

**Local Government Advisory Committee
Room 473, Human Services Building, Salem
July 13, 2007
Minutes**

ATTENDING

Janet Carlson	Marion County Commissioner
Barbara Carranza	Oregon Commission on Children and Families
Gary DiCenzo	Clackamas County Department of Human Services
Ramona Foley	DHS – Children, Adults and Families Division
Gordon Fultz	Association of Oregon Counties
Bruce Goldberg	DHS – Director
Sharon Guidera	Association of Community Mental Health Programs
Bill Hall	Lincoln County Commissioner
Tony Howell	League of Oregon Cities
Chuck Hurliman	Tillamook County Commissioner
Fritz Jenkins	DHS – Provider Audits
Chris Johnson	Yamhill County Health and Human Services
Linda Modrell	Benton County Commissioner
Bob Nikkel	DHS – Addictions and Mental Health Division
Gina Nikkel	Association of Community Mental Health Programs
Anne Peltier	Conference of Local Health Officials
Clyde Saiki	DHS – Deputy Director
Cindy Scheick	DHS – Finance and Policy Analysis
Jim Scherziner	DHS – Finance
Mary Shortall	Multnomah County Aging and Disability Services
Michael Stickler	DHS – Finance and Policy Analysis
Julie Strauss	DHS – Finance and Policy Analysis
James Toews	DHS – Seniors and People with Disabilities Division
Jessica Van Diepea	Association of Community Mental Health Programs
Gillian Wesenberg	Douglas County Commission on Children and Families
Sandy Wood	DHS – Division of Medical Assistance Programs

WELCOME & INTRODUCTIONS

Linda Modrell called the meeting to order and roundtable introductions were made.

Minutes from the June meeting were approved. Request to add a discussion around school districts in southern Oregon that had Medicaid audits was added to the agenda.

DIRECTOR'S REPORT/LEGISLATIVE UPDATE – Bruce Goldberg

DHS is changing gears from the legislative session, figuring out the agenda for the next two years, and how to implement changes from this session.

One thing in human services that did not happen this legislative session was the passage of Healthy Kids and the inability of the legislature to pass a tobacco tax to fund it. There is a coalition of individuals getting together to help support the ballot initiative that will go to the voters in November.

Bill Hall asked about a policy bill that was not approved regarding the prescription drug-monitoring program that DHS had moved from support of the bill to a neutral position in the final days of the session. There was some question that failure to have such a program would put the state at the bottom of the list for federal alcohol and drug money.

Bill asked that if Oregon had no prescription drug-monitoring program, would the State lose federal funding. DHS would not lose federal funding in this biennium and that was interpreted as trying to undermine and destroy this effort, but it was not intentional. There may be some risk to small grants.

When asked to report on SB 184, SB 1052 and SB 282 Bruce Goldberg said that SB 184 would have designated a percentage of OLCC funds to alcohol and drug treatment totaling \$16 million was not passed by the Legislature. Instead DHS received about 95% of that funding, although not dedicated, through general funds for alcohol and drug treatment. DHS will try for dedicated funds next session.

On SB 1052 the unitary assessments on meth prosecutions to go for drug treatment did not pass. Bob Nikkel will check on specifics and report back to LGAC.

SB 282 was on kinship care and is an important policy bill. Oregon was one of only two states that did not pay relatives to be foster parents, but would pay strangers to do it. DHS took an important step this legislative session to change this.

DHS proposed means testing as a first step; however the bill did not address means testing. It is potentially a budget piece, depending on when it is implemented. Part of the issue has been calculating the cost. DHS will work with the Child Welfare Advisory Committee and the Family Services Review Committee on this issue.

About 60% of children in foster care are eligible for federal funding, because they would have been eligible in 1996 if someone had applied for AFDC for the child, which is the standard. For those children their room/board payment will go with them whether they go to a relative or not, but if the child is not eligible, then DHS does not pay anything out of general fund to the relative.

Regarding the DHS expectation for the February 2008 legislative session, Bruce Goldberg said that everyone is trying to figure out what the February session will be like, but no one really knows. The Senate is very engaged and wanted to figure it out two weeks ago and the House at this point is not very engaged. There will probably be little opportunity for executive branch bills. There will most likely be bills from Legislators and there is not going to be opportunities for budgetary involvement. There will be regular E-Boards and opportunities to deal with funding issues. There may also be the possibility of an E-Board during the February session.

2007-09 LEGISLATIVELY APPROVED BUDGET AND BUDGET NOTES –

Jim Scherzinger

Jim Scherzinger gave an overview of handouts on the Legislatively Adopted Budget (LAB) and DHS budget note from the Legislative Fiscal Office.

Legislatively Adopted Budget: (HDO #1) document breakdown by division, beginning with the amounts from the Governor's Recommended Budget (GRB), listing the adjustments the Legislature made, and the total amount funded in the LAB.

Janet Carlson asked if there were more restrictions on Behavioral Related Services (BRS).

DHS did a review of the BRS and there are some issues on the way BRS programs have evolved over time. In some places DHS may be at risk of being out of compliance with Medicaid rule. Cindy Scheick and Michael Stickler (DHS, Federal Policy) have been working with a group from the Oregon Youth Authority (OYA) and County Juvenile Directors to set standards and come to agreement on what the programs should look like and what the risks are and how to mitigate those risks. DHS is not going to make any change right away, and is developing a transition plan. Our goal is to be in compliance with Medicaid rules in the event of an audit.

Bob Nikkel passed out and discussed a breakdown (HDO #2) that provided more detail on the \$10 million add back for the community mental health funding.

James Toews commented that this session showed a real gain on the developmental disabilities side, but not very good for the seniors and physical disability side. James will need to debrief with senior advocates. There were many different senior groups but no consistent message to the Legislature.

James said there were a couple of items in the Christmas tree bill that were not listed on the handout. The CNA staffing for nursing homes was restored back to the original level and added \$4 million for home care workers.

Budget Notes: The budget notes (HDO #3) are detailed out in this document. DHS will not need to go to the Legislature to close the 2005-07 budget. We are in balance and will not need additional general fund for 2005-07.

Sharon Guidera asked about how, in a MCO integrated delivery system, accountability and service delivery will actually play out. Will the mental capitation be blended with the addiction and physical health capitation? We were assured that the counties will be at the table when DHS prepares a report for the legislature on an integrated delivery system. We all know that just because several streams of money are managed by one organization, service integration does not necessarily follow. So far as the counties are concerned, there is the question of the county commissioners as the mental health authorities and how that responsibility plays out in a different system.

Not a question of where the funds go to because with the chemical dependency benefit just because it is managed through the same organization that it is better or worse integrated. We have to look at it from other angles first. There may be different ways to get there. The counties will be included in the discussions.

Gina Nikkel suggested the commissioners put together a presentation on mental health authority for their peers to help define and answer questions about local mental health authority – general education.

Chuck Hurliman suggested that Gina Nikkel, Bob Nikkel and Gordon Fultz email a definition of the county mental health authority that he could run in a commissioner's column every few months.

INTERGOVERNMENTAL TRANSFERS, FINAL CMS RULE – Cindy Scheick

The final rules the Centers for Medicare and Medicaid Services (CMS) on cost limit and unit of government (HDO #4).

CMS did change the final rules to include language that identifies state university teaching hospitals as governmental entities so OHSU is considered a unit of government. Another concern was the source of funds that could be used for match could only be state and local tax dollars. CMS included clarification on the understanding that there are many local sources of funding not just tax proceeds that could be used, such as fees, interest, some sales dollars, traffic fines, etc.

A requirement that is still in the final rule is that the revenue cannot exceed the cost of providing the Medicaid service. Annual cost reports will have to be submitted to DHS and reviewed. CMS added additional exemptions to the rule. MCOs, MHOs, managed care, federally qualified health clinics, rural health clinics and several others are now exempt from the rule. However, the administrative burden with the rules did not change. DHS has the responsibility to determine who is a unit of government as well as review annual cost statements prepared by the units of government.

Based on reinterpretation of the rules, there is an impact with the timing of the match payments for some of our leveraging agreements. Because DHS has many different leveraging agreements and processes, we want to take this opportunity to create a consistent and streamlined approach. DHS has a year to look at leveraging agreements and come up with a new process. DHS is in the process of getting a workgroup together that will include community partners in the discussions to develop a process that works for everyone and brings us into compliance. The federal concern is that states are recycling federal dollars. There are options on how to do the matching and the workgroup will try to determine the best option.

There was an unofficial response to the question: if a managed care organization is excluded from the annual cost reporting requirement, what if they have a subcontractor such as a county, would the county be required to do the annual cost report? The answer from CMS was if the original entity is exempt, the subcontractor would also be exempt. **NOTE: Since the LGAC meeting, DHS received further clarification from CMS Central Office in opposition to the initial response. CMS stated that if the subcontractor is a unit of government, they would be subject to the cost limitation and annual cost statements would be required even if the original provider is exempt (i.e., MCO for example).**

The 2007 Supplemental Appropriations bill placed a moratorium on CMS implementing this rule. It will be effective July 30, 2008.

SCHOOL DISTRICTS IN SOUTHERN OREGON – Fritz Jenkins

Fritz Jenkins, Manager of the DHS Medicaid Audit Unit updated LGAC on the federal fraud investigation and settlement regarding the Medford School District.

Three school districts were investigated and prosecuted through the U.S. Attorney's Office and the Medicaid Fraud Unit. DHS had no role in those investigations or prosecutions. An individual in the Eagle Point School District approached a school district employee in another school district about how to bring down federal Medicaid money. Schools can bring down federal Medicaid money if done appropriately and by the rules. This individual then notified the Medicaid Fraud Unit that they had a concern and the Medicaid Fraud Unit ran data on all school districts especially on the transportation claiming. The three districts that had problems were Eagle Point, Gaston and Medford.

All three have settled. Eagle Point settled for \$1.2 million, Gaston for \$200-250,000 and Medford for \$830-850,000. The court documents are not available at this time. The claims in question were transportation claims for special education students who were being provided regular transportation but charging Medicaid – that constitutes fraud. There were also some claims on nursing functions as well as lack of documentation for other services rendered. They billed for services they could not prove were provided by the school district. The Medford School District originally came out as a \$1.4 million single finding and was negotiated down. The US Attorney's Office excluded the State and the Medicaid Fraud Unit from the settlement on the rationale that these were IGT type financing arrangements. The State had no financial interest in it. This was under the school-based health services operations.

AOC HUMAN SERVICES REPORT – Janet Carlson

AOC Human Services did not meet in June, not meeting today and will not meet in August.

AGENDA ITEMS:

AOC Human Services Committee Report – Janet Carlson

Comparison of the AOC Legislative Agenda Compared to LAB – John Swanson

County of Residence Update – Ramona & Bob

Alcohol & Drug Implementation Report – Bob and Ramona

Public Health Medical Advisory Group Report – Susan Allan
Update for February Legislature Session – Bruce/Patty

NOTE: There will be no LGAC meeting in August. The next LGAC will be September 14, 2007 and the time will remain 10:00 a.m. – 12:00 p.m.

Meeting adjourned at 12:00 p.m.