JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON HEALTH AND HUMAN SERVICES

September 20, 2011
Room 643, Legislative Office Building

The Joint Legislative Oversight Committee on Health and Human Services met on Tuesday, September 20, 2011 at 1:00 P.M. in Room 643 of the Legislative Office Building. Members present were: Senator Louis Pate, Representative Nelson Dollar, and Representative Justin Burr, Co-Chairs; Senators Austin Allran, Stan Bingham, Harris Blake, Jim Davis, Fletcher Hartsell, Martin Nesbitt, William Purcell, and Tommy Tucker; and Representatives Martha Alexander, William Brisson, William Current, Mark Hollo, Pat Hurley, Bert Jones, Marian McLawhorn, and Tom Murry. Also present were Representatives Marilyn Avila and Verla Insko.

Lisa Hollowell, Lee Dixon, Denise Thomas, Donnie Charleston, Karlynn O'Shaughnessy, Shawn Parker, Theresa Matula, Amy Jo Johnson, Jan Paul, Susan Barham, Lisa Wilks, Joyce Jones, Pat Porter, Rennie Hobby, Candace Slate, and Dina Long provided staff support to the meeting. A Visitor Registration Sheet is attached and made a part of the minutes (Attachment 1).

Chairman Louis Pate called the meeting to order and welcomed members and guests. He asked for a motion to approve the minutes from the August 25th 2011 meeting. The motion was made by Representative Brisson and the minutes were approved. Chairman Pate reminded those listening over the internet that the handouts from today's meeting are posted on the committee website at: www.ncleg.net, Committees.

Shawn Parker and Amy Jo Johnson, with the Research Division, provided an overview of substantive legislation that would impact the offices, divisions, and programs that operate under the Department of Health and Human Services. The summaries were broken down into multiple sections: Licensure, Inspection, Regulation; Mental Health, Records and Reporting Requirements; Medicaid; and Pilots and Studies. (See Attachment No. 2) Mr. Parker and Ms. Johnson provided a brief summary of each piece of legislation.

Ms. Johnson was asked if the locations of the overnight respite pilot program had been determined. She responded that DHHS had been directed to select two to four currently successful certified day care programs in which to conduct a pilot program. She was not aware that the locations had been selected yet. Mr. Parker was asked if a report had been received on additional sites for the B-C Medicaid waiver. He responded that the act required that a determination be made by August 1st on who would have met the DHHS Request for Application (RFA) requirements. Mr. Lee Dixon from Fiscal Research said he would be reviewing the information during his presentation. Ms. Johnson was asked how the adult care homes were chosen to participate in the pilot to provide services to released inmates and how many inmates

were participating in the program. She said DHHS was selecting one adult care home to participate in the pilot program; therefore, the number of inmates would likely be small.

Chairman Dollar asked representatives from DHHS if there were any difficulties or delays in implementing any of the statutory changes made by the General Assembly this past Session. Jim Slate, Budget Analysis, DHHS responded that there were none that he was aware of but would report back if there were any issues.

Lisa Hollowell and Lee Dixon from Fiscal Research provided a Health and Human Services budget overview. Ms. Hollowell said the handout was an excerpt from the 2011 Annotated Committee Report prepared by the Fiscal Research Division. (See Attachment No. 3) The report contains all the adjustments that were made to the continuation budget. It also includes a summary of the Special Provisions from the 2011 Budget bill, changes made in the Technical Corrections bill as well as other substantive laws passed during the Session that related to the Budget bill money items or Special Provisions. Points of interest included these:

- There was a total of $432.6M reduced from the continuation budget for FY2011-12, a 9% reduction. Overall, it was an increase over expenditures for FY2010-11, about an 11% increase due to one-time funds received from the federal government for the Medicaid program Enhanced Federal Medicaid Assistance Percentage (FMAP) that lasted 18 months but then was built back into the continuation budget.
- The overall goals were to make reductions by maximizing federal receipts, directing DHHS to achieve savings, and to minimize the reductions that were taken to services.
- Approximately 60% of the total reductions that were taken were identified as savings or the maximization of federal receipts which included budgeting, block grant funds and swapping out the state funds, budgeting over realized receipts (historical receipts that were beyond what was in the certified budget). Savings included provider assessments, operations and positions - mostly vacant within DHHS, and directing DHHS to engage in better management of care through activities with CCNC.
- According to the latest Medicaid Bulletin the statewide expansion of the B-C Medicaid Waiver will initiate with Piedmont Behavioral Health (PBH) merging with Alamance, Caswell LME in October 2011; CenterPoint, April 2012; Five County LME, January 2012; Orange, Person and Chatham County LME, April 2012; Western Highlands, January 2012; Mecklenburg, January 2013; East Carolina, April 2012; and Sandhills, July 2012. RFA's have been approved for Eastpointe, Southeastern, Beacon Pathways, Crossroads, Mental Health Partners and Smoky Mountain for startup in January 2013.
- Medicaid Budget – The Committee should be aware that DHHS has the ability to modify both optional and mandatory services to include eligibility should DHHS not be able to make any of the budget cuts or savings that the General Assembly approved in the budget.

Referencing the section of the Budget bill that addresses modifications of optional and mandatory Medicaid funded services, Senator Bingham noted the inclusion of the section that permits the Secretary of the DHHS to make additional cuts if these cuts cannot be achieved. He asked Mr. Dixon whether these steps would need to be taken and if so when the General Assembly would be advised of this. Mr. Dixon noted that steps would be taken soon to consider the status of budget cuts that were directed in the budget bill as well as cost saving proposals and

the first of these would be a meeting with CCNC and review of the cost savings proposed in the budget resulting from this program. This meeting will take place early in October.

Mr. Dixon was asked the status of Smart Start and the More-at-Four programs. Chairman Dollar responded that Judge Manning issued a ruling regarding that section of the budget; subsequent to that ruling the Governor issued an Executive Order. Within the Executive Order there was a directive to DHHS to develop a plan within 60 days for an expansion of the Pre-K program. Within the Judge's order and the Executive Order there was a provision that disallowed the co-payment to be made in the portion of the program transfer to DHHS. This has reportedly created some financial difficulties for the local partnerships since there was not as much money as had been anticipated in the budget. Consequently, a number of slots have been reduced around the State. During the October meeting the Department will be asked to provide an update on the plan in response to the Executive Order and the current status of the program.

Karlynn O'Shaughnessy, Fiscal Research, provided a high level overview and background of the Medicaid Management Information System (MMIS) initiative and the new version being developed by DHHS. (See Attachment No.4) Points of interest in Ms. O'Shaughnessy's presentation included these:

- Harvard Business Review conducted a study of global Information Technology initiatives examining almost 1,500 projects comparing budgets and benefits to the actual cost and results of the projects achieved, looking at both public and private agencies in the United States and throughout the world. A substantial number of these initiatives suffered program implementation delays.
- The Office of Information Technology Services in North Carolina maintains the data base called the Project Portfolio Management Tool which tracks all projects month by month. Projects are constantly monitored to see if they are on schedule to go live.
- North Carolina history - EDS had the original MMIS contract in 1977 but was acquired by Hewitt Packard (HP) in 2008. HP continues to operate the legacy system as the State works to develop a new system. The system was not meeting the needs of the State so ACS was awarded the new contract in 2004 with a completion date of June 2006. This contract was terminated in July 2006 by DHHS. ACS sued the State and settled for $10M in 2007.
- CSC was subsequently awarded the contract and scheduled to go-live in August 2011, but numerous changes and contractor scheduling issues have caused the date to slip to March 2013. Some of the changes were federal and State mandates.
- The General Assembly included a special provision with specific requirements for MMIS implementation over the next two years. Example - private counsel is required to be hired for large contracts. They are able to save the State money by finding subject matter experts and negotiating with the vendors.

Chairman Dollar recognized Representative Marilyn Avila who was recently appointed Co-Chair of the House Appropriations Subcommittee on Health and Human Services. He also commented on the fact that Representative Jeff Barnhart would be sorely missed by members of the General Assembly.

Angeline Sligh, Director of MMIS Services, DHHS gave a program update on the MMIS Replacement Project. Using the recent project delays as a backdrop, Ms. Sligh gave an overview of the reasons for the implementation delays and the revised timelines. Ms. Sligh provided an update of the program which included a general overview of the program components, schedule progress against the new timeline, budget impacts and key risks (See Attachment No. 5) Additional points of interest included these:

- The Federal Center for Medicare and Medicaid (CMS) continues to support the MMIS project primarily with a 90% funding match which equates to 87.7% overall in federal support.
- At the termination of the ACS contract by DHHS, CMS and ITS worked with the Department to develop a go-forward-strategy for the MMIS initiative which included dividing the project into a number of components and increasing staffing.
- The Office of State Controller mandated more automation for the Medicaid Accounting System with specific emphasis on improving accounts payable and receivable.
- Independent Verification and Validation (IV&V) reports directly to the program sponsor and to the CMS Regional Office. Due to federal regulations, all large projects are now required to have IV&V.
- The Reporting and Analytics component is necessary to ensure CMS certification of the MMIS. The State only receives 50% match until the system is certified. This process takes about one year to complete.

Schedule Update points of interest:

- Schedule slippage - Once CSC realized the scheduled completions would slip due to an overestimation of the degree of fit; one hundred additional staff members were hired to work on the development to offset the variation.
- Four of the six months of slippage was attributed to CSC and the vendor will pay the State $10M which represents the $2.5M loss in monthly saving for the Medicaid (MMIS) and Mental Health (IPRS) systems.
- Under the new amendment, CSC has full liability for all state cost associated with the delay, not just the MMIS and IPRS systems but Health Choice, Public Health, and Rural Health applications as well.

Regarding the delay impacts, Chairman Dollar asked why it was not anticipated from the conception of the contract that there would be hundreds of changes and why there is such inflexibility in the system that has cost so much money and time. Ms. Sligh responded that there must be a clear delineation between the development side of the project and the project once it is implemented. Under the new system, changes will be table driven and easier to make. The current system is under development. While change was anticipated, the amount of federal and state changes that have occurred could never have been anticipated.

MMIS Implementation Update:

- The replacement MMIS process uses an iterative build approach which spans in excess of 20 builds. Seven of the 19 development builds have been completed.
- Medical, financial and pharmacy claims are part of the hub of the entire Medicaid solution. Testing of some of these components will begin in the next six weeks.
- Provider Operational Preparedness (POP) – The system will be ready to go live on March 1, 2012 however; the State will have the opportunity to delay the go-live anytime between March 1 and July 1 to ensure that providers are ready. This system will pay claims in accordance with policy. DHHS will have an opportunity to work with providers

on claims, to explain the differences between the two systems, and ensure provider payment accuracy.

- Development changes will be restricted during two periods. Changes beyond these restrictions will impact the system go-live date. The "soft freeze" begins March 2012 and allows for small changes of less than 40 hours of work. The "hard freeze" begins May 31, 2012 during which only federal or State legislatively mandated changes approved by DHHS and CSC Executive Management may occur.
- Reporting and Analytics – Data Warehouse construction is currently underway. Per SL 2009-451, work progresses to develop the State Health Plan data warehouse and reporting solution.

Chairmas Dollar inquired whether provisions are being made to adequately test the system. Ms. Sligh replied that there will be State testers from the participating divisions, SysTest Labs (the testing vendor) and the provider community. She further remarked that as the system is incrementally being built, various components are undergoing user business acceptance testing. There will also be additional operational readiness testing for providers during the provider operational preparedness period.

Chairman Dollar inquired regarding risks associated with the pending sale of Thomson Reuters' healthcare division. Ms. Sligh responded that a very strong contract exists, and that Thomson Reuters had been placed on notice regarding their contractual requirements with respect to the sale. The State will have the opportunity to decide whether to move forward or terminate the contract prior to the sale.

Financial Update:

- Contract comparison - The original contract began with a 32 month, $91M cost for development. The replacement contract now has a 50 month, $157M cost for development. Three contracts are under negotiations with a total of approximately $6M which is included in the budget projection.
- The original contract had 4 years of operation with 1 option year totaling 92 months at $287M and the new contract base is for 4 years with 1 option year, totaling $364 M. With the contract additions, the final cost is $494.8M. This number includes $15.2M for Health Information Technology (HIT).

- In addition to the MMIS, there are four other contracts (IV&V, DHSR, Reporting and Analytics, SysTest Labs) and a number of other projects (SAS Budget and Forecasting, HIT, etc.) that are also a part of the MMIS Replacement Program. The numbers presented by Fiscal Research were derived from a table included in the August 1, 2011 Legislative report. While these numbers did include the three contracts that are yet to be negotiated, the dollars reported are an overstatement of the total cost of ownership since the table included non-project activities such as early operations.

- Until the system is certified, the State will only receive 50% reimbursement for the estimated $38M annual cost to operate the MMIS. The certification process is usually completed within a year after go-live. Once the system is certified, the State will be

retroactively reimbursed to the date when the system was deemed by CMS to be operational.

- Return on Investment – To date, $40M has been collected from the early implementation of Supplemental Drug Rebate. The cost of the State investment in the MMIS replacement solution will be recovered in 22 months after go-live; and over the life of the contract, the State savings after it has recouped its investment will be $88.9M. The total savings for State and federal will be in excess of $140M.

Program Risks:

- The greatest risk to the success of the project is change.
- CMS has mandated that the State have a unified change control board to look at change on the legacy side as well the replacement solution. Every change must be assessed and if it is not federally or State mandated, the board must decide if the change can wait until after the solution goes live. The board will be established October 1, 2011.
- The MMIS replacement now receives 90% match for its eligibility module. Under recent federal legislative changes, NC FAST is now eligible to receive 90% match for its Medicaid related eligibility components. Both projects cannot receive the enhanced funding; therefore, some functionality may be transferred from the MMIS replacement project scope to NC FAST.
- It is critical that there is full cooperation from all of the incumbent vendors and fiscal agencies to ensure that there is a successful and timely hand off of all the files, data, and knowledge transfer.

Senator Allran posed questions regarding his concerns about the direction of the initiative, the purpose, the cost, and the source of funding.

Chairman Pate asked how the changes in health care coming from the federal government would impact MMIS and other record keeping sources. Ms. Sligh responded that some of the changes, such as the National Correct Coding Initiative (NCCI), HIPAA 5010 and ICD-10 are all impacted by health care reform. These changes affect electronic claims administration and HIPAA updates and will occur every two years. HIPAA 5010 must be implemented to ensure the successful use of ICD-10.

Chairman Dollar asked if the Office of MMIS had looked at the audit on the Beacon Payroll System, which has had so much trouble. He asked if the MMIS office had learned of anything that could be used or essentially avoided with this project. Ms. Sligh answered that when the Beacon project started it was suggested that the MMIS project be patterned after the Beacon project; ultimately the suggestion was not carried out. She said that these are both large projects impacted by change; however Beacon's payroll changes do not occur as frequently as Medicaid program and policy changes. Other projects have been reviewed to see what lessons can be learned. Chairman Dollar expressed his concern over the delays in the project, and its total cost which has been hundreds of millions of dollars more than expected. Chairman Dollar also said the end result needs to have a platform that is flexible to accept the changes that must be adapted considering there will always be new parameters from the federal government and the General Assembly. Ms. Sligh answered that the new solution, which will be rules-based, will provide more flexibility in the future.

Senator Bingham asked how the committee could best participate in the process. Ms. Sligh suggested that in order to save money the General Assembly could make any changes effective after the new system is implemented. It would be easier to implement changes to the system once it is operational.

Senator Allran asked what would happen to changes being made in anticipation of the Affordable Health Care Act if the mandate to provide the insurance was struck down by the courts. Ms. Sligh said that if the Health Care Reform was stricken in its entirety, all related work would be brought to an expedient closure. Senator Allran asked how much money would be lost if Health Care Reform is stricken. Ms. Sligh was not able to provide a dollar figure.

Jim Slate, Director of Budget and Analysis, DHHS provided background information and then reviewed with the committee the new grant opportunities that DHHS has applied for and or successfully accessed during this fiscal year. (See Attachments No. 6a and 6b) Mr. Slate stated that the Department's budget for the current year totals $18.1B with approximately 75% of the budget being supported with receipts and the remaining funds coming from State appropriations. He reported that the majority of the receipts come from grant opportunities with federal partners as well as nonprofit foundations like Kate B. Reynolds and the Duke Endowment. There are currently 200 active grants being administered by DHHS many are ongoing and renewed on an annual or multiyear basis. Mr. Slate reviewed the 28 grants that had either been applied for or had already been awarded. Twelve grant awards already received from the federal government totaled $8.1M. Sixteen additional grants have been applied for with a total of $12M.

Next, Chairman Pate asked Beth Melcher, Assistant Secretary for Mental Health, Developmental Disabilities and Substance Abuse Service Development, DHHS, to provide an update on the current issues related to Institutes of Mental Diseases (IMD), Personal Care Services (PCS) and Mental Health. Points of interest made by Dr. Melcher included these:

- On August 9th, Secretary Cansler sent a letter a letter to the US Secretary of Health and Human Services requesting an extension on the State deadline for a response to the concerns and the planned solution for the current problems with Personal Care Services (PCS). The request asked for an extension from the original March, 2012 date to October, 2012 to allow further time to consider options and to discuss the issue with the General Assembly.
- IMD - Conversations are in the final stages with CMS regarding plans to identify Adult Care Homes in which independent assessments of residents will be conducted. The assessments are for the determination of which of these individuals have primary diagnoses of mental illness. The assessments will begin shortly and will last a few months.
- Conversations continue with the Department of Justice (DOJ) and the Attorney General's Office on a timeline for meetings to discuss various components that might be involved in the settlement of the complaint brought to DOJ by the NC Disability Rights on high numbers of individuals with mental illness residing in adult care homes. DHHS is gathering information in preparation for those meetings which will last several months.

Regarding PCS, Chairman Dollar asked if the Department was going to recommend the I Waiver option and he asked if there were conversations underway with those various groups who would operate under the I waiver. Dr. Melcher responded that there had been collaborative conversations with CMS and the chief stumbling block is how to define the target population to be served under the I Waiver option. Chairman Dollar asked if there would be a report detailing the impact. Dr. Melcher responded that there would be a breakdown available.

Chairman Pate opened the meeting to any Committee member comments. Representative Alexander said she was pleased to see that there was grant money going into the substance abuse area. Representative Current addressed the concern of cost-based reimbursement such as what dental clinics get. He used as a specific example the clinics which are to provide some training and income for the East Carolina University Dental School. He wondered if the cost based reimbursement was federal or State and if it would be continued when we address reimbursements. Chairman Pate directed that staff would provide the information to him prior to the next meeting.

Chairman Pate then opened the meeting to public comments. Hope Turlington, an advocate for Dorothea Dix Hospital, expressed her concern for the people with mental illness and her support to keep the hospital open to treat those with mental illness.

There being no further business, the meeting adjourned at 3:55 PM.

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Senator Louis Pate, Co-Chair

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Representative Nelson Dollar, Co-Chair

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Representative Justin Burr, Co-Chair

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Rennie Hobby, Committee Clerk