

## MINUTES

### JOINT COMMITTEE ON HOME AND COMMUNITY BASED SERVICES OVERSIGHT

October 22, 2008  
Room 143-N—Statehouse

#### Members Present

Representative Bob Bethell, Chairperson  
Senator Pat Apple, Vice-Chairperson  
Senator David Haley  
Senator Laura Kelly  
Senator Dwayne Umbarger  
Representative Jerry Henry  
Representative Melody McCray-Miller (via phone conference)  
Representative Sharon Schwartz

#### Member Absent

Representative Brenda Landwehr

#### Staff Present

J. G. Scott, Kansas Legislative Research Department  
Amy Deckard, Kansas Legislative Research Department  
Reagan Cussimano, Kansas Legislative Research Department  
Reed Holwegner, Kansas Legislative Research Department  
Estelle Montgomery, Kansas Legislative Research Department  
Kelly Navinsky-Wenzl, Kansas Legislative Research Department  
Nobuko Folmsbee, Office of the Revisor of Statutes  
Renaee Jefferies, Office of the Revisor of Statutes  
Nikki Feuerborn, Chief of Staff, House Appropriations  
Florence Deeter, Committee Secretary

#### Conferees

Don Jordan, Secretary, Kansas Department of Social and Rehabilitation Services  
Ray Dalton, Deputy Secretary, Kansas Department of Social and Rehabilitation Services  
Kathy Greenlee, Secretary, Kansas Department on Aging  
Bill McDaniel, Commissioner, Program and Policy, Kansas Department on Aging  
Dave Halferty, Director, Nursing Facility and PACE Division, Kansas Department on Aging  
Dr. Rosemary Chapin, School of Social Welfare, University of Kansas

Dr. William Hagerman, Director of Innovation and Improvements, Kansas State Department of Education  
Tom Stegman, Assistant Principal, Girard High School, USD 248  
Dr. Gretchen Schrek, Career and Technical Education Director, Olathe Public Schools, USD 233  
Karen Bannister, Special Education Coordinator, Olathe Public Schools, USD 233  
Craig Kaberline, Executive Director, Kansas Area Agencies on Aging Association

## **Others Attending**

See attached list.

## **Morning Session**

The Chairperson called the meeting to order at 9:10 a.m. and gave an outline for the work of the Committee. He acknowledged J. G. Scott, Kansas Legislative Research Department, who introduced Estelle Montgomery, Kansas Legislative Research Department. Ms. Montgomery provided an explanation of the ten-year State Hospital Average Daily Census by using a graph to represent the daily average number of patients in a given hospital for each of the ten fiscal years (Attachment 1).

Ms. Montgomery provided additional details, stating that the number of beds available for patients is dependent on several factors: the individual's length of stay, the cessation of treatment for youth and children at Rainbow Mental Health Facility, and the renovation of facilities at Larned State Hospital for future treatment of sexual predators. She explained that declining numbers can be attributed to the mandated Mental Health Reform program, which reflects the change in philosophy away from long-term inpatient care in an institution toward community placement.

Don Jordan, Secretary, Kansas Department of Social and Rehabilitation Services (SRS), responded to Committee members' questions by stating the hiring freeze is a temporary measure at Osawatomie, and all state institutions are slowing down on future hiring. He said, for security and safety, a specific number of direct-care staff must be present on every work shift. He will provide specific data for the Committee regarding the average staff count per day for the facility at Osawatomie.

In answer to a Committee member's request for an explanation of "rated bed capacity," Secretary Jordan said a classification labeled "design capacity" refers to the number of bed spaces within the facility; "licensed capacity" defines the actual number of beds available. A more accurate number is designated "budgeted bed capacity." Secretary Jordan will verify current data on each facility for the Committee.

Ray Dalton, Deputy Secretary, SRS, addressed the question of the delayed renovation schedule by stating that the money for the planning phase has been expended; but as yet the funds to begin remodeling have not been provided.

Mr. Dalton continued his testimony with follow-up information requested by the Committee regarding the Home and Community Based Services programs administered by SRS (Attachment 2). He commented on procedures for individuals in crisis situations, the financial impact of lowering the Home and Community Based Services for individuals with a Developmental Disability waiver

minimum age to three, educational responsibilities for youth with disabilities, and the Kansas Rehabilitation Services Program for children on the Mental Retardation/Developmental Disability waiver. He will provide the Committee with statistics showing the number of students served.

Mr. Dalton explained in detail the SRS and the Department on Aging Long-Term Care quarterly savings report. The report shows cost comparisons associated with care in the institutional setting, community services, and the Money-Follows-the-Person Program (MFP) ([Attachment 3](#)). Each of the four segments shows how the various waiver groups coincide with each other. He noted the differences between the Federal and State MFP programs, and said that monies from the State General Fund are used before Federal monies. Commenting about the complexity of the plans, Mr. Dalton said the funds are spread over quarter-year increments to help simplify movement of funds and closure costs when clients are no longer receiving care in an institutional setting.

Responding to members' questions, Mr. Dalton said the money saved can only be spent on one-time start-up costs such as payment for modification of housing in the community. He said the initial move can cost the state more money than was previously used for institutional care. Mr. Dalton indicated the availability of the five-year federal grant was to achieve the goals of the agencies in the movement of clients. He will provide information for the Committee regarding the numbers of individuals to be transferred by waiver.

Mr. Dalton referred briefly to data in a report regarding the movement of clients in long-term care facilities ([Attachment 4](#)).

Kathy Greenlee, Secretary, Kansas Department on Aging (KDOA), introduced Dave Halferty, Director, Nursing Facility and PACE Division, KDOA, who provided an update on the differences of traditional long-term care programs and the PACE program. The average expenses are shown on page two ([Attachment 5](#)). The chart also delineates services and describes the protected income levels under each program. PACE provides a managed care program which is paid for in advance by the state; the provider is paid by the program after services are rendered. Mr. Halferty explained the payment process begins with an upper payment limit calculation (UPL) and, factoring in other data, rates are then negotiated from the UPL. His report included a prospectus for rate setting for 2009. Mr. Halferty gave explanations and possible solutions to barriers in the PACE program regarding enrollment dates, the PACE network, acceptance of the new company, and the protected income limit of \$747 for personal needs including housing. Mr. Halferty offered to provide the Committee with information on the number of individuals who come into the Program during the middle of a month and needing immediate services.

Bill McDaniel, Commissioner, Program and Policy, KDOA, provided a report on factors influencing high nursing facility utilization in Kansas (see [Attachment 5](#), page 6). He said all counties have at least one nursing facility, a mental health facility, or hospital-based long-term care unit. Mr. McDaniel explained that Kansas is tenth in the nation with persons 85 years of age and older. He said many Kansans have no family or other caregiver available, and senior citizens with mental health needs are placed in nursing facilities for treatment. In addition, low income and Medicaid eligible persons may not be aware of the Home and Community Based Services (HCBS) options and opt for nursing home care. Mr. McDaniel noted that the medical community needs to become more familiar with services available within the HCBS program so that patients ready for discharge from a hospital are not automatically placed in a nursing facility.

Dr. Rosemary Chapin, School of Social Welfare, University of Kansas, directs the Office of Aging and Long-Term Care, whose mission it is to improve social service practice and policy for older adults ([Attachment 6](#)). Dr. Chapin's report included a community tenure study revealing the results of research acquired by following 599 older adults who were diverted from nursing facility care. She advocated the importance of expanding publicly-funded HCBS programs to ensure they are

accessible to low-income older adults. Dr. Chapin discussed the trends that are expected to affect long-term care usage before 2020. She said the differences in informal care-giving and long-term care usage by racial and ethnic minority groups will be even more important as these populations continue to increase in Kansas. She concluded her remarks by stating that there is a need to continue to build HCBS systems to address the mental health needs of older adults. Included in her testimony is a research paper from the Office of Aging and Long-Term Care staff, students, and doctoral students ([Attachment 7](#)).

Dr. William Hagerman, Director, Innovation and Improvement, Kansas State Department of Education, briefly addressed the Committee with information on the education of special needs students ([Attachment 8](#)). He yielded the floor to individuals whose districts provide vocational training for students with special needs.

Tom Stegman, Assistant Principal, Girard High School, USD 248, provided a report on the Career and Technical Education Opportunities for special education students ([Attachment 9](#)). He outlined the demographic population of the school and explained that the Individualized Education Plan (IEP) for each student is essential for determining placement. Mr. Stegman spoke enthusiastically about the classes offered in agriculture, business, family and consumer science, drafting, and construction technology. The Crossland Construction Company collaborates with USD 248 to provide expertise in the classroom; and emphasis of the class centers on how to work well with other people. Upon completion of the class, participants receive certification which qualifies them to work for other construction companies. Off-campus opportunities available to students who qualify include a Harley Davidson Program, an automotive mechanics and restoration program, and a Life and Career Skills program. He reported that Fort Scott Community College offers evening courses in welding for students who desire that opportunity. Mr. Stegman also offered several observations about the Career and Technical Education Programs: (1) there is a higher performance level of students who participate in the courses; (2) there is a consistent level of attendance by these students; and (3) the students enjoy the "hands-on" classwork. He said there are very few disciplinary issues with these students.

In answer to members' questions, Mr. Stegman said some of the Career and Technical Education courses have been in existence since the 1960s. He said follow-up of students after graduation has some legal parameters and there is no IEP for students enrolled in postsecondary education. Mr. Stegman noted that Project Management and Construction Trades courses are available at Pittsburg State University for additional training.

Dr. Gretchen Schrek, Career and Technical Education Director, Olathe Public Schools, USD 233, acknowledged similar programs offered and identified additional courses offered in Olathe ([Attachment 10](#)). She referred Committee members to the packet of information describing the various programs offered in the Olathe school district. Dr. Schrek explained that the Millcreek Center provides courses in automotive technology, auto-collision technology, construction trades, and welding technology. She said classes are center-based with two- to three-hour blocks of time providing instruction for students. She said approximately 250 students are enrolled in the programs and, of that number, about 34 percent receive services through an IEP. She noted that special needs and highly gifted students are included in the programs.

Karen Bannister, Special Education Coordinator, Olathe Public Schools, USD 233, provided a flow chart and problem-solving model for student learning ([Attachment 11](#)). Ms. Bannister said the IEP process is maintained as a continual document for students from 14 to 21 years of age for transition to career placement or continued education. She noted that the Career Cruising term can be compared to an interest inventory in which the student has input for his or her choices in education. Ms. Bannister said that when a student is classified as a senior and is qualified to exit the education process, a case manager completes an electronic survey with the student to determine

what, if any, postsecondary goals the student may desire. The state seeks to maintain some contact for follow-up in determining whether or not a successful transition has occurred.

### **Afternoon Session**

The Chairperson requested Amy Deckard, Kansas Legislative Research Department, to apprise the Committee regarding targeted case management (Attachment 12). Ms. Deckard said the document includes testimony concerning targeted case management provided at the previous Legislative Budget Committee meeting on September 18, 2008. She provided an overview, stating an investigation into the method of operation previously used by Kansas for providing services revealed inaccuracies. Ms. Deckard reported that the Kansas Health Policy Authority formed a team in July 2006 which included the Department on Aging, SRS, and the Department of Health and Environment; corrective actions have been implemented to resolve the issues.

Ms. Deckard reported there are concerns surrounding reimbursement for travel time when providers working in rural areas must visit clients, some of whom must be contacted for a face-to-face visit. Also of concern is the issue of "any qualified provider." The Department on Aging (KDOA) can no longer limit targeted case management services for the HCBS/Frail Elderly waiver to the Area Agencies on Aging (AAAs); the present policy now allows any qualified provider to perform services. She said there is indication that the changes could potentially have a negative impact on AAA's revenue, and significantly impact services to at-risk seniors.

Committee members' questions were addressed by:

- Secretary Greenlee – Centers for Medicaid and Medicare Services (CMS) calculated rates for drive time will be uniform across the state with no differential for urban or rural areas.
- Secretary Jordan – The first rate study did not cover billable time and consequently another study is in place to find a more accurate rate of costs.
- Craig Kaberline – Some case managers in rural Kansas cover 28 counties to provide services and are reimbursed for face-to-face treatment time, but not mileage.
- Secretary Greenlee – The AAAs cannot be the sole provider of services according to Medicaid rules; newly hired target case managers will be dealing with the same issue of rates.

The Chairperson entertained a motion to approve the minutes of August 27, 2008, and September 23, 2008. *Representative Schwartz moved to accept both sets of minutes; Senator Kelly seconded the motion. Motion passed.*

The Chairperson opened the floor for Committee discussion and potential legislation. Members recommended the following be included in the Interim Committee Report to the 2009 Legislature:

- Look at how special needs individuals can be gainfully employed;

- Find a better way to inform the public of availability of services;
- Bolster the one-stop system by providing information through local newspapers; advertise the availability of the United Way 2-1-1 System;
- Research the number of three-year-olds in preschool programs; recommend that the programs be open to children with special needs;
- Acquire statistics on the number of special need high school students transitioning to the work force;
- Investigate the legality of following a high school graduate to postsecondary coursework to ascertain the success of various technical programs;
- Look at all HCBS issues which conferees spoke of during Committee meetings;
- Collect data on the issue of the turnover of staff involved in direct care services;
- Consider getting information on the availability of technology for monitoring systems that could assist in home care for developmentally-challenged children, frail elderly, and other persons needing 24-hour care;
- Continue to monitor the Money-Follows-the-Person Program;
- Look at the issue of including both the parents and the child in the process of reintegration of families; and
- Look at the possibility of enhancing reimbursement rates and other benefits to entice providers to work in rural areas.

Staff provided members with additional SRS information ([Attachment 13](#)).

The Chairperson thanked the members for their comments. The meeting was adjourned at 2:40 p.m.

Prepared by Florence Deeter  
Edited by Amy Deckard, Terri Weber,  
and Kelly Navinsky-Wenzl

Approved by Committee on:

December 31, 2008

(Date)