



HHS – SUBCOMMITTEE ON LME GOVERNANCE

January 24, 2012

Room 643, Legislative Office Building

The first meeting of the Subcommittee on LME Governance met on Tuesday, January 24, 2012 at 2:00 P.M. in Room 643 of the Legislative Office Building. Representative Nelson Dollar served as Chair of the meeting. Members present were: Mark Botts, Representative William Brisson, David Bullins, Robert Carruth, Connie Cochran, Laurie Coker, Yvonne Copeland, Johnnie Ray Farmer, Dr. Craig Gray, Senator Fletcher Hartsell, Bob Hedrick, Representative Pat Hurley, Steve Jordan, Dr. Beth Melcher, Foster Norman, Holly Riddle, Ramon Rojano, Pam Shipman, Gordon Simmons, Rebecca Troutman, Senator Tommy Tucker, and Rosemary Weaver. Senator Louis Pate and Representative Verla Insko were also in attendance.

Dr. Pat Porter, Shawn Parker, Jan Paul, Joyce Jones, and Rennie Hobby provided staff support to the meeting. A Visitor Registration Sheet is attached and made a part of the minutes. (See Attachment 1)

Chairman Dollar called the meeting to order and welcomed members and guests. He explained that there would be four meetings between now and the Short Session in May. The final recommendations from the Subcommittee will be reported to the Joint Legislative Oversight Committee on Health and Human Services. The Oversight Committee will then determine what legislative language would be recommended to the General Assembly. Chairman Dollar then asked members to introduce themselves.

Chairman Dollar directed members to the first handout in the folder. (See Attachment No. 2) He said members could review the list of issues with bulleted points, relevant facts and potential barriers to having a successful transition from a Local Management Entity (LME) to a MCO. He said he understood that there were concerns with the State moving in the direction of the 1915 (b)(c) Medicaid Waiver but the Subcommittee was not here to address that issue. He said the charge of the Subcommittee was to identify and address statutory limitations in 122C, which is the governance statute over the LMEs and related statutes that may provide barriers to the successful operation of the Medicaid Managed Care Waiver. Chairman Dollar explained that we needed to focus on recommendations designed to remove the barriers to the successful operation of the 1915 (b)(c) waiver by the selected LMEs.

Chairman Dollar asked Mark Botts from the UNC School of Government to speak on the statutes governing the LME Board's size, work formation and composition. (See Attachment No. 3) He also provided a copy of Statute 122C-118.1 – Structure of Area Board. (See Attachment No. 4) Mr. Botts said the first barrier listed in Attachment 1, was the LME/MCO board size, composition, and board terms. In considering the appropriate composition of the Board the

Subcommittee would be considering such things as: do you want a member to have ties to a community being served, do you want particular expertise, certain skills and competencies, and a commitment to attend meetings? Mr. Botts reviewed what the current law says regarding who must be on the Board in order to help the Subcommittee identify problems, if there are any, in order to arrive at an appropriate solution. Mr. Botts stated that in the end, statutes say very little regarding the composition of the Board. To the degree that people argue that we do not currently have the right kinds of people on the Board, given the function of the agency being governed, given that we are moving to the implementation of the 1915 (b)(c) Waiver, and that the LMEs will be financially at-risk, it may be true that there are different kinds of expertise, characteristics, qualities and attributes that may be missing and that are needed. He noted that if that is currently missing, it is because the counties that participate in a particular LME have something happening there and not because of what the statutes say. Mr. Botts said there was an exception with single counties that exceed a population of 425,000 in which case business can be conducted in a different manner. For instance, a single county board can dissolve the area board and become the governing body for the area board or could create a consolidated Human Service agency that governs Public Health, Social Services, and MHDDSA services. Mr. Botts indicated that there were essentially two options for county participation on the area Board in the current statutes: The first would be that county commissioners are represented on the governance board and the second is that the county commissioners could determine that they would not be on the Board but they would determine who would.

Concerns expressed by members of the Subcommittee included:

- Perception that an elected official, as a county commissioner, would better represent the community rather than a County manager who is appointed
- Fear of counties losing their identity on a Board
- Poor attendance
- If counties do not have any liability for the new LME/MCOs and they make no contribution to the Medicaid budget which will be over 80% of the total budget for any LME/MCO how many commissioners need to be appointed to a Board?

Suggested types of individuals or expertise wanted on Boards:

- County commissioners
- Individuals with clinical health care and MH-DD and SAS expertise
- Consumer and family members
- Provider representation is important but current statutes prohibit anyone who has a contract with the LME to be a voting member and CMS disallows providers managing Medicaid from being on Board – could be ex-officio member
- Health Care Administration expertise
- Insurance background
- Financial/business management expertise
- Business expertise should be at the scale needed to understand the workings of an MCO

Social Services Expertise – the services managed are not all medical

Dr. Pat Porter provided members a sheet entitled *Potential Barriers – LME/MCO Board Size, Composition and Board Terms*. (See Attachment No. 5) The list, compiled from a review of the current statutes, materials generated in letters and reports from the County Commissioners

Association, LMEs, Council of Community Programs, consumers, providers, and DHHS, expands on the potential barriers to the successful operation of the 1915(b)(c) Waiver. She asked members to share their perspective in order to have a basis for which to make decisions relative to the topic. Member responses included the following concerns:

- Difficult to have a quorum with a large Board – some members driving 2/3 hours to come to meetings
- There should be requirements regarding attendance
- Governance/organization requirements to operate the Board – how the Board is set up
- The inability to have consensus with large number of counties
- Consideration to longer Board terms
- Boards may need an Executive Committee or committees that could meet monthly
- Accountability
- Knowledge of LME functions
- Provider with financial management skills, skills in delivering MH/DD/SA services
- Provider Advisory Committee
- Strong role needed for CFAC
- Need to be careful regarding what the Federal regulations will allow in terms of Boards conflict of interest
- Can a Medicaid provider of any sort be on a Board supporting a Medicaid project?
- Inconsistency in information given to Board members
- Chain of accountability
- Have an oversight committee at the local level made up of the Sheriff, county commissioner, local stakeholders, consumers, families, etc. with an influence on the Governing Board.

Senator Tucker expressed his concern regarding the urgency of getting the MCOs set up as quickly as possible so people can get services and before there is another failure of the system.

Chairman Dollar moved on to how to appoint Board members, who would appoint or what groups would get to make the appointments. Suggestions included:

- If a Community Oversight Board was appointed by the commissioners then those boards would elect representatives to the Governing Board, and have an At-Large county commissioner representation that would either be elected by the constituent counties or appointed in some other way. There could then be a number of slots for the expertise recruited by the Board.
- Board member not appointed by the Board may have a different agenda than being there for Governance. Mixture is important but then do you pay people to fill a certain slot?
- More knowledge needed in the public about Boards perhaps by advertising. (Someone in the private sector may be perfect for position but not know about the Board.)
- County commissioner on Board essential for representation of county
- In referencing county participation on the LME Board, it was noted that no LME is exercising its right not to have one-for-one representation on the Board. If there was a mechanism where a LME could decide if there was 75% or 90% of the counties in agreement to exercise option 2 that might work. Maybe there is a need for a third option,

that would allow for there to be a majority rather than 100% agreement of counties about Board actions.

- Executive Committee gives the ties of accountability back to the commissioners otherwise the LME could lose the counties funding and not know it.
- Initial appointments should be from county commissioners and future vacancies could be recommended by the Board to the commissioners.

Chairman asked members for their thoughts on the length of the terms for Board members.

Suggestions included:

- Extend the 2 term limit to 3 or 4 terms
- Members terms expire about the time they are fully understanding the issues
- Extend terms to 3/3years or 2/4 years

Chairman Dollar then asked members about the selection of the Area Director. Comments included:

- A “super majority” of the members of the governing board would be favorable as opposed to having a consensus
- Statute requires that commissioners give input in the annual performance review and are required to have representation on the selection committee
- Board should manage, direct and set policy while the success of the program depends on the leadership capacity of the CEO of the LME
- LME Boards need to hire and fire instead of the commissioners hiring and firing

Chairman Dollar thanked members for their input and suggested that if they contact Pat Porter with any questions, comments or further ideas.

There being no further business, the meeting adjourned at 4:40 PM.

Representative Nelson Dollar, Co-Chair

Rennie Hobby, Committee Clerk