

MINUTES

JOINT LEGISLATIVE OVERSIGHT COMMITTEE ON MENTAL HEALTH, DEVELOPMENTAL DISABILITIES AND SUBSTANCE ABUSE SERVICES

Tuesday, April 20, 2004

9:30 A.M.

Room 643, Legislative Office Building

The Joint Legislative Oversight Committee on Mental Health, Developmental Disabilities and Substance Abuse Services met on Tuesday, April 20, 2004 at 9:30 A.M. in Room 643 of the Legislative Office Building. Members present were Senator Martin Nesbitt, Co-Chair; Representative Verla Insko, Co-Chair; Senators Austin Allran, Charlie Dannelly, Virginia Foxx, Cecil Hargett, and William Purcell and Representatives Martha Alexander, Jeffrey Barnhart, Beverly Earle, Edd Nye, John Sauls and Paul Stam.

Dr. Alice Lin, Project Manager, Gann Watson, Jim Klingler, Sandra Alley, Kory Goldsmith and Rennie Hobby provided staff support to the meeting. Attached is the Visitor Registration Sheet that is made a part of the minutes. (See Attachment No. 1)

Representative Verla Insko called the meeting to order and welcomed members and guests. She introduced and welcomed Senator Martin Nesbitt, newly appointed Co-Chair of the LOC to replace Senator Steve Metcalf, who resigned in February. Senator Nesbitt commented that he had been studying and had met with several people in order to become more familiar with the implementation of reform. He indicated that the next six to nine months are crucial and suggested that holding meetings across the state would enable members to hear how the plan is being implemented.

Dr. Alice Lin, Project Manager, reported on her activities during the last two months. (See Attachment No. 2) She explained her role in facilitating a monthly meeting of public policy partners. The Director of MHDDSAS convenes the public policy group with participants that include representatives from the North Carolina Association of County Commissioners, the NC Council of Community Programs, and the Division of Medical Assistance. She described the purpose of the group as public purchasers using such a forum for coordinating policy direction prior to engaging a wider stakeholders group in policy development and service planning. Recently the group reviewed the timelines for the Medicaid plan amendment, and its relationship to service definitions and transition planning.

Dr. Lin gave a summary of her visit to a homeless project in East Ponte, and a review of the use of the mental health trust fund in Wake County for developing community alternatives for discharged patients from Dix Hospital. She noted that the staff responsible for the homeless project in East Pointe, while showing good work, did not target the street homeless mentally ill, but rather relied on referrals from the clinics, thus missing the opportunity to address the problem of street homelessness. She mentioned that she had shared her observations with the East Pointe staff, as well as the Division staff. She noted that the problem of homelessness is multi-faceted, requiring a joint effort among mental health, housing, and other generic services. In terms of her visit to Wake

County, she reported that her program visit showed a close and effective working relationship between Dix staff and community staff in preparing patients for discharge.

Dr. Lin reviewed red flag issues with several milestones which include: the new service definitions application and the Medicaid plan amendment; the continuing transition of the system not only from a direct service entity to a management entity but also the transition of consumers served under the old system to see that services are not interrupted moving to the new system; and funding in place to pay for community based services.

Representative Nye expressed his interest in whether the East Pointe homeless problem is related to downsizing at Cherry Hospital. Dr. Lin explained that this was not viewed as a close connection, given that only one-third of the individuals identified as homeless and on the streets of downtown Goldsboro may have had a prior history of involvement with the service system. She added that her visit ended on a positive note with more effective strategies being considered at the local level to tackle the problem.

Representative Earle inquired about the locations patients were being discharged and whether there is an increase of homelessness in the urban area. Representative Insko referred her to the statistical charts prepared by the Division staff. Dr. Stan Slawinski offered further explanation of the charts that showed a gradual reduction in use of homeless shelters following discharge from Dix. Representative Earle indicated that she wished to have more detailed information.

Senator Dannelly asked if the acute discharges were purposely discharged to homeless shelters or do they just end up there. Dr. Lin responded that in Wake County, Dix Hospital has an agreement with the Wilmington Street Shelter to discharge patients directly into the shelter with the understanding that they will not stay long because case management services are on site. Dr. Slawinski added that the admission of an individual from a homeless shelter does not always result in a release to a homeless shelter and the release is done in conjunction with the LME to work with the individual as they are released into the community.

Senator Foxx asked whether the accountability for services is clear. Dr. Lin indicated that regarding homelessness, collaboration is needed within the community so that accountability is not defused. She said it is a public policy issue and that service strategies are needed. Dr. Slawinski added that a policy was in place to see that no one from a long term bed was admitted to a homeless shelter and quoted data that indicated that the number of acute discharges showed that fewer are going to homeless shelters. Representative Insko said that the LME is the locus for assuring appropriate community services, with assistance from the Trust Fund and other supports from the State. The responsibility ultimately lies with the LMEs to serve the consumers.

Secretary Carmen Hooker Odom introduced the new director of DMH/DD/SAS, Mr. Mike Moseley. She praised his experience with the service system, and deep respect he has generated from staff, area programs, and community groups. She described her own positive assessment of his performance during her tenure, and expressed her gratitude that he is now serving as the Division director. She added that Martha Are, a special

coordinator of the homeless project, is now established in DHHS. She urged the LOC to include Ms. Are in future deliberations on the problem of homelessness.

Mr. Mike Moseley gave a short introduction to the LOC. He shared his commitment to the reform direction, and assured the LOC of his intention to ensure a smooth transition to the new system.

Ms. Leza Wainwright, Deputy Director of MHDDSAS, provided the LOC with an overview of scheduled events for the service definitions. She explained that the new definitions were issued for public review in April 2003, and to date, thousands of comments have been received. The definitions have been modified to reflect those comments and are currently under review at DMA by a Physician Advisory Group (PAG), which upon conclusion should allow CMS to have the revised State Plan by the first quarter of 2004-2005 fiscal year for a January 2005 implementation. She mentioned that certain services, including day services and sheltered workshop for DD individuals, are under review, and will stay the same until a special work group completes its review and recommendations. Mr. Moseley added his support for the necessary planning on this issue.

Senator Allran raised the issue of insecurity among consumers regarding adequate services as the reform effort moves forward. Senator Nesbitt echoed his concern that definitions and a fee schedule are needed in order to determine what services would be available. The uncertainty lies in not knowing if the providers will work for the State at the fees that are going to be offered. Representative Insko responded that the LME is responsible for providing services until a qualified provider is in place. Ms. Wainwright said that the rates were being finalized with DMA and once there was an agreement, providers will be able to review and offer comments. She said that it was imperative that the true cost of providing services was reflected in order to adequately reimburse providers.

Ms. Wainwright distributed maps showing the proposed Local Management Entities. (See Attachment No. 3) Of the 31 business plans received, 16 have been approved, 15 are under review and are a part of Phase III. LMEs with reduced populations, less than 150,000, are meeting with the Division to determine how to meet the economy of scale. She reviewed the service management formula for the LMEs with populations of 200,000 and for those with populations of 150,000 – 200,000. Representative Earle asked for the funding formula in writing.

Senator Nesbitt asked if the money was going to be distributed equitably across the State citing the fact that inequitable funding distribution has been an ongoing problem for years. Ms. Wainwright stated that the LME funding allocations would not change in 2005. She acknowledged that one of the tasks in the reform legislation is to develop a more equitable funding allocation formula. There is a statutory requirement that counties fund mental health, but the statute does not address at what level. The amount of money from the counties is the smallest component. Senator Nesbitt asked about the formula for allocation of resources, given that this is part of the reform legislation. He asked the Division to return with a proposed fiscal formula to address the historic inequity in allocation of resources to counties.

Senator Dannelly asked if the counties cost would increase as the targeted population increased. Ms. Wainwright responded that if a person was not Medicaid eligible, the LME is required to manage Division allocation funding to serve those within the target population and then prioritize those within the targeted population that are the most needy.

Senator Foxx requested a one page historical summary sheet showing the allocation of federal/state/local MHDDSAS services funds from the Division and also showing the number of people served.

Representative Martha Alexander, Chair of the DWI Committee, provided an overview of the findings and recommendations from the DWI Committee as directed by S.B. 934. The draft report to the General Assembly from the LOC containing draft legislation was provided to LOC members. (See Attachment No. 4) She reviewed the following recommendations for input and comments: 1) Accept the recommendation to increase credential requirements for staff conducting DWI substance abuse assessment; 2) Modify the implementation date for increased credential requirements from October 1, 2004 to October 1, 2008, using a phased-in approach; 3) Accept the recommended increase for the assessment fee from \$50 to \$100, effective October 1, 2004; 4) Request a review of the ADETS program by the LOC in 2005; and 5) Endorse the Governor's Task Force on DWI. She explained that the assessment fee increase was based on cost findings, fee schedules for assessment services in other states, and the fact that the fee has not been changed since 1983.

Representative Stam asked about the impact of increased credentialing on the providers, and its expected benefit. Representative Alexander stressed the need to improve assessment as a key cornerstone to identifying substance abuse problems for appropriate intervention and treatment. The proposed phase-in approach would help bring all providers into compliance with minimum hardship.

Representative Barnhart was interested in knowing how individuals with special needs (disability, language barrier, etc.) would fare under the proposed fee change and improved credentialing. Ms. Flo Stein from the Division responded that increased quality improvement at the Division would provide closer monitoring that has not been available up to now, and State standards would ensure culturally sensitive practices.

Jim Klinger, Fiscal Research Division, provided the fiscal impact analysis of the proposed legislation. (See Attachment No. 5) He shared his assumption on the trend analysis of revenues over future years in that the revenue generated by the area programs may be shifted to private providers in the future when area programs divest from direct services. Kory Goldsmith, Research Division, provided the bill summary on the DWI recommendations. (See Attachment No. 6)

Gann Watson, Bill Drafting Division, went over a proposed legislation to clarify the involuntary commitment warrant, a bill to be proposed by Representative Insko. (See Attachment No. 7) Representative Insko explained that she had been assured of the need for this clarification as one way to assist local magistrates in the involuntary commitment

process. Senator Foxx asked if other related sections might need a similar clarification. Ms. Watson indicated that her review had not yielded this need.

Representative Insko asked for a motion to adopt both the DWI and the Involuntary Commitment Warrant draft legislation, and to amend the draft report to include the DWI bill summary and fiscal memo. Representative Alexander, seconded by Senator Purcell, made the motion and the committee approved the report to the General Assembly.

Mr. Bert Wood, President/CEO of Partnership for a Drug Free NC, Inc., presented the provider community's interest in assisting with divestiture of services at the local level. He described his agency mission, and a commitment to not doing business as usual, and issues and challenges facing the provider community. (See Attachment No. 8) Two issues generated follow-up questions from the LOC: (a) delays in payments to providers, and (b) questions regarding whether 13% of the service rate is not being passed on to providers, but is being kept by the LMEs. He explained that as a result of slow payment, his agency suffered a cash flow deficit of \$400,000.

Representative Insko asked the Division staff to explain the rationale for not passing 13% of the fee to the providers. Ms. Wainwright explained that in the previous funding formula, the area programs retained 13% from the Medicaid payment to cover part of the area program management cost. The 13% was never part of the rate paid for the direct provision of services. In the new funding formula, providers do not receive more—or less—than what they have received in the past. Passing 13% to the providers would amount to an increase of payment of 13%. Representative Insko asked whether the provider's management costs are included in the service rate. Ms. Wainwright indicated that they are. Representative Earle requested that the Division provide a chart showing the meaning and impact of the 13% including an illustration with current rates and showing how they will be handled in the future.

Senator Foxx expressed concern that there should be standardized contracts and asked for an update on that issue. Flo Stein responded that a work group comprised of providers and LME directors are looking at standardization and records. An accelerated work group will begin next week looking at provider manuals and contracts.

The meeting adjourned at 12:20 P.M.

Senator Martin Nesbitt, Co-Chair

Representative Verla Insko, Co-Chair

Rennie Hobby, Committee Assistant