



NEVADA LEGISLATURE LEGISLATIVE COMMITTEE ON SENIOR CITIZENS, VETERANS AND ADULTS WITH SPECIAL NEEDS

(Nevada Revised Statutes [NRS] 218E.750)

SUMMARY MINUTES AND ACTION REPORT

The second meeting of the Nevada Legislature's Legislative Committee on Senior Citizens, Veterans and Adults With Special Needs was held on Monday, March 28, 2016, at 9 a.m. in Room 4412 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. The meeting was videoconferenced to Room 2135 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. A copy of this set of "Summary Minutes and Action Report," including the "Meeting Notice and Agenda" (Exhibit A) and other substantive exhibits, is available on the Nevada Legislature's website at <http://www.leg.state.nv.us/interim/78th2015/committee/>. In addition, copies of the audio or video record are available through the Legislative Counsel Bureau's Publications Office (e-mail: publications@lcb.state.nv.us; telephone: 775/684-6835) and may be available online at <http://www.leg.state.nv.us/Granicus/>.

COMMITTEE MEMBERS PRESENT IN LAS VEGAS:

Senator Joseph (Joe) P. Hardy, M.D., Chair
Senator Mark A. Manendo
Senator Patricia (Pat) Spearman
Assemblywoman Ellen B. Spiegel
Assemblyman Lynn D. Stewart

COMMITTEE MEMBER PRESENT IN CARSON CITY:

Assemblyman Philip (P.K.) O'Neill, Vice Chair

LEGISLATIVE COUNSEL BUREAU STAFF PRESENT:

Marsheilah D. Lyons, Chief Principal Research Analyst, Research Division
Bryan Fernley, Senior Principal Deputy Legislative Counsel, Legal Division
Eric Robbins, Deputy Legislative Counsel, Legal Division
Debbie Gleason, Senior Research Secretary, Research Division

Items taken out of sequence during the meeting have been placed in agenda order.

AGENDA ITEM I—OPENING REMARKS

Chair Hardy called the meeting to order.

AGENDA ITEM II—PUBLIC COMMENT

Chair Hardy called for public comment.

Angel De Fazio, President and Executive Director, National Toxic Encephalopathy Foundation, Las Vegas, Nevada, testified by way of teleconference (Exhibit B). She expressed dissatisfaction with the Department of Health and Human Services' (DHHS) failure to address concerns pertaining to a minority of persons with highly prominent disabilities.

AGENDA ITEM III—DISCUSSION REGARDING THE IMPACT OF CERTAIN MEDICAID RATES ON SENIORS AND ADULTS WITH SPECIAL NEEDS AND THEIR ABILITY TO ACCESS HEALTH CARE PROVIDERS AND SERVICES

Elizabeth Aiello, Deputy Administrator, Division of Health Care Financing and Policy (DHCFP), DHHS, shared a presentation titled Medicaid Reimbursement Methodologies (Exhibit C).

Jane Gruner, Administrator, Aging and Disability Services Division (ADSD), DHHS, provided testimony on the impact of Medicaid rates on senior citizens and adults with special needs and their ability to access health care services (Exhibit D). She conveyed recommendations for correcting the rate issue and how to strengthen Nevada's provider network.

Ms. Gruner responded to questions from Senator Spearman and Assemblyman Stewart that established: (1) competition from the private sector and provider networks has created an approximate 30 percent vacancy rate in elder protective services; and (2) the ADSD has found physicians to assume care for 300 out of 400 patients left without care as a result of Mojave Mental Health and Mojave Adult, Child and Family Services' decision to no longer serve people with intellectual disabilities, and it is continuing its efforts to secure care for the remaining 100.

Jeremy Aguero, Principal Analyst, Applied Analysis (AA), and Chair, Board of Directors, The Arc of the United States, Opportunity Village (OV), presented the argument that OV is operating at a loss, and an economic impact statement has demonstrated OV is saving the State in excess of \$10 million per year by providing services. In addition, since 2007, he said the overall rate of the consumer price index (CPI) has increased by 14.8 percent; the medical care CPI portion has increased by 26.1 percent; and the medical care CPI (adult-care daycare

centers and nursing homes) has increased by 30 percent. Mr. Aguero suggested Medicaid rates be revisited on a recurring basis in an effort to stave off the erosion of services.

Chair Hardy and Mr. Aguero discussed the possibility of AA analyzing how other states have adjusted their share of the cost of Medicaid. Mr. Aguero said his staff would provide that information when the analysis was complete.

Mr. Aguero explained that in addition to hosting aggressive fundraising events, OV reaches out to different partners to pursue grants and philanthropy.

Brian Patchett, President and Chief Executive Officer (CEO), Easter Seals Nevada (ES), Las Vegas, stated ES provides a wide variety of services from birth through life. He described ES' priorities concerning its employees, including rate of pay and benefits; its goal of becoming a community-based program; and its clients becoming independently employed, which cannot occur without dramatically increasing Medicaid reimbursement rates. Mr. Patchett recommended rebasing rates every five years.

Bob Brown, President and CEO, OV, Las Vegas, provided an overview of OV—a community training center with four locations that offers assessments training and employment services to approximately 5,500 youth and adults per year with intellectual disabilities, as well as day habilitation. He informed the Committee that services for seniors and adults with disabilities have been neglected for decades, and Medicaid reimbursement rates for jobs and day training are woefully underfunded; providers for these services have had only a 3.4 percent increase in 13 years. Mr. Brown requested the Committee support a substantial rate increase for programs for seniors and adults with disabilities, particularly for job and day training programs.

Mr. Brown clarified that the State has placed families on a waiting list for OV. He said OV funds roughly 80 percent (\$1.2 million during its last fiscal year) of services it provides to its participants from scholarships that come out of its operating budget, funding the State should be providing. Mr. Brown stated service providers at OV are paid \$12 per hour, which helps reduce staff turnover and results in better training; OV participants' level of disability determines their rate of pay.

Daniel H. Stewart, Consultant, November Inc., and Executive Board Member, State of Nevada Association of Providers (SNAP), stated SNAP is a group comprised of individuals and companies who provide the vast bulk of services for adults with developmental disabilities—specifically, adult residential care. The goal of SNAP is independent integration of individuals with developmental and cognitive disabilities, which makes it unique among other types of group homes. Regarding Medicaid reimbursement rates, Mr. Stewart said that prior to the 2015 Session, when the Legislature approved a 3.4 percent service reimbursement rate, Nevada service providers were the lowest paid in the country and had not experienced a pay increase in eight years. He said SNAP providers are paid the maximum hourly rate of \$19 allowed by law and made the argument that rate increases will provide better services

because skilled employees are easier to retain. During the 2017 Session, SNAP will push for an increase in rates and a review every two years.

In addition, Mr. Stewart said their members, which total 15 to 20, including OV and ES, support 90 percent of SNAP's funding for supportive living arrangement services. He stated SNAP would be grateful for any increase to its budget and 100 percent of any increases would go toward employee benefits, development, retention, and wages. Mr. Stewart said he would follow up with Senator Spearman regarding how much of an increase SNAP would like to see. He explained that after other costs are deducted from the \$19 per hour cap, the employee is actually paid between \$9 and \$13 per hour.

Jeffrey B. Klein, President and CEO, Nevada Senior Services (NSS), and Chair, Legislative Issues Subcommittee, Nevada Commission on Aging, provided documentation by NSS pertaining to the status of Nevada's adult day services centers (ADSC) and its justification for proposed adjustments to Medicaid reimbursement rates and behaviorally complex care rates (Exhibit E). In addition, Mr. Klein mentioned the *2015 Genworth Cost of Care Survey Nevada* (Survey) that provides a comparative annual costs of care chart to that of Nevada's current Medicaid rates regarding ADSCs and other types of group homes. He stated the key issue is how to deal with an aging population; Nevada has one of the fastest aging components in the country, and yet the number of ADSCs has decreased from 50 facilities in 2008 to 18 in 2014 due to the stagnation of Medicaid rates. Mr. Klein referenced a document provided by the Nevada Commission on Aging, ADSD, DHHS, during the 2015 Session, titled, "Elder Issues in Nevada."

Mr. Klein provided the following suggestions: (1) adjust the pace of Medicaid reimbursement rates (based on a cost of living adjustment) to \$71.87 per day for the medical model and \$52.75 per day for the home and community-based waiver model; (2) increase services for individuals with special needs, for example, persons with Alzheimer's; the medically frail; and persons with severe behavioral problems; (3) create a two-tiered system of reimbursement following a behavioral complex rate of \$102 per day and \$150 per day; and (4) provide for additional facilities to match Nevada's growing population. He stressed the goal is to keep clients out of institutions.

In closing, Mr. Klein clarified that the Survey is based upon a day rate that is divided into 15-minute increments and caps at 6 hours; Medicaid clients are allowed access to ADSC across county lines.

AGENDA ITEM IV—UPDATE AND DISCUSSION REGARDING THE MEDICAID MANAGED CARE EXPANSION OPTION AND ITS POTENTIAL IMPACT ON ADULTS WITH SPECIAL NEEDS

Elizabeth Aiello, previously identified, shared a presentation titled "Managed Care in Nevada Expansion Option" (Exhibit F), which focuses on delivery models; expanding managed care; improving outcomes; increasing quality care; reducing costs; and sustainability. Regarding

Medicaid managed care reimbursement rates needed in preparation of the Governor's budget, she said the DHCFP would present a final recommendation to the Legislature in late 2016.

Jon Sasser, Legislative Chair, Nevada Commission on Services for Persons with Disabilities, provided an overview of the potential effects of expanded managed care services to vulnerable populations through health maintenance organizations (Exhibit G). He commented Medicaid rates for managed care should be analyzed separately. Mr. Sasser stated there is promise for managed care; however, he advised proceeding with great caution.

Barry Gold, Director, Government Relations, AARP Nevada, furnished a letter dated December 16, 2015, addressed to Richard Whitley, M.S., Director, DHHS, concerning AARP'S recommended principles to guide consideration of a managed long-term services and supports initiative (Exhibit H). He also referenced a July 2015 research report from the AARP Real Possibilities Public Policy Institute titled [Care Coordination in Managed Long-Term Services and Supports](#). Mr. Gold emphasized the importance of how managed care fundamentally changes how long-term support services are authorized and provided in Nevada. He said billions of dollars will go into the hands of managed care organizations who are questioning AARP as to whether the rate pay will be directed by the State. Mr. Gold recalled a white paper written by a former Medicaid director ten years prior that determined transition to managed care was not cost-effective. Mr. Gold stated AARP neither supports nor opposes transition into managed care; however, it urges the Legislature to approach the transition of managed care with caution by carefully scrutinizing all current managed care programs; consider a small-scale pilot project; include input and feedback from not only consumers but also from providers and advocates; continually assess the process; include Legislative oversight; ensure the care coordination is consumer-focused; and be mindful of inclusivity during the process.

Barbara Paulsen, Nevadans for the Common Good (NCG), communicated NCG's concerns regarding Nevada's long waiting list for aged persons to qualify for the Home and Community-Based Waiver (HCBW) administered by ADSD and the Legislative mandate to move services for the blind, disabled, and aged from a fee-for-service delivery model to a managed care model through private insurers (Exhibit I). Ms. Paulsen stated managed care does not have to be delivered through large insurers but rather by the State, and decisions need to be made about the general Medicaid contract, which expires in June 2017. She strongly encouraged the Committee to direct DHHS to devise a careful plan before making a decision.

AGENDA ITEM V—DISCUSSION REGARDING FUNDING FOR CERTAIN INDEPENDENT LIVING SERVICE PROGRAMS ADMINISTERED BY THE AGING AND DISABILITY SERVICES DIVISION, DEPARTMENT OF HEALTH AND HUMAN SERVICES

Jane Gruner, previously identified, testified on independent living services for persons with disabilities that are administered by the ADSD (Exhibit J), which include the Assistive Technology for Independent Living (ATIL) program that supports home and vehicle

modifications. She stated the ADSD is in the planning process for an Achieving a Better Life Experience Act savings program. In addition, Ms. Gruner said that since the passing of legislation in 2015, persons who are blind have been added to the definition of a person with a disability who needs independent living services. She added the ADSD has developed a concept paper outlining a new, yet unfunded, ATIL program specifically designed for persons who are blind.

Brian Patchett, previously identified, strongly encouraged the Committee's support of access to technological services for the visually impaired and persons who are blind, as well as other related services that will enhance independent living and increase a person's chances for being successful. He suggested addressing these special needs with focus groups, as well as adding \$500,000 annually to the ADSD's \$1.5 million budget for newly blind persons who do not have a vocational goal.

AGENDA ITEM VI—UPDATE REGARDING SENIOR RX AND DISABILITY RX PROGRAMS DEVELOPED PURSUANT TO NRS 439.630 (1) (C)

Rique Robb, Chief, Disability Services, ADSD, DHHS, reported on the status of the Senior Rx (SRx) and Disability Rx (DRx) programs administered by the ADSD, DHHS. Ms. Robb provided updates on the following items:

- Tiered prescription costs and responsibilities of Part D members in conjunction with the SRx and DRx programs' contributions;
- Application criteria for qualification of SRx and DRx coverage;
- The benefits of maintaining participant prescription coverage, which reduces emergency room visits, hospitalization, and admittance into nursing facilities;
- The main causes of ADSD's increased costs: escalation of prescription medication prices and a 2 percent month-by-month upsurge in caseloads; and
- Services and trends observed by the ADSD.

Ms. Robb noted that as of February 2016, there are 4,806 participants in the SRx program and 741 participants in the DRx program with no wait list. She clarified that the practice of compounding drugs is not affecting the increase in medication costs.

AGENDA ITEM VII— PRESENTATIONS REGARDING PROPOSED REVISIONS TO CERTAIN LAWS PERTAINING TO RESIDENTIAL FACILITIES FOR GROUPS

Helen A. Foley, Owner and Firm Principal, Faiss Foley Warren Public Relations & Government Affairs, referred to a March 15, 2016, memorandum from herself, on behalf of residential care homes (RCH), addressed to Senator Hardy, Chair of the Committee

(Exhibit K), which proposes legislative changes pertaining to residential facilities for groups. Ms. Foley commented that out of 350 RCH facilities in Nevada, only 10 percent utilize Medicaid as a funding source, which means the majority of the members are elderly and, with help from family and their own resources, are able to live in a comfortable environment that is reminiscent of a private home. With an estimated increase of 18.6 percent of the population over 65 years of age by 2030, she emphasized the importance of providing more ways for people to live economically and safely.

Chair Hardy confirmed that Ms. Foley was asking the following issues be addressed by the Legislature: (1) sprinkler requirements in RCHs; (2) labor laws concerning caregivers; and (3) RCH caregiver responsibilities.

Jose Castillo, Jr., President, Association of Homecare Owners of Northern Nevada, stated he was in agreement with the proposals offered by Ms. Foley.

AGENDA ITEM VIII—PUBLIC COMMENT

Christopher A. Vito, MHA, President, CEO and Owner, Nevada Adult Day Healthcare Centers (NADHC), provided a summary of NADHC's services. Mr. Vito pointed out that NADHC is the largest adult day healthcare center in Nevada with a daily attendance of approximately 250 clients. He elaborated on the following items: (1) proposed daily Medicaid reimbursement rates for caregivers being based on a six-hour day (the hours of service provided by most adult day care centers) as opposed to a 12-hour day provided by NADHC, which averages to \$3 per hour; (2) his employees' rate of pay starts out at \$9 per hour and caps out at nearly \$11 per hour; (3) and crossing county lines for adult day care services.

Mr. Vito requested the adult day care industry be considered for interim funding; he said he is unsure whether many facilities would be able to survive until the end of the 2017 Legislative Session. Mr. Vito also asked the Committee to consider modernizing Medicaid for community-based services.

Michael DiAsio, Director and Owner, Visiting Angels (VA), Las Vegas and Henderson, Nevada, briefed the Committee on VA's structure and its in-home personal care services (PCS) provided by approximately 300 of its employees. He also echoed many of the remarks made by previous presenters concerning Medicaid's reimbursement rates. Mr. DiAsio stressed that entities like VA, which provides PCS for two to three hours per day, costs the State \$34 to \$50, which is more cost-effective when compared to that of a nursing home that costs \$150 to \$200 per day. There are roughly 9,500 clients under the Medicaid PCS program, which employs about 5,000 people. He pointed out that Nevada Medicaid's reimbursement rate is \$17 per hour; conversely, according to a recent study, the national hourly rate averages \$21 per hour. Mr. DiAsio emphasized PCS is one of the fastest growing industries in the country and an affordable option for the State.

The following documents were submitted for the record:

1. *Nevada Funding Strategy Study* (Exhibit L), *Nevada's Strategic Plan on Integrated Employment* (Exhibit M), and written testimony (Exhibit N) provided by Sherry Manning, Executive Director, Nevada Governor's Council on Developmental Disabilities.

2. A managed care partnership guide (Exhibit O) and a regulatory update (Exhibit P) provided by Lynne Bigley, Supervising Rights Attorney, Nevada Disability Advocacy and Law Center.

Subsequent to the meeting, Sandy Stamates, President, National Alliance on Mental Illness Nevada, provided written testimony (Exhibit Q).

Subsequent to the meeting, Angel De Fazio, previously identified, provided closing comments (Exhibit R).

AGENDA ITEM IX—ADJOURNMENT

There being no further business to come before the Committee, the meeting was adjourned at 12:15 p.m.

Respectfully submitted,

Debbie Gleason
Senior Research Secretary

Marsheilah D. Lyons
Chief Principal Research Analyst

APPROVED BY:

Senator Joseph (Joe) P. Hardy, M.D., Chair

Date: _____

EXHIBITS

EXHIBIT	WITNESS/ENTITY	DESCRIPTION
Exhibit A	Marsheilah D. Lyons, Chief Principal Research Analyst, Research Division, Legislative Counsel Bureau (LCB)	Agenda
Exhibit B	Angel De Fazio, President and Executive Director, National Toxic Encephalopathy Foundation (NTEF), Las Vegas, Nevada	Written testimony
Exhibit C	Elizabeth Aiello, Deputy Administrator, Division of Health Care Financing and Policy (DHCFP), Department of Health and Human Services (DHHS)	Microsoft PowerPoint presentation
Exhibit D	Jane Gruner, Administrator, Aging and Disability Services Division (ADSD), DHHS	Written testimony
Exhibit E	Jeffrey B. Klein, President and CEO, Nevada Senior Services, and Chair, Legislative Issues Subcommittee, Nevada Commission on Aging	Status of Nevada's adult day services centers and reimbursement rates
Exhibit F	Elizabeth Aiello, Deputy Administrator, DHCFP, DHHS	Microsoft PowerPoint presentation
Exhibit G	Jon Sasser, Legislative Chair, Nevada Commission on Services for Persons with Disabilities	Written testimony
Exhibit H	Barry Gold, Director, Government Relations, AARP Nevada	Letter addressed to Richard Whitley, M.S., Director, DHHS
Exhibit I	Barbara Paulsen, Nevadans for the Common Good	Written testimony
Exhibit J	Jane Gruner, Administrator, ADSD, DHHS	Written testimony
Exhibit K	Helen A. Foley, Owner and Firm Principal, Faiss Foley Warren Public Relations & Government Affairs	Memorandum on behalf of residential care homes
Exhibit L	Sherry Manning, Executive Director, Nevada Governor's Council on Developmental Disabilities (NGCDD)	<i>Nevada Funding Strategy Study</i>
Exhibit M	Sherry Manning, Executive Director, NGCDD	<i>Nevada's Strategic Plan on Integrated Employment</i>
Exhibit N	Sherry Manning, Executive Director, NGCDD	Written testimony

Exhibit O	Lynne Bigley, Supervising Rights Attorney, Nevada Disability Advocacy and Law Center (NDALC)	Managed care partnership guide
Exhibit P	Lynne Bigley, Supervising Rights Attorney, NDALC	Proposed Regulatory Update
Exhibit Q	Sandy Stamates, President, National Alliance on Mental Illness Nevada	Written testimony
Exhibit R	Angel De Fazio, NTEF, Las Vegas, Nevada	Written testimony

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