

**MINUTES  
of the  
FOURTH MEETING  
of the  
DISABILITIES CONCERNS SUBCOMMITTEE  
of the  
LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE**

**October 11, 2017  
Albuquerque Convention Center  
Albuquerque**

The fourth meeting for the 2017 interim of the Disabilities Concerns Subcommittee of the Legislative Health and Human Services Committee (LHHS) was called to order on October 11, 2017 by Senator Nancy Rodriguez, chair, at 9:27 a.m. in the Picuris Room, Albuquerque Convention Center, Albuquerque.

**Present**

Sen. Nancy Rodriguez, Chair  
Rep. Gail Armstrong  
Sen. Linda M. Lopez  
Rep. Elizabeth "Liz" Thomson

**Absent**

Rep. Joanne J. Ferrary, Vice Chair

**Advisory Members**

Rep. Deborah A. Armstrong  
Rep. Miguel P. Garcia  
Sen. Elizabeth "Liz" Stefanics

Rep. Angelica Rubio

**Staff**

Michael Hely, Staff Attorney, Legislative Council Service (LCS)  
Karen Wells, Contract Staff, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts and other written testimony are in the meeting file.

**Wednesday, October 11**

Senator Rodriguez offered welcoming remarks. Members and staff introduced themselves.

### **Brain Injury Fund Programming: New Mexico Brain Injury Resource Center (NMBIRC)**

Melanie Buenviaje, deputy bureau chief, Exempt Services and Programs, Medical Assistance Division, Human Services Department (HSD), Sara Penn, service director, Goodwill Industries of New Mexico (GINM), and Michael Langford, director, NMBIRC, were invited to address the subcommittee. Sesha Lee, manager, Brain Injury Program, GINM, was present to answer questions.

Ms. Buenviaje described the purpose of the Brain Injury Services Fund (BISF), which is to provide short-term, state-funded General Fund services for individuals who do not have private insurance or Medicaid coverage. She presented a brief history of the program. In order to be eligible for services, a person must be a New Mexico resident with a brain injury that meets the qualifications of the *International Statistical Classification of Diseases and Related Health Problems*, Tenth Revision, commonly known as the "ICD-10", for traumatic or acquired brain injury. The program provides an array of direct care and support services. Ms. Buenviaje reviewed demographics describing the number and characteristics of the clients served by the program. She noted that, according to the data, more than 17,000 individuals are living with brain injury in the state. However, the program is only able to serve about 200 individuals, largely due to limited funding. The program is funded by a \$5.00 fine that is levied pursuant to moving vehicle accidents. The total budget for the program is \$1.2 million; the estimated collections from the BISF are \$739,000. The HSD has supplemented the funding for the program for the last three years using state general funds.

Ms. Penn identified the role of GINM in providing services and supports to clients. The program allows clients to work intensively with a case manager to identify needs and how to meet them. This form of case management is only available through the BISF. She provided a success story of one client it served and read an email that the client wrote expressing gratitude for the services provided by the GINM case manager.

Mr. Langford provided information about the NMBIRC, which exists to answer questions, provide support to families of brain-injured individuals and guide individuals through the difficulties encountered following a brain injury. The NMBIRC has an online center, an on-site library and many outreach and education programs. Mr. Langford provided statistics regarding the use of the NMBIRC and identified the many collaborative relationships in which it is engaged to reach the population it serves. He asserted that there is no infrastructure to ensure a continuum of care to serve brain-injured individuals from the time of injury. Most people must travel out of state to receive the treatment they need or any specialized services.

### **Approval of Minutes**

Prior to entertaining questions and comments from the subcommittee, the chair asked for a motion to approve the minutes for the August 3 and September 29 meetings. A motion was made, seconded and approved unanimously. She invited additional subcommittee members to introduce themselves.

## Questions and Comments

Questions and comments for the panel addressed the following issues:

- how the evidence projections of budget deficits are determined; the projections are based on historic trends; the HSD is not certain why there has been a decrease in funds received through the vehicle accident fee mechanism;
- how outreach is targeted to rural areas; currently, the primary focus is in urban areas, but there is a goal to reach out to rural areas;
- why most brain-injured individuals leave the state to receive care; there is a lack of infrastructure to supply acute and post-acute service providers for treatment in times of crisis;
- clarification regarding shaken baby syndrome as an acquired versus a traumatic brain injury; the definition of "acquired" includes traumatic injury;
- clarification regarding a decline in services provided to Native Americans; this occurred as a result of greater enrollment of Native Americans in Medicaid;
- whether the budget supplement to the BISF is a line item of the HSD budget; yes;
- whether unused funds in the BISF revert; no;
- clarification regarding service provision to Medicaid recipients; many services are covered by Medicaid managed care; services that are not available under Centennial Care may be provided by the BISF;
- recognition that the discontinuation of cameras to record moving violations has negatively affected the source of funding for brain injury services;
- whether GINM or the NMBIRC works with the University of New Mexico (UNM); yes;
- whether there are waiting lists for services; not at present, largely due to Medicaid expansion;
- the extent to which the managed care organizations' (MCOs') care coordinators are accurately identifying and addressing the services that brain-injured individuals need; Ms. Buenviaje will research and provide some additional information;
- encouragement for the brain injury community and providers to work closely with programs that serve victims of domestic violence, particularly those experiencing strangulation;
- clarification regarding the incidence of brain injury in individuals aged 51 through 64; Ms. Buenviaje will research and provide some additional information;
- a suggestion to pursue stricter enforcement of "red light" violations in school zones;
- clarification regarding the amount of money in the BISF compared to the budget for fiscal year 2018; Ms. Buenviaje will research and provide some additional information;
- clarification regarding the basis for allocation of the \$1.2 million; the bulk of the funds is for direct services;
- by what process contractors such as United Way are funded; accountability regarding service provision and client demographics is required and received in monthly billing;

- clarification regarding MCO payment for the provision of out-of-state services; this is a requirement for Medicaid recipients when services are not available in New Mexico; it would be preferable to develop an adequate infrastructure to provide those services in-state;
- whether there are attempts to more adequately address the incidence of brain injury among Native Americans; not currently, however, UNM and the HSD are collaborating to apply for a federal Health Resources and Services Administration grant; and
- a suggestion that the HSD invest in training the MCOs' care coordinators in brain injury; this is something that has been done in the past and is worth revisiting, not only for MCOs but also for other providers.

### **Public Comment**

Nat Dean told her personal story of the difficulty of obtaining a diagnosis of traumatic brain injury and the challenges in trying to obtain help and support to reestablish a new life. Ultimately, she was given life skills training and received services from the BISF. The assistance she received, even though it was short-term, was incredibly helpful and valuable. She recommended educating the judicial system about brain injury, the BISF and the source of funding.

Tracy Perry, Direct Therapy Services, updated subcommittee members on difficulties in obtaining services for clients through the Medicaid developmental disabilities waiver (DD waiver) program. She noted a case in which an individual with cerebral palsy needs 24-hour care. She finds the Department of Health (DOH) unresponsive to her phone calls and queries.

Glenn Ford, Brain Injury Alliance of New Mexico, addressed a few issues that came up in the morning testimony. Shaken baby syndrome is a brain injury with lifetime effects. Native Americans, in his experience, know about Centennial Care but may not be informed about how they can access services. Infants of mothers in domestic violence programs should be screened for brain injury, he said. Development of post-acute services for brain injury in New Mexico is critical to stop the outflow of brain-injured individuals from New Mexico.

Robert Kegel presented concerns on the ability of the public to give input regarding Medicaid waivers. He said that the DOH is uninterested in public input and that the plan intentionally curtails or denies services in the DD waiver program. Over the last five years, barriers to providing input have increased while the DD waiver waiting list has continued to grow. A memorial passed unanimously during the 2017 regular legislative session that requested the addition of Rett syndrome to the list of covered services under the DD waiver. Despite this, the HSD has passed regulations to remove Rett syndrome, as well as alcohol spectrum disorders, from coverage. He exhorted the legislature to support adequate funding for the DD waiver in the amount of \$25 million.

Senator Rodriguez requested a copy of the joint powers agreement between the HSD and the DOH. Mr. Kegel noted that he forwarded the agreement to Mr. Hely electronically; however, he noted, the agreement has expired.

### **Greeting from the Center for Development and Disability, UNM School of Medicine**

Marcia Moriarta, Psy.D., professor, UNM Department of Pediatrics, and executive director, Center for Development and Disability (Center), welcomed the subcommittee and thanked members for being part of the Southwest Conference on Disability. She notified the subcommittee members that the Center will be taking a hiatus from the conference next year. The next Southwest Conference on Disability will take place in October 2019, after a careful planning and budgeting process.

### **Questions and Comments**

Questions and comments from subcommittee members covered the following areas:

- a request for updated information about the autism programs at the Center; the Center faced budget cuts but has absorbed the losses and will continue to offer programs and experiences, but on a somewhat limited basis;
- clarification regarding the waiting list for a full diagnostic workup for autism; it is 18 months;
- clarification regarding what UNM has in mind to extend brain injury services and infrastructure in New Mexico; UNM is working on it in a cross-disciplinary manner, but there are many barriers to accomplishment; and
- Representative Garcia suggested introducing a memorial to establish a broad-based task force to work to identify solutions to this problem; UNM is willing to be the lead agency in such an initiative.

### **Brain Injury Advisory Council (BIAC); Governor's Commission on Disability (GCD)**

Karen Courtney-Peterson, director, GCD, and Monica Montoya, coordinator, BIAC, were joined by several members of the BIAC. Valerie Ann Bollschweiler, chair, BIAC, provided a personal perspective on the value of the BIAC and the BISF. Melissa Esquibel presented on behalf of her son, who has a brain injury. She reiterated the importance of the work of the BIAC. She identified the critical need for more outreach to let people know what is available. She noted that without her vigorous advocacy, her son would not now be receiving many necessary services.

Ms. Courtney-Peterson explained that the BIAC is part of the GCD. She highlighted the statutory responsibilities of the BIAC, which include studying and providing recommendations and advice on issues to the legislature and the governor regarding a broad array of issues related to brain injury. Mitchell Lawrence, Veterans' Services Department, spoke to the focus on brain injuries among veterans. He noted that the need extends beyond what can be provided by the federal government. David Martinez, a person with a traumatic brain injury, described his personal experience following his injury. He now volunteers in the school system and is proud

that several of the students he has helped have now graduated from high school. He, too, identified the challenge of trying to obtain necessary services.

Ms. Montoya identified several projects in which the BIAC has been engaged in recent years. The BIAC conducted a study of traumatic brain injury among veterans and what services are needed to better serve them. The BIAC looked at the incidence of concussion among high school students, with the goal of partnering with schools to train teachers and coaches. Another project was the creation of a work group that sought to clarify existing services, what is included in each category of service and the current continuum of care and how it could be improved. The BIAC has just completed a strategic planning process outlining goals through the year 2020.

### **Questions and Comments**

Subcommittee members had questions and comments as follows:

- recognition that rehabilitation therapy is limited in scope and time but should be extended to include long-term care services; a law in Texas serves as a model for the provision of these services;
- an expression of thanks for the courage of presenters to share their personal stories;
- a request for specifics about what the legislature could do to help; a continuation of the work group referenced earlier would be very helpful;
- a suggestion to add brain injury education to the safety curriculum of public schools;
- clarification regarding the BIAC's initiative to distribute bicycle helmets to students; the distribution is accompanied by education on the importance of helmets and the provision of a helmet for the student to keep;
- encouragement for the BIAC to support efforts to expand the infrastructure of brain injury services at all levels;
- whether the BIAC works with providers such as GINM; yes;
- identification of ways in which the BIAC assists clients to get connected with services;
- recognition that the services of the NMBIRC are vital; and
- a suggestion by Senator Rodriguez that an appropriation bill or capital outlay request be introduced to help people with disabilities receive more services, perhaps in partnership with the New Mexico Mortgage Finance Authority; the suggestion was enthusiastically received; the BIAC would like to work on this request.

Rachel Riboni provided public comment emphasizing the importance of such services as safety in the home, a social work visit prior to discharge from a hospital and the critical need for wider education in many audiences regarding the nature and consequences of brain injury.

### **Medicaid Centennial Care Services and Brain Injury**

Mr. Ford began by defining "brain injury" and identified statistics regarding the number of individuals affected by brain injury in the country each year. Although Centennial Care has taken steps forward to provide appropriate services, Mr. Ford identified a litany of issues and

deficits in Centennial Care for people who have sustained a brain injury. The Brain Injury Alliance of New Mexico has been working for a long time to address these concerns. Some issues include the difficulty of navigating the Medicaid system, the limited availability of acute and post-acute care in New Mexico, the lack of access to neurorehabilitation services and the inappropriateness of nursing homes as a setting for care of a brain-injured person. Specific examples of failed Centennial Care access, implementation and coordination were described.

### **Questions and Comments**

Subcommittee members asked questions and made comments covering the following areas:

- whether brain injury develops over time following a traumatic injury; yes, especially in children; additionally, problems are compounded if the brain injury is accompanied by other physical issues;
- recognition of the value of hearing input from people suffering from brain injuries;
- whether the Centers for Medicare and Medicaid Services (CMS) has issued guidelines for long-term care for brain-injured individuals; the CMS has guidelines; however, implementation is inconsistent, especially among payers; and
- recognition that UNM has instituted a neuroscience center at the old Lovelace facility and is working on a residency program in this area.

Representative Garcia requested that Mr. Kegel's request for an appropriation bill for \$25 million to fund developmental disabilities supports and services be presented to the LHHS at the last meeting of the interim when legislation is considered for endorsement; the chair acknowledged that it would ultimately be the decision of the chair of the LHHS to do so.

### **Adjournment**

There being no further business, the meeting was adjourned at 3:20 p.m.