

MINUTES

JOINT COMMITTEE ON HOME AND COMMUNITY BASED SERVICES OVERSIGHT

August 16, 2010
Room 548-S—Statehouse

Members Present

Representative Bob Bethell, Chairperson
Senator Carolyn McGinn, Vice-chairperson
Senator Laura Kelly
Senator Kelly Kultala
Senator Dwayne Umbarger
Representative Jerry Henry
Representative Peggy Mast
Representative Melody McCray-Miller (appearing by phone)

Member Absent

Representative Brenda Landwehr

Staff Present

Kathie Sparks, Kansas Legislative Research Department
Amy Deckard, Kansas Legislative Research Department
Estelle Montgomery, Kansas Legislative Department
Iraida Orr, Kansas Legislative Research Department
Doug Taylor, Office of the Revisor of Statutes
Jackie Lunn, Committee Secretary

Conferees

Dave Halferty, Director, Nursing Facility and PACE Division, Kansas Department on Aging
Amy Deckard, Senior Fiscal Analyst, Kansas Legislative Research Department
Don Jordan, Secretary, Kansas Department of Social and Rehabilitation Services
Tom Laing, Executive Director, InterHab
Nick Wood, Disability Rights Center
Jane Rhys, Executive Director, Kansas Council on Developmental Disability
Shannon Jones, Executive Director, SILCK
Craig Kaberline, Executive Director, Kansas Area Agencies on Aging Association

Cindy Luxem, CEO, President, Kansas Health Care Association/Kansas Center for Assisted Living
Michael J. Hammond, Executive Director, Association of Community Mental Health Centers of Kansas, Inc.
Walt Hill, High Plains Mental Health Center, Hays, Kansas
Robin Cole, Pawnee Mental Health Services, Manhattan, Kansas
Sue Claridge, Private Citizen, Emporia, Kansas

Morning Session

Chairperson Bethell called the meeting to order at 10:20 a.m. and welcomed the Committee, staff, and guests. He called on Dave Halferty, Director, Nursing Facility and PACE Division, Kansas Department on Aging, to give his testimony on the following:

- Nursing Facility Admissions January through March 2010 (Attachment 1);
- Provider Assessment Model for **Sen. Sub. for Sen. Sub. for Sub. for HB 2320** (Attachment 2);
- Nursing Facility Reimbursement Changes for Fiscal Year 2011 (Attachment 3);
and
- Update on Provider Assessment Implementation (Attachment 4).

Mr. Halferty, addressed questions and concerns of the Chairperson and Committee. He noted that the spike in nursing facility caseload, which occurred in January 2010, was due to a system error which has been corrected. He went on to explain there has been a decline in nursing home case loads which he attributed to individuals remaining in their homes until they were more frail and requiring more services. Mr. Halferty stated he would provide to the Committee the annual census in nursing facilities for the past 10 years; the list of providers; and the costs. He moved on to explain the revised modeling projections on the Nursing Home Provider Assessment. He noted the new cost projections had been submitted and should be approved between January and April of 2011. The provider impact should result in 324 nursing homes experiencing a net financial gain, with an average gain of \$135,000 per home; 19 homes will have a net loss, with an average loss of \$31,000 per home; and one will experience no impact. Upon the conclusion of Mr. Halferty's testimony, a discussion occurred on the provider assessment between the estimates and the actual along with the effect on the providers.

Chairperson Bethell introduced Amy Deckard, Senior Fiscal Analyst, Kansas Legislative Research Department to present an overview of the approved budget for FY 2010 and FY 2011. Ms. Deckard presented written copy of the overview (Attachment 5). Ms. Deckard provided the Committee with an explanation of the approved FY 2011 Human Services Expenditures; the Home and Community Based Service Waivers Expenditures from all funding sources FY 2008 to FY 2011; Home and Community Based Service Waivers Expenditures from the State General Fund FY 2007 through FY 2011; the number of individuals on Home and Community Based Services Waiting List; and the actions taken by the 2010 Legislature regarding Home and Community Based Service Waivers. Ms. Deckard addressed the questions and concerns of the Committee during her presentation.

Upon the conclusion of Ms. Deckard's overview, Chairperson Bethell broke for lunch and stated that the afternoon session would start at 1:30 p.m.

Afternoon Session

Chairperson Bethell called the afternoon session to order at 1:30 p.m. and called on Don Jordan, Secretary, Kansas Department of Social and Rehabilitation Services (SRS), to present (Attachment 6). The Secretary discussed the Home and Community Based Services (HCBS) Waivers and the Money Follows the Person Grants. He provided information regarding Community Based Service Waivers that provide services to persons with developmental disabilities (DD), which included the number of individuals served and the funding for each of the programs. At the current time there are 2,444 people on the waiting list with 1,047 people receiving DD services. During FY 2010, the 295 vacancies were filled with individuals in crisis situations. Additional funding, which is estimated to serve 145 additional DD individuals, has been made available in FY 2011.

On January 1, 2010, waiver changes were implemented by SRS to avoid further overspending. The major waiver changes were the elimination of Oral Health Services and Temporary Respite Care.

Secretary Jordan explained that the Physical Disability (PD) Waiver has implemented a waiting list to avoid further overspending. Currently 7,300 individuals are being served in the PD Waiver. On January 1, 2010, changes were implemented by SRS to avoid further overspending. The changes included: eliminated oral health services; limited personal services to 10 hours per day unless there is a crisis situation; limited assistive services to crisis situations only, with the approval by the program manager; and eliminated the criteria that a person could enter services if the individual was at imminent risk of serious harm because the primary caregiver/givers were no longer able to provide the level of support to meet the consumer's basic needs due to the primary caregivers' own disabilities, return to full time employment, hospitalization or placement in an institution, moving out of the area, or death.

The Secretary spoke about the Traumatic Brain Injury (TBI) Waiver which is designed to serve individuals who otherwise require institutionalization in a Head Injury Rehabilitation Hospital. The TBI Waiver services are provided at a significant cost savings over institutional care and provide an opportunity for each person to live and work in their home and communities.

The following changes were implemented to avoid further overspending: eliminating the Oral Health Services; limiting personal services to 10 hours a day unless there is a crisis situation; limiting assistive services to crisis situations only; and moving third year continuation of service review to a program manager as opposed to the committee.

The Technical Waiver is designed to serve children ages 0 to 22 years of age who are medically fragile and technology dependent, requiring intense medical care comparable to the level of care provided in a hospital setting. The services provided through this waiver are designed to ensure that the child's needs are addressed effectively in the child's family home. There is no waiting list for this program.

The Serious Emotional Disturbance (SED) Waiver is for youth with a diagnosis of serious emotional disturbance and allows federal Medicaid funding for community based mental health services. In FY 2010, \$48,448,927 was paid through this waiver to serve a total of 6,021 children.

The Autism waiver is the newest of the waivers with the first funding approved in FY 2008. The waiver now is serving 45 children with 247 children on a waiting list.

The federally funded Money Follows the Person Demonstration Grant is designed to enhance participating states' ability to increase the capacity of approved HCBS programs to serve individuals who currently are residing in institutional settings. SRS and the Department on Aging are working together with the Long Term Care Ombudsman's office to identify individuals who currently are residing in institutional settings and assisting them to move into home settings of their choice.

In January 2010, Governor Parkinson responded to the report of the Kansas Facilities Realignment and Closure Commission by issuing an Executive Order, which set the stage for focused work, that will lead to the downsizing and consolidation of the two remaining state developmental disability hospitals in Kansas: Kansas Neurological Institute and Parsons State Hospital. Since the Executive Order was issued, SRS has been working both internally and with stakeholder representatives to implement the 11 directives of the Order, all designed to enhance opportunities for Kansans with developmental disabilities to experience effective community services.

In closing, Secretary Jordan stated SRS has convened an advisory group which was charged with assessing and developing recommendations regarding the directives in the Executive Order. That group presented its report to Governor Parkinson. SRS will continue to use the report as a guide for implementation of the Executive Order. During Secretary Jordan's testimony, he addressed the questions and concerns of the Committee.

Chairperson Bethell introduced Tom Laing, Executive Director, InterHab ([Attachment 7](#)). Mr. Laing opened by commending the 2010 Kansas Legislature for recognizing and addressing the needs of Kansans with developmental disabilities. He went on to say that the community network of supports for Kansans with developmental disabilities is still in crisis. He stated that during the 2010 Session of the Legislature, the members showed great determination to slow down the avalanche of growing need and to rekindle a dialog that more honestly discussed the challenges they face. In closing, Mr. Laing stated that during the 2011 Session of the Legislature, the members need to lead with a renewed legislative determination to support these programs more adequately and more reasonably.

Chairperson Bethell introduced Nick Wood, Disability Rights Center of Kansas ([Attachment 8](#)). Mr. Wood opened by explaining that the Disability Rights Center of Kansas is a public interest legal advocacy agency which is part of national network of federally mandated and funded organizations legally empowered to advocate for Kansans with disabilities. In closing, Mr. Woods presented recommendations to prevent unnecessary institutionalization and stood for questions.

Chairperson Bethell introduced Jane Rhys, Executive Director, Kansas Council on Developmental Disabilities ([Attachment 9](#)). Ms. Rhys stated, as a former special education specialist, she is aware of the large sums spent educating children with disabilities. She explained that a state funded program teaches employment skills to individuals with developmental disabilities but because the HCBS-DD have not been adequately funded, the training is lost. The Council on Developmental Disabilities has concerns with the number of individuals with developmental disabilities that are on the waiting list (unserved) and also those not receiving enough care (underserved). She stated closing the state institutions will allow more individuals to come off the waiting list.

Chairperson Bethell introduced Shannon Jones, Executive Director, Statewide Independent Living Council of Kansas (SILCK) ([Attachment 10](#)). Ms. Jones opened by stating the 10 percent Medicaid rate reductions applied to all Medicaid services delivered on or after January 1, 2010, has been devastating. The Centers for Independent Living are the gate keepers for the PD waiver services. All Centers for Independent Living made cuts internally; they reduced the work hours of

some of their employees; froze wages of employees; reduced employees' mileage reimbursement; 81 employees were laid off and requests were made for voluntary lay-offs and retirements; open center positions are not being filled; and there is a freeze on hiring for all positions. In closing, she stated that SILCK will urge the 2011 Legislature to take advantage of the incentives and new opportunities in the federal Affordable Care Act to strengthen home and community based services so that people who want to live in the community have the ability to make that choice. A short question and answer session followed with Ms. Jones and the Committee.

Chairman Bethell introduced Craig Kaberline, Executive Director, Kansas Area Agencies on Aging Association ([Attachment 11](#)). Mr. Kaberline explained that the services available through the Area Agencies on Aging fall into five broad categories; information and access services, community services, in-home services, housing, and elderly rights. Within each category, a range of programs is available. Budget cuts to the in-home services system over the last two sessions threaten even the minimal services many frail elderly need to remain living in their communities. In closing, he stated there is no question that, given the magnitude of budget reductions, access to health care and in-home services in our state have been impaired resulting in Kansas seniors receiving care in more expensive settings or not receiving care at all. The Kansas Agencies on Aging Association would appreciate an opportunity to discuss these issues and concerns with the Legislature. A question and answer session followed with Mr. Kaberline and the Committee.

Chairperson Bethell introduced Cindy Luxem, CEO, President, Kansas Health Care Association/Kansas Center for Assisted Living ([Attachment 12](#)). Ms. Luxem stated that the impact of the budget reductions to HCBS have affected their members in two ways.

Nursing home participation goes up when things like sleep support cycle are eliminated. In addition, when services are reduced, the number of providers decrease which prevents the discharge of residents from nursing homes because of lack of services in the community. Residents who are living independently are really the ones who suffer if the provider does not provide HCBS in their homes. In closing, she suggested that in order to improve the number of assisted living providers, a tax credit could be created. Upon the conclusion of her testimony, she introduced Carol Feaker, Midwest Health Consulting, to give her testimony (no written testimony was provided). Ms. Feaker stated several states are having problems similar to the ones Kansas is experiencing with HCBS. She also explained how Medicaid requires that billing be done on 15 minutes increments to receive funding from Medicaid, and how this is a paper work problem for several providers.

Chairperson Bethell introduced Michael J. Hammond, Executive Director Association of Community Mental Health Centers of Kansas (CMHC), Inc. ([Attachment 13](#)). Mr. Hammond stated budget cuts are placing the public mental health system at a breaking point. Every Kansan who walks through the doors of a CMHC is impacted by budget cuts. Its workforce also is being impacted by the cuts. In closing, Mr. Hammond stated the following is needed:

- Provide increased capacity for crisis stabilization beds;
- Provide an appropriation of \$3.1 million to increase capacity at Osawatomie State Hospital for a 30 bed unit; and
- Provide an appropriation of \$500,000 to pay for staffing and other operating expenditures for Larned State Hospital to open permanently 11 beds that have not been budgeted for by SRS.

Mr. Hammond also expressed support for state funding to establish local private mental health inpatient hospital beds across Kansas, to alleviate the demand for state psychiatric hospital beds. Upon the conclusion of Mr. Hammond's testimony, a question and answer session followed.

Chairperson Bethell introduced Walt Hill, Executive Director, High Plains Mental Health Center, Hays, Kansas (Attachment 14). Mr. Hill stated the impact of the budget cuts is that it is taking twice as long for a patient to be seen for medication evaluation. The Center sees 5,000 plus patients each year, and approximately half are treated with a combination of services that involve medications for various mental disorders. Faced with continued cuts of over a million dollars annually in state funding, High Plains has reduced staffing levels by 20 percent; cut office hours; reduced employees benefits; eliminated non-mandated services; reduced domestic violence interventions; reduced community education and intervention; and made other internal cuts to adjust to cuts in funding imposed by SRS and the Legislature. In closing, he stated to close just voluntary beds creates a system that jeopardizes patients and communities. He expressed his concerns over the past three years regarding the shortage of state hospital beds. Finally, Mr. Hill pointed out that the Legislature added a proviso to the spending bill asking SRS to conduct a study to determine the number of state hospital beds required. To date, this has not been accomplished.

Chairperson Bethell introduced Robbin Cole, Pawnee Mental Health Services, Manhattan, Kansas (Attachment 15). Ms. Cole stated that the Pawnee Mental Health Services has made numerous changes which were necessary to preserve community based services to individuals whose lives are affected by mental illness and substance abuse. The cuts in funding, which have necessitated these changes, when combined with the cuts in funding which have necessitated the temporary suspension of voluntary admissions to the state psychiatric hospitals, are a recipe for disaster.

Chairperson Bethell introduced Sue Claridge, a private citizen from Emporia, Kansas, to give her testimony (Attachment 16). Ms. Claridge informed the Committee of her family's story, and its reliance on Medicaid and the mental health centers. In closing, she stated she hoped that what she shared gives the Committee a clearer understanding about how the budget cuts will affect families and communities in a big way. A short discussion followed.

Chairman Bethell adjourned the meeting at 4:45 p.m. with the next scheduled meeting on September 8, 2010, at 10:00 a.m. in room 548-S, Statehouse.

Prepared by Jackie Lunn
Edited by Kathie Sparks

Approved by Committee on:

September 8, 2010
(Date)