

MINUTES
of the
FOURTH MEETING IN 2007
of the
LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE

September 17-19, 2007
New Mexico Junior College
Hobbs
Daniels Leadership Center
New Mexico Military Institute
Roswell

The fourth meeting of the Legislative Health and Human Services Committee was called to order by Chair Senator Dede Feldman, chair, on Monday, September 17, at 10:15 a.m. at the New Mexico Junior College in Hobbs.

Present

Sen. Dede Feldman, Chair
Rep. Danice Picraux, Vice Chair
Sen. Rod Adair
Sen. Steve Komadina
Rep. Gloria C. Vaughn (9/18)

Absent

Rep. Keith J. Gardner
Rep. Joni Marie Gutierrez
Sen. Mary Kay Papen

Advisory Members

Rep. Ray Begaye (9/19)
Sen. Sue Wilson Beffort (9/18, 9/19)
Rep. Nora Espinoza
Rep. Daniel R. Foley
Rep. Miguel P. Garcia (9/18)
Rep. John A. Heaton
Sen. Timothy Z. Jennings (9/18)
Sen. Gay G. Kernan
Rep. Antonio Lujan (9/18)
Rep. Edward C. Sandoval (9/18, 9/19)

Rep. Jose A. Campos
Sen. Clinton D. Harden, Jr.
Sen. Linda M. Lopez
Rep. James Roger Madalena
Rep. Rick Miera
Sen. Gerald Ortiz y Pino
Sen. Nancy Rodriguez
Rep. Jeff Steinborn
Rep. Mimi Stewart
Sen. David Ulibarri
Rep. Luciano "Lucky" Varela

(Attendance dates are noted for those members not present for the entire meeting.)

Other Legislators Present

Rep. Donald E. Bratton
Rep. Candy Spence Ezzell
Sen. Carroll H. Leavell

Staff

Raúl Burciaga
Jennie Lusk
Tim Crawford
Michael Held
Beverly Jimmerson
Angela Vigil

Monday, September 17 — New Mexico Junior College, Hobbs

Welcome

New Mexico Junior College President Steve McCleery welcomed the committee and introduced Lea County Commissioner Hector Ramirez and Co-County Manager Rick Bruce.

Coordinated Long-Term Services

Aging and Long-Term Services Department (ALTSD) Secretary Deborah Armstrong presented the committee with predictions of the size of the elderly population in New Mexico as baby boomers turn age 65: the population over 65 is expected to double by the year 2030, and New Mexico will be fourth in the nation by the year 2030 in the number of elderly residents. The number of persons with disabilities is also rising, as disabilities often increase with age. Medicaid spending for the elderly is higher, and a lack of affordable housing and transportation, especially in rural areas, is easily predicted. The secretary said keeping people healthy and engaged as they age is a priority so that resources can be redirected.

The department is making a shift to an emphasis on prevention and nonhospital care in hopes of averting some of the rising costs, but without eliminating nursing home or hospital care. The coordinated long-term service plan includes contracts with two providers, who presented after the secretary, for coordination of Medicare primary care, home and provider coordination as well as other service needs for people who are elderly or have long-term disabilities. By July 2008, the department will begin phasing in the coordinated long-term plan by region, beginning in the Albuquerque area.

The department has requested \$3 million more for the disabled and elderly (D&E) waiver and an additional \$500,000 for home modifications and \$500,000 for supportive housing in the coming budget. The D&E waiver moved from 2,500 slots to 3,500 slots during the past year.

Larry Heyeck, deputy director of the Medicaid Assistance Division (MAD) of the Human Services Department (HSD), has been working with Karen Wells, the ALTSD Adult Protective Services Division director, to plan for the implementation of the new continuing long-term care system. He reassured the committee that the program was developed with a good deal of input from advocates and affected families. In response to questions from committee members, Ms. Armstrong said the cost of services for ALTSD will certainly grow, but added that, with prevention and wellness services, perhaps some costs will be avoided; for instance, reducing the need for bed care and extensive rehabilitation for a broken hip through preventive health care and exercise.

Ms. Armstrong agreed to send the committee service reimbursement rates for providers; a list of the services Medicare and Medicaid, respectively, pay for; and a sample claim form for the coordinated long-term care services. Mr. Heyeck told committee members that the Lewin Group is currently studying how much savings managed care has bought, and estimates the state has saved between \$36 million and \$54 million and increased payments to providers at the same time. The department will use an independent assessment to analyze the success of implementing coordinated long-term care services.

Coordinated Long-Term Services: Amerigroup and Evercare

Laura Hopkins, a clinical gerontologist with Amerigroup Community Care of New Mexico, and Carl Kidd, vice president of community affairs for Evercare, told committee members about their plans for providing services to those in long-term care. They assured committee members that they would deliver all services promised, that they will continue to understand disabilities as a "lifestyle" rather than as a medical condition and that they will not overmedicate people who have disabilities or who are elderly. Concerns were expressed about extending the procurement process to accommodate changes suggested by the companies. In response to questions about contributions to Governor Richardson by the providers, Amerigroup said it gave a "modest" contribution of \$10,000 over a period of years and agreed to send a list of contributions to the committee. The chair expressed concern over application to the procurement process of both Amerigroup and Evercare of a new law that prohibits giving contributions during a procurement process. Evercare agreed to give members a copy of the \$3.5 million Medicare fraud lawsuit against its parent company, United Health Care Group, and to get more information on the Part D Medicare plan sold in New Mexico for prescription drugs through AARP.

In addition, Secretary Armstrong assured the committee that performance standards are in place in the department's budget, that a joint contract between the ALTSD and HSD and a joint powers agreement (JPA) for oversight of the contract should govern the contract period. Since there is currently no limit on the profits of the two for-profit businesses set to receive approximately \$600 million in state funds, Mr. Heyeck said he would work on spelling the limits out in the contract. In addition, addressing the committee's concerns about coordination of services versus layoffs among state government workers who currently provide coordination, Ms. Wells said the vendors may subcontract, but even doing so will not relieve the need for all case management.

Long-Term Care Provider and Advocates Panel

Jim Jackson, executive director of Protection and Advocacy, and Patricia Ziegler, chair of the New Mexico Centers for Independent Living Association, expressed concerns about the plan for long-term coordinated care and for the implementation of the Money Follows the Person Act. Mr. Jackson expressed concern with the large number of New Mexicans who will be in new managed care environments with the implementation of the new coordinated care plan. In capitated managed care initiatives, he said, providers get paid to provide a range of services, but in such situations generally there is a disincentive to care for people with higher needs. The business model tends to cause such companies to skimp on the more expensive clients. Given that the managed care organizations, and not independent providers, determine who will receive

care and at what level, Mr. Jackson fears that services will be cut back in order for businesses to spread their resources to cover increasing caseloads. While he likes the concept of providing better case management, he does not believe the design of the state's waiver application supports the vision and goals Secretary Armstrong described.

One critical issue is that home and community-based waivers are to replace the D&E waiver, though there are still the same number of slots available. Though he agreed with Secretary Armstrong's number for increasing the cap for such services to 3,500, he asserted that such a number really only keeps service provision at an even level. Even with 3,500 slots, he questioned how some 38,000 persons who need services will get care and surmised that it would be under a system such as the state's health care waiver (Salud!), where others get services through a capitated rate and with the hope that there will be high enough rates to encourage providers to take them.

As to implementation of the Money Follows the Person Act, Mr. Jackson said that the limited number of slots available in community-based services means that people coming out of nursing homes will have to go into D&E waiver slots — essentially bumping those who have been waiting for a waiver further down the waiting list. He is concerned that it is a matter of trust that a managed care organization will provide services; it is not required to at present. The only requirement is to undertake services for Medicaid clients.

These matters have an impact on eligibility, Mr. Jackson said. He noted that a person in a nursing home can have an income up to 330% of the SSI level and 220% of the federal poverty level. However, if that person receives care in a less intense setting, the person may lose the benefit of Medicaid altogether, because a lower level of care may be available only to those who earn even less. There is a problem with continuity and coordination of care, since most people who currently get care from the Salud! program will have to leave that program and enroll in the new long-term care programs.

Ms. Ziegler said that Texas managed to implement a Money Follows the Person Act in only three months, saving some 50% in costs. Instead of that commitment, New Mexico has implemented the act only by having those who wish to leave nursing home care take priority over those who have been waiting on the D&E waiver. Secretary Armstrong responded that Secretary of Human Services Pamela Hyde considers the Money Follows the Person Act an "unfunded mandate" with no time frames. Coordinated long-term care planning may solve the problems the statute was meant to address. She said she feels the department is implementing the act, but that it cannot implement it without a budget. She agreed to provide the committee with numbers of persons who have moved to priority places above those who have been on the list and a count of the numbers of persons who have been successfully transitioned.

On questions by the chair, Ms. Armstrong said that the HSD will promulgate the new rules for the Money Follows the Person Act, and the program will be part of the coordinated long-term care plan. There will be rules and a policy manual for implementing the new program.

Long-Term Care and Nursing Facilities

Linda Sechovec, executive director of the New Mexico Health Care Association, told the committee that most long-term care facilities are small, keeping only 75 or 76 patients on average, and there are only 75 long-term care facilities in the state. Charlie Marquez, who appeared with her, said he had often advocated for more generous funding for the nursing facilities.

Community Drug Alliance

Kathy Bearden, a member of the Community Drug Alliance, described Lea County's efforts to organize responses to a rampant drug problem that is destroying southeast New Mexico. At present, the alliance is building a single location to house all of its programs.

Mathematica Report and Public Input on Health Coverage Plans

Ana Hatanaka, director of the Association of Developmental Disabilities, expressed opposition to including developmentally disabled persons in New Mexico into any managed care organization. She noted that the *Jackson* lawsuit filed in the 1990s has already paid lawyers \$6 million in attorney fees, and she would prefer to see such money spent on case management and third-party review. She and her organization urge the committee to do something to provide coverage for those who need it. They oppose a mandate to provide for employees, but she noted that some type of reform will be essential.

Jerry McLaughlin, an obstetrician and gynecologist in Hobbs and vice president of the New Mexico Medical Society, said that the organization emphasizes adequate governance and administration, and the organization endorses the concept of an independent reviewer organization in any new system for providing health coverage. The medical society supports an independent health care authority. As to mandated coverage, the medical society believes it will be impossible to mandate coverage for all users, since some out-of-state users will seek care in any plan. The only arbiter of rates — the state — should renegotiate the discount rate for providers, Dr. McLaughlin said. If providers cannot negotiate rates, they will not stay in the system. He believes the state should mandate establishment of electronic medical records as a requirement for use of any state funds.

Michael Murphy of Disabilities Resources Limited in Alamogordo noted that Texas has had better success with the Money Follows the Person Act than New Mexico is having. Advocates are frustrated.

Bob Lowe spoke as an individual who has suffered from addictions of all kinds and is a participant in many treatment plans. He noted that the success rate is less than 70% in New Mexico, but less than 2.1% nationwide. New Mexico's addiction and death rates reflect on the state.

Minutes

The minutes of the July 2007 meeting of the Legislative Health and Human Services Committee were approved by voice vote.

Tuesday, September 18 — Daniels Leadership Center, New Mexico Military Institute, Roswell

Senator Adair, acting as chair, reconvened the meeting at 10:20 a.m.

Managed Care — Medicaid Salud! Program — Health Care Reform

The history of the establishment of a managed care model for providing health care to those on public assistance was reviewed by the presenters. The goals of the program established in 1997 were to increase quality of and access to care and to streamline administration. Managed care organizations (MCOs) were designed to provide a "medical home" for Medicaid clients and to support transparency and accountability, regular reporting to the HSD and its Income Support Division (ISD) and periodic reports to the Medicaid Advisory Committee (MAC).

Dr. Ann Wehr, chief executive officer of Molina, one of the three companies providing the Salud! care, said there are eight performance standards that each of the companies must meet: annual dental examinations, breast cancer checks, diabetes care, well-child visits, child or adolescent care, childhood immunizations, appropriate use of medicines for children with asthma and cervical cancer screening.

Managed Care — Health Care Reform Issues

The chair recognized Elizabeth Watrin, president, and Janice Torrez, vice president of marketing and external affairs, for an overview of Blue Cross/Blue Shield of New Mexico. Ms. Watrin encouraged the committee to focus on those people lacking insurance, rather than trying to get *all* New Mexicans into a single "reformed" system. She mentioned that growth in the number of uninsured comes from upper incomes. New Mexico's high premium tax and assessments mostly fall on small employers. She encouraged emphasis on efficient care, i.e., keeping costs of health provision low to avoid inflating budgets, and discussed the Blue Cross/Blue Shield approach called "integrated total health management". The company has been developing products to address the needs of uninsured or underinsured clients. Consumer-directed policies seem most popular but require consumer engagement and effort. Blue Cross/Blue Shield would support a universal (not single-payer) system and agreed to guarantee issue and community rating *if* these are coupled with mandated coverage.

Legislators expressed worry that the rates for the percent of adults getting the right care for diabetes is only 45% and for pneumonia, only 39%.

Provider Panel — Health Care Reform Issues

The chair recognized Arlene Brown, M.D., a private provider, and Sara Williamson from Eastern New Mexico Medical Center, who discussed the difficulties of health care provision in the Roswell area. Among other problems, tertiary care patients must travel out of state. Because of the difficulty dealing with the University of New Mexico Hospital, it is easier to transfer the patients to Lubbock.

Department of Health

The chair welcomed Alfredo Vigil, secretary of the Department of Health (DOH), who gave an overview of the department. In general discussion with the committee, he stated that the public health system is in poor condition, as recently witnessed in Hurricane Katrina. He stated

that funding is the number one public health problem for New Mexico. When asked about substance abuse, the secretary stated it is directly related to poverty, lack of self-esteem and lack of hope for the future. He also warned of the impending methamphetamine epidemic. The drug is being mass-produced in Mexico and South America, so it will soon be readily available and cheap. Secretary Vigil also pledged prompt response to any complaints because licensing and certification are responsibilities of DOH.

Mathematica Study Overview for Members of the Public

The chair called upon Mr. Burciaga to provide an overview of health reform options studied by Mathematica.

Public Comment

Patty Jennings, executive director of the New Mexico Insurance Pool, discussed her program that is available to anyone without insurance, including Native Americans. Coverage is immediate. At 400% of poverty level, one would qualify for a premium discount of 50%. According to Ms. Jennings, through her program there is universal coverage today. No one can be turned down. If insurance is offered through an employer, but the pool rate is lower, one can go into the pool. She stated that "guaranteed issue" will just move \$40 million from the pool to private insurance. Coverage does not equate to quality. Native Americans account for 15% of New Mexico's uninsured. New Mexico does not have enough money to put everyone in current programs.

Terry Riley advocated for the Health Security Act and expressed dismay at the way insurance companies refuse to pay for valid claims.

Rhonda Burrows, indigent health care administrator for Indian health and representing the New Mexico Association of Counties Health Care Affiliate, encouraged the committee to explore the expansion of a technology project that has proven successful in Dona Ana County.

Stephanie DuBois advocated for the Health Security Act.

Daniel Werner, M.D., a general surgeon in Roswell since 1985, discussed how health care has declined.

Renee Strickland commented on the difficulties of helping clients enroll in current health programs.

Wednesday, September 19 — New Mexico Military Institute

Governor Richardson's Health Care Reform Proposal

The chair recognized Secretary Hyde, who handed out and discussed the executive's proposed draft for health care reform. She explained that this is a second version of the draft and she is working closely with Mr. Burciaga and the Legislative Council Service as these versions are amended.

Medicaid Managed Care — 10 Years of the Salud! Program

The chair recognized Mr. Heyeck to provide an overview of the history of the Salud! program.

Behavioral Health Care

The chair recognized Pam Galbraith, chief executive officer of ValuOptions New Mexico (VONM); Secretary Hyde; and Linda Roebuck, behavioral health director, HSD. Secretary Hyde gave an overview of the VONM contract with the Statewide Behavioral Health Collaborative and explained financial changes for providers, the implications of collaborative directions to VONM and behavioral health provider needs. The panel submitted information pertaining to questions asked during the Legislative Health and Human Services Committee's July meeting in Taos.

Local Behavioral Health Collaborative 5

Douglas Smith, Shannon Smith, Dr. Connie Ponce and Noel Clark, representing the behavioral health collaborative that covers Chaves, Eddy and Lea counties, praised Ms. Roebuck for supporting community involvement and bemoaned the complexity of paperwork. The collaborative's major message is to encourage the committee to stress the quality of care; then savings will accrue through better health.

Public Comment

Carolyn Mitchell, Kathleen Wells and Sunny Espinosa, health insurance brokers, discussed the issues that would occur in statewide universal health care instead of national health care.

Ms. Hatanaka stated that her organization shares many of the problems of the behavioral health community, except it is not under managed care.

Terry Riley asked why the committee seems to be planning to have another study.

Adjournment

The meeting adjourned at _____ p.m.