleHealth, University of Kansas Medical Center

Others Attending

See attached list.

Thursday, November 19
Morning Session

Chairperson McGinn called the meeting to order at 10:05 a.m. and welcomed those attending.

Amy Deckard, Kansas Legislative Research Department (KLRD), reported that representatives from the Division of the Budget, Department of Social and Rehabilitation Services (SRS), Kansas Health Policy Authority (KHPA), Kansas Department on Aging (KDOA), Juvenile Justice Authority (JJA), and KLRD recently met to revise human services caseload estimates for FY 2010 and to make initial estimates for FY 2011 (Attachment 1). She noted that optional services and waivers are excluded from the estimate. The estimate for FY 2010 was increased by $24.3 million from the State General Fund (SGF) and $40.2 million from all funding sources. The estimate for FY 2011 increased by $118.4 million from the SGF and $51.6 million from all funding sources above the revised FY 2010 estimate. Ms. Deckard indicated that American Recovery and Reinvestment Act of 2009 (ARRA) funding ends December 31, 2010 (halfway through FY 2011) resulting in substantially increased FY 2011 estimates for State General Fund expenditures.

At the last meeting, Ms. Deckard was requested to submit information related to total funding for community developmental disabilities (DD) programs from all funding sources (not just waiver funding sources). Ms. Deckard distributed a spreadsheet containing the requested information (Attachment 2). Committee members discussed the information and requested an enhanced report containing case load estimates for FY 2010 by item and FY 2011 agency requests including enhancements and without enhancements. Ms. Deckard indicated that information would be presented later in the day or during the November 20, 2009 meeting.

Secretary Don Jordan, SRS, was recognized to report on requests for clarification on questions raised at the October 14, 2009 meeting. Secretary Jordan provided information on the following (Attachment 3):

- Home and Community Based Service (HCBS) programs and requested enhancements, state grants, and budget cuts contained in HCBS programs;

- The number of individuals waiting for physically disabled (PD) waiver services at the conclusion of FY 2010, and the definition of "crisis" exceptions;

- The cost and number of individuals served through crisis services by specific waiver;

- The number of children served by the autism waiver;

- Information on the Parent Fee Program (by waiver) and revenue generated by this program, how the fee schedule is determined, and consequences (if any) for non-paying families;

- The status of the review by the Centers for Medicare and Medicaid Services (CMS) related to fee schedules;

- Admissions to Kansas Neurological Institute (KNI) and Parsons State Hospital (PSH) programs and whether these admitted individuals were receiving waiver services prior to admission;

- The number of individuals on DD waivers prior to and after the Winfield closure;

- The number of individuals at the Winfield facility and their disposition following closure;

- The impact or experience of other states who have closed DD institutions;

- Costs for DD waiver programs in Kansas and other states;

- Costs for tiers of service and number of individuals within each tier at KNI and PSH, including current reimbursement rates;

- Detailed information concerning waiver enhancement requests;

- Clarification on recent PD waiver audits; and

- An overview of the Sexual Predator Treatment Program (SPTP), including the number of individuals in the program, their current location, and the average cost per individual in the Program.

Committee members expressed concern that the FY 2011 waiver enhancements indicate expenditure estimates are above budgeted projections. Secretary Jordan stated these enhancements are to maintain the current level of services. Following questions from Representative Henry, Secretary Jordan indicated that without these enhancements, program changes could occur. Considerable discussion ensued regarding the agency's expenditure projections; reasons for the higher number of individuals being served without explanation or documentation as to reasons for the increase; negotiated reimbursement rates; and whether expenditure projections have been underestimated in the recent past. Committee members also focused on the possible implementation of sliding fee scales; whether fees currently in place have undergone review to ensure the appropriateness of fees in today's economy; whether a review has

occurred to ensure those eligible to pay a sliding fee for services are actually paying; and whether the actual revenue collected is reasonable for the number of individuals who are required to contribute under a fee schedule program.

Committee members discussed the high costs associated with the SPTP, its treatment phases and standards, transitions within the program, and how the Kansas SPTP compares to other states.

Senator Kultula requested information related to a chart submitted by Secretary Jordan outlining percentages, by tier, of all persons allocated funding for HCBS MR/DD services for Residential Supports, Day Supports, and In-Home Supports (for adults and children) from FY 2004 through FY 2010 (see page 4 of Secretary Jordan's written testimony Attachment 3). Senator Kultala commented that, for In-Home Child services, the trend appears to be inverted in relationship to the trend for other service types. Secretary Jordan indicated he would research the question further and provide the information to Senator Kultula and other Committee members.

Representative Bethell asked whether historical information was available as to the reasons individuals in "crisis" were approved for waiver services. Secretary Jordan indicated that information was available and would be categorized and provided to Representative Bethell and other Committee members.

Chairperson McGinn requested clarification from Ms. Deckard regarding whether any cost savings could be realized with the reduction or elimination of any optional waiver services included in Medicaid spending. Ms. Deckard indicated that the spreadsheet for optional services by type, actual costs from the SGF, and all funds, as well as projected costs, are being updated by the KHPA. It is anticipated the information will be available in early December. She also indicated that she could provide the FY 2008 information (including projections for FY 2009 and FY 2010). In response to a question, Ms. Deckard stated it is her understanding that until federal ARRA stimulus dollars end (December 31, 2010) optional population eligibility cannot be changed or eliminated and, therefore, changes are prohibited. However, optional services could be changed or eliminated after December 31, 2010.

Ms. Deckard presented an overview of the Facilities Closure and Realignment Commission recommendations (Attachment 4). Representative Bethell, who is a member of the Commission, provided additional information about the Commission's deliberation and recommendations.

Chairperson McGinn recessed the meeting at 12:00 p.m. and announced the meeting would reconvene at 1:30 p.m.

Afternoon Session

Chairperson McGinn reconvened the meeting at 1:38 p.m. and recognized Dr. Jane Rhys, Executive Director, Kansas Council on Developmental Disabilities.

Dr. Rhys indicated that as a result of questions at the October meeting, she surveyed other states (Attachment 5) to determine how persons with a developmental disability who have been accused of committing a felony, but are incompetent to stand trial, are handled. Responding states included Alaska, Hawaii, Maine, Massachusetts, New Mexico, Oklahoma, Vermont, and Washington. The majority of the respondents indicated some level of dissatisfaction with their current programs. Dr. Rhys elaborated that issues exist in all states, including the difficulty in identifying a person with

a developmental disability and whether to place the individual in a separate facility or a community environment. Dr. Rhys reported that, in her opinion, the most promising systems appear to be in Vermont and Oklahoma, who provided clear direction and funding for their programs.

Heather Pierce, 2-1-1 Coordinator, 2-1-1 Information and Referral Search Service, United Way of the Plains, provided information on how this service can strengthen access to available services (Attachment 6). Ms. Pierce explained the 2-1-1 service in Kansas and its purpose to empower people to access services. The program also provides opportunity to assist people desiring volunteer opportunities. At the current time, 80 percent of the program is covered by land line telephones with mobile access being developed. The program also provides disaster response assistance. Ms. Pierce provided historical and current information on the number of calls received by the program. She outlined the top ten call categories for Kansas and detailed the aging and disability-related calls received.

Craig Kaberline, Executive Director, Kansas Area Agencies on Aging Association (K4A), was recognized. Mr. Kaberline provided an overview of the organization (Attachment 7) indicating that in Kansas, area agencies on aging are the single points of entry that coordinate the delivery of publicly funded community based services needed by Kansas seniors and their caregivers. Mr. Kaberline distributed a booklet entitled *Explore Your Options* to each Committee member that included information specific to his or her district. The booklet is a comprehensive publication that is used by individuals for information relative to available services for Kansas seniors. The booklet is available on the KDOA website, as well as other distribution points, including hospitals, nursing facilities, assisted living facilities, meal sites, doctors' offices, SRS facilities, home health agencies, libraries, senior centers, health fairs, various support groups, and some post offices.

Chairperson McGinn recognized Martin Kennedy, Acting Secretary, KDOA, who introduced Tina Langley, Director of Information and Community Resources at KDOA. Ms. Langley reported on the Kansas Aging and Disability Resource Connection (ADRC) program which resulted from federal grants from CMS and the Administration on Aging (Attachment 8). The ADRC program is designed to serve individuals who need long-term support, families and caregivers, people planning for future long-term support needs, and agencies and organizations that serve older adults and persons with disabilities. Key partners for the Kansas ADRC project were discussed. The referral and call log system, consisting of methods to share information among agencies, was discussed. The implementation timeline for this project also was reviewed.

Mark Shiff, Section Director, Children and Youth with Special Needs Section, Kansas Department of Health and Environment (KDHE), informed Committee members on the Make A Difference Information Network (MADIN) which is a collaborative effort among KDHE, the Kansas State Board of Education, SRS, and Oral Health Kansas (Attachment 9). MADIN's purpose is to connect Kansans and service providers with resources and services for individuals with disabilities. Mr. Shiff elaborated that 2-1-1 and the MADIN web site are channels in which to access information and that MADIN is a requirement of the Title V Block Grant.

Carole Jordan, Director, Rural Developmental Division, Kansas Department of Commerce, distributed her written testimony (Attachment 10) outlining the creation and purpose of the Division. Ms. Jordan discussed the importance of "value added" programs for rural Kansas and rural communities. Rural Development Division staff members work to push state and federal dollars into rural areas to help these areas and communities meet their goals. Ms. Jordan also discussed the Office of Rural Opportunity, and its satellite offices, and their work to assist towns in leveraging dollars for health projects and healthy communities. Ms. Jordan introduced Corey Mohn, Coordinator, Office of Rural Opportunity, who briefly reported on the importance of collaboration and developing partnerships to improve the total health of Kansas' rural communities.

Chairperson McGinn adjourned the meeting at 3:45 p.m.

Friday, November 20
Morning Session

Chairperson McGinn called the meeting to order at 9:08 a.m. and welcomed those attending. Chairperson McGinn indicated the minutes of the meeting held on October 14, 2009, were previously distributed and *upon a motion by Senator Kelly and a second by Representative Bethell to approve the minutes as written, the motion passed.*

Chairperson McGinn placed a call to the 2-1-1 access service. As noted during the November 19, 2009, meeting, to demonstrate the type of information available to the public, 2-1-1 provides toll-free access for Kansans to talk with trained specialists. Calls are answered 24 hours a day, seven days a week, and all calls are confidential. Chairperson McGinn spoke with a specialist who provided information on the services and agencies available to assist her with a scenario she described. Committee members expressed appreciation for the service and the simplicity it provides for accessing information.

Chairperson McGinn recognized Aaron Dunkel, Deputy Secretary, KDHE, who reported that KDHE is the state designee for the health information technology (HIT) initiative (Attachment 11). In this role, KDHE is to facilitate the creation of strategic and operational plans for a Health Institute Exchange (HIE) infrastructure. Discussion followed related to funding from federal grants and federal stimulus dollars (ARRA) for state HIE development. Mr. Dunkel reported 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 other partners and stakeholders involved in this project was presented and discussed.

Doug Farmer, Deputy Director, KHPA, spoke about the involvement of KHPA in the project (Attachment 12). He indicated Health Information Technology for Economic and Clinical Health Act (HITECH) provides incentive funding for health care providers that achieve "meaningful use" of health information contained in the exchange. KHPA is responsible for administering incentive payments for meaningful use of HIT by Medicaid providers. Currently, the national administration has begun working on an administrative definition of "meaningful use." Once a definition is published, KHPA will work with stakeholders and policy makers to operationalize the standard in Kansas. Senator Umbarger encouraged Mr. Farmer to work with the state's Joint Committee on Administrative Rules and Regulations so that, as a definition is finalized at the federal level, appropriate state action will occur.

Dr. Helen Connors, Chairperson, eHAC, presented testimony related to the Committee's five domain work groups, the structure and purpose of the domain work groups, and an organizational chart outlining the state's HIT governance structure (Attachment 13). Dr. Connors also described the work of the eHAC since August 2009. Proposals submitted for possible funding through ARRA 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 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 how the education partners were selected, how the private sector integrates and partners with the eHAC, and how the eHAC is funded. Dr. Connors responded that education partners were selected based on which facilities had healthcare informatics curricula in place and where the greatest need existed. In partnering with the private sector, Dr. Connors assured Committee members conversation had occurred with the Cerner Corporation and will occur with other similar business and industry leaders to develop skill set needs for education. Dr. Connors stated all members of the eHAC are volunteers and no funding is received.

Larry Pittman, President and CEO of the 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 14). 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. To qualify for incentives, the provider must meet the "meaningful use" definition, exchange health information that improves the quality of care, and 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. Senator Kelly inquired whether medical care cost savings could be realized with implementation of an HIE and whether cost savings will be incorporated into the evaluation or as a success measure of the HIE. Mr. Pittman indicated there had been cost-savings studies conducted and that, in his opinion, cost savings would be realized. Senator Kelly encouraged evaluation of current costs to serve as a baseline that could be used as a performance measure (after exchange implementation) to document declining medical costs in future years.

Bill McDaniel, Commissioner, Program and Policy Commission, KDOA, provided an update (Attachment 15) on the evaluation of the Windsor Place At-Home Care telehealth pilot project. He reported the pilot project began in 2007 and will cover three years. The pilot will be completed October 31, 2010. The University of Kansas Research Institute serves as the contracted entity responsible for evaluation of the pilot project. A final evaluation report will be available in 2010.

Mr. McDaniel introduced Dr. Ryan Spaulding, Director, Center for Telemedicine and Telehealth, Health Policy and Management, University of Kansas Medical Center, to discuss the statistical evaluation of the pilot project. Dr. Spaulding submitted written testimony (Attachment 16) indicating that this pilot project was intended to provide an indication of feasibility and effectiveness and although there were many lessons learned, the data is not statistically conclusive even though most participants clearly believed his or her condition improved as a result of telehealth. Dr. Spaulding stated that, in his opinion, a larger group and better control would provide improved data. Select participants were followed for two years and some were followed for only one year. Healthcare utilization and the costs associated with visits and services were collected. All CMS claims information for these participants were gathered to track variables before and after the project began. One variable, emergency room visits, decreased significantly. From a research perspective, data skewing could have occurred due to the multiple services received at end of life. Dr. Spaulding

indicated a more complete report will be made after further results are compiled. He indicated that additional research will attempt to determine when telehealth is most helpful based on patient condition and what age group will realize the greatest benefit from telehealth.

Monte Coffman, Windsor Place Executive Director, distributed his testimony (Attachments 17 and 18) which included a detailed summary of telemedicine or telehealth. He defined telemedicine services as those encompassing a specialist involved in referral services, patient consultations via direct transmission links or internet communication, remote patient monitoring, medical education, and consumer medical or health information. Benefits of telehealth include access, quality improvement, and efficiency or lower cost of care. Mr. Coffman described various tools used in telehealth and provided a graphic algorithm of the monitoring process. Mr. Coffman reported that the savings for telehealth services as compared to nursing facilities (NF) were approximately $2,000 per month per individual. If 500 Kansas seniors could be deferred from NF placement, an annual savings of $12 million could be realized with the use of telehealth in the home under HCBS waiver services. Cost savings also could be realized for consumers on the PD waiver by utilizing telehealth in the home to avoid hospitalizations or NF placement. Mr. Coffman indicated the initial cost of monitoring equipment is $250 and the monthly cost is $180, or $6 per day. Committee members discussed the presentation, specifically focusing on the potential for cost reductions while improving patient outcomes. Questions were raised as to whether telehealth monitoring could interface to an EHR via a regional HIE. Mr. Coffman reported this possibility is included in the future of telehealth. Mr. Coffman indicated an enhancement request through KDOA was made for an additional 410 and 500 telehealth units. Committee members also discussed how this could be achieved in the KDOA budget by inclusion in HCBS FE waivers and, therefore, reducing the number of seniors presenting for costly services in LTC facilities. Committee members expressed concern over the lack of provisions in the budget process that could accommodate the shifting of funding from one program to another, especially where cost savings could be realized or the budget remains unchanged.

Tom Akins, Vice President of Development and Planning, Brewster Place Retirement Community, discussed the Brewster at Home model (Attachment 19), which is a membership-based organization providing the services people need, when they need them, in the home. The model includes socialization opportunities such as community activities; a network of providers who offer services such as housekeeping, meals, massage therapy, and handyman services; and telemonitoring such as medication dispensers, monitoring equipment, and detection sensors that notify a caregiver if a person is potentially unsafe. Mr. Atkins spoke about the need for facilities such as Brewster Place to undertake demonstration projects that will provide information for legislators to implement sound decision making and data-driven public policy.

Chairperson McGinn recognized Amy Deckard who provided follow-up information to earlier Committee requests in the "Community Funding for Individuals with Developmental Disabilities (Revised)" (Attachment 20) and "Detailed Estimates of Optional Spending in Medicaid" (Attachment 21) handouts. Dustin Moyer, KHPA, substantiated Ms. Deckard's earlier comments regarding the elimination or reduction of optional services. Ms. Deckard reminded Committee members that the optional services spending chart is in the process of revision. Chairperson McGinn requested that the finalized chart be forwarded to Committee members.

Chairperson McGinn reviewed the charge of the Joint Committee on Home and Community Based Services Oversight, which was followed by Committee discussion. Based on testimony heard and Committee deliberations, the Joint Committee on Home and Community Based Services Oversight made the following recommendations:

- **2-1-1 Service.** Agencies under the oversight of the Joint Committee on Home and Community Based Services Oversight are encouraged to provide all relevant

information to the 2-1-1 Information and Referral Search Service on the services their agencies offer.

- **Sliding Fee Scales.** The Department of Social and Rehabilitation Services is directed to provide to the Oversight Committee an analysis of the Department's policies concerning sliding fee scales for all HCBS Waiver programs to include:

  o Whether applying a sliding fee scale is appropriate for the particular waiver program;

  o Where a sliding fee scale is appropriate, the assumptions and formula that will be used to develop the fee scale;

  o For sliding fee scales already in use, a review of the appropriateness and adequacy of the current structure to include the number of individuals required to pay for some portion of the services received, the number of individuals making the required payment, and the total dollars received by the state; and

  o For current and proposed sliding fee scales, how the Department will develop baseline data to determine the efficiency, effectiveness, and equity of the fee scales.

- **Crisis Services.** The Department of Social and Rehabilitation Services and the Department on Aging are requested to continue to monitor and analyze the provision of waiver services in crisis situations to include:

  o A categorization of the crisis that precipitated the request for emergency waiver services;

  o The number of individuals who received crisis services; and

  o The number of individuals who requested but did not receive crisis services, and the reason they did not receive services.

- **Statewide Health Information Exchange Initiative.** The eHealth Advisory Committee is requested to provide periodic updates to the appropriate legislative committees concerning the Advisory Committee's work, including the:

  o Application for and receipt of federal health information technology/health information exchange (HIT/HIE) grants; and

  o Development of criteria and data elements to be used to measure healthcare cost savings resulting from the implementation of the Statewide Health Information Exchange Initiative.

- **Telehealth Pilot Project.** The Department on Aging is directed to continue to support and fund the telehealth pilot project currently being conducted to include:

○ Forwarding to the Governor for his consideration, the Committee's recommendation that the Department's telehealth budget enhancement request be fully funded. In addition, the Oversight Committee notes the potential cost avoidance or cost savings in other program areas following the enactment of this enhancement request; and

○ Investigating the possibility of using an accounting model similar to that for the Money Follows the Person program, where funding is transferred periodically between agencies or accounts, or both.

● **Budget and Policy Changes.** The appropriate legislative committees and members of the executive branch are requested to analyze the fiduciary, program service, statutory, and regulatory impact of:

○ Amending the current budget process to create an additional budget adjustment type to classify where programmatic changes, including the addition of new initiatives, would result in immediate or future cost savings, or cost neutrality. The amended process should specifically address instances where the cost savings or cost neutrality would cross programs or agencies, or both; and

○ Reducing or eliminating certain optional services or optional populations, or both, currently funded in the state's Medicaid Program following the conclusion, in December 2010, of the enhanced federal Medicaid match rate authorized in the federal American Recovery and Reinvestment Act of 2009.

● **Build Community Capacity.** The Department of Commerce, through its Office of Rural Opportunity is requested to investigate the entrepreneurial opportunities available to build community services capacity as state institutions are identified for closure.

Chairperson McGinn thanked all conferees and Committee members for their input and attention. The meeting was adjourned at 12:25 p.m.

Prepared by Jan Lunn
Edited by Terri Weber

Approved by Committee on:

    February 15, 2010
       (Date)