

**MINUTES OF THE
HEALTH REFORM TASK FORCE**

Thursday, October 22, 2015 – 1:00 p.m. – Room 30 House Building

Members Present:

Sen. Allen Christensen, Senate Chair
Rep. James A. Dunnigan, House Chair
Sen. J. Stuart Adams
Sen. Gene Davis
Rep. Francis D. Gibson
Rep. Michael S. Kennedy
Rep. Marie H. Poulson
Rep. Edward H. Redd
Rep. Dean Sanpei

Members Absent:

Sen. Peter C. Knudson
Rep. Rebecca Chavez-Houck

Staff Present:

Mr. Mark Andrews, Policy Analyst
Ms. Cathy Dupont, Associate General Counsel
Ms. Lori Rammell, Legislative Assistant

Note: A list of others present, a copy of related materials, and an audio recording of the meeting can be found at www.le.utah.gov.

1. Task Force Business

Chair Dunnigan called the meeting to order at 1:03 p.m. Rep. Chavez-Houck was excused from the meeting.

MOTION: Rep. Poulson moved to approve the minutes of the October 6, 2015, meeting. The motion passed unanimously with Sen. Adams, Sen. Davis, and Rep. Gibson absent for the vote.

The Office of the Legislative Fiscal Analyst distributed "Federal Spending and Revenue in Utah Due to Federal Health Care Reform."

2. Bariatric Surgery

Mr. Chet Loftis, Director, Public Employees Health Program, presented "Bariatric Surgery Update" and reported on the state's bariatric surgery pilot program. He reported on participation requirements, costs of the program to date, effectiveness of the surgery in conjunction with the state's Waist Aweigh Program, and feedback from program participants. He reported that 71 individuals have received surgeries at a total cost of \$1.2 million and that average spending per enrollee during the second and third years following surgery has not fallen below the presurgery average. Mr. Loftis responded to questions from the task force.

Dr. Cynthia Jones, Chief Medical Officer, Public Employees Health Program, responded to questions from the task force regarding possible complications from bariatric surgery.

Dr. Walter Medlin, President, Utah Chapter of the American Society for Metabolic and Bariatric Surgery, urged that insurance coverage of bariatric surgery be extended to all state and municipal employees and that it be included in the state's essential health benefits package. The society also urged that the benefits of coverage be evaluated in terms of quality-adjusted life years and not simply the impact on health care costs.

3. Health Insurance Premiums in 2016

Ms. Tanji Northrup, Assistant Commissioner, Utah Insurance Department, provided an introduction for the task force's discussion of health insurance premiums in 2016 and responded later to questions from the task force. She noted that insurers selling silver level plans have experienced extremely high utilization rates.

Mr. Jaakob Sundberg, Health Actuary, Utah Insurance Department, presented "Individual and Small Group Enrollment and Premiums 2016." He discussed premium changes in 2015 and 2016. He indicated he believes that premium increases have been due primarily to the underpricing of plans in 2014, which was attributable to many unknowns. He said he feels that plans in the individual market are still underpriced and that large premium increases in that market are likely in 2017. He discussed expected payments to Utah insurers under the federal Affordable Care Act's (ACA's) risk corridor program. He also responded to questions from the task force.

Commissioner Todd E. Kiser, Utah Insurance Department, responded to questions from the task force about the federal government's failure to make the risk corridor payments health insurers were expecting under the ACA and the resulting failure of 9 of 23 health insurance co-ops around the nation.

4. Medicaid Dental Coverage

Rep. Steve Eliason reported that he is in the early stages of drafting legislation that would grant dental coverage through Medicaid. He said his proposal would bring back Medicaid dental coverage to approximately 45,000 blind and disabled Utah residents. He added that the University of Utah School of Dentistry would be the preferred provider of care, which would lower the cost to approximately \$2 million annually. The proposal, he noted, is in no way connected to Medicaid expansion under the ACA.

Mr. Michael T. Hales, Deputy Director, Utah Department of Health, reported that dental coverage is currently available under Medicaid to children and pregnant women. He estimated that restoring dental coverage to the disabled and elderly would cost the state approximately \$3.3 million annually. This cost, he said, would be offset by approximately \$1.3 million if the University of Utah School of Dentistry were the preferred provider. He responded to questions from the task force, noting that Medicare does not offer dental care to the elderly, though Medicare Advantage does.

Mr. David Squire, Associate Dean of Finance Development and Operations, University of Utah School of Dentistry, explained that each student in the school of dentistry is required to have a certain number of patients to practice on and that Rep. Eliason's proposal would help provide those patients.

Rep. Eliason said that he welcomed feedback from the task force on his proposal.

5. Health Sharing Ministries

Rep. Kennedy distributed draft legislation "Health Care Sharing Ministries Amendments" (2016FL-0186/004). He said this bill puts the ACA's health care sharing ministries exemption in state statute.

Mr. Dale Bellis, Executive Director, Liberty Health Share, said health care sharing ministries arise out of the Mennonite philosophy of mutual aid to all who share in their core beliefs and join in their burden bearing. He explained that each member is matched with a member who has a health care need and is asked to contribute a suggested amount towards the health care expenses of the member in need. He responded to questions from the task force by explaining the ministry's tax-exempt status.

Mr. J. Michael Sharman, attorney, representing Liberty Health Share, distributed "Written Testimony of J. Michael Sharman Before the Utah Health Reform Task Force, Hearing on Health Care Sharing Ministries – October 22, 2015." He provided some background on Rep. Kennedy's proposed legislation, explaining that the ACA, from which the language for the bill was taken, exempts an individual enrolled in a health care sharing ministry from the ACA's individual mandate. The proposed legislation, Mr. Sharman said, exempts health care sharing ministries from the state's insurance code.

Mr. Sharman noted that monthly family rates for members of health care sharing ministries are between \$132 and \$500. He explained the differences between health care sharing ministries and insurance companies, one of which is that members of these ministries have no expectation of care. He stated that while health care sharing ministries make it clear that no member has a right to receive assistance, they do have a reasonable expectation of their expenses being met. He stated that health care sharing ministry members do not usually carry health insurance in addition to the coverage by the ministry. He said that if Rep. Kennedy's proposed legislation does not pass, ministries will continue to operate because they believe that if they were challenged in court, they would prevail. The proposed legislation, he said, is a preventive tool.

Ms. Dupont explained that the language on lines 65-76 of the proposed legislation is from the ACA, but it is being used somewhat differently. She explained that the ACA requires individual health care coverage, but the language in the proposal is addressing when the state should exempt an entity from regulation as an insurer.

Mr. James Lansbury, President, Alliance of Health Care Sharing Ministries, clarified that the proposed legislation removes some ambiguity within the state insurance code. He said health care sharing ministries do not make any actuarial predictions about anticipated losses, nor do they maintain a pool. Instead, he said, they share expenses as those expenses come in. He said that this distinguishes ministries from insurance companies. He explained that members join for as long as they wish to be members and they pay dues to renew their membership each year—there is no contractual obligation to make payments each month. The purpose, he said, is primarily religious; thus, under current state statutes, they are exempt. He said that the proposed legislation would make the ACA and state law congruent.

Mr. Joel Noble, Vice President, Alliance of Health Care Sharing Ministries, explained why the proposed legislation is needed. He said that it provides consumer protection for members of health care sharing ministries in Utah. He noted that when Washington filed a cease and desist order against health care sharing ministries, the only thing that spared the ministries from the expense of litigation was a safe harbor in state statute.

Ms. Tanji Northrup, Assistant Commissioner, Utah Insurance Department, indicated that health care sharing ministries' documentation is very clear that members are not participating in insurance. However, she said that when the department looks at what ministries offer, the offerings look like an insurance contract. She said that federal law exempts health care sharing ministries from the individual mandate, not state regulation. She noted that during the past five years the Utah Insurance Department has not received any complaints about health care sharing ministries. She said that in 2008 there were some complaints about a health care sharing ministry, but the state issued a cease and desist order and the order was not challenged. Ms. Northrup responded to questions from the task force by speaking about plans offered by health care sharing ministries and applications for participation in a ministry.

Mr. Thomas Butler, health care sharing ministry member, related his own experience as a health care sharing ministry member for the last 16 months. He spoke of the right he feels he has to make decisions regarding his health costs, and his responsibility to help his fellow man. He asked that the task force understand that health care sharing ministries are faith based and values based, and pass the proposed legislation.

Mr. Luke Miller, health care sharing ministry member, said that at one time he participated in a health care sharing ministry that involved only two churches. He said that despite large medical expenses for some of its members, those two churches were nonetheless able to meet their financial obligations. Based on his experience, he said, health care sharing ministries have worked very well.

Rep. Kennedy noted that the question before the task force is whether to enact the exemption for health care sharing ministries proposed in his draft legislation or to allow the courts at some point to decide whether health care sharing ministries are subject to regulation by the Utah Insurance Department.

6. Medicaid Vision Coverage

Mr. Aaron Schuback, Chief Executive Officer, Opticare of Utah, proposed that the state's Medicaid program be authorized to create a pilot program that would provide vision benefits through a capitated funding arrangement, with the intent that the benefits would be extended at some point to all Medicaid enrollees at a per-unit cost lower than the current per-unit cost.

Mr. Hales indicated that in order for the state's Medicaid program to implement Mr. Schuback's proposal, the Utah Code would have to be amended to allow for spending on vision benefits in excess of what is currently spent.

7. Palliative Care

Dr. Mark D. Hiatt, Executive Medical Director, Regence BlueCross BlueShield of Utah, distributed "Personalized Care Support" and stated that Utah is leading the nation in providing to people relief from their symptoms in a coordinated way. He said Regence BlueCross BlueShield of Utah is working to improve access to palliative care in rural areas and in the home, and to facilitate end-of-life care. He requested that incentives be put in place for providers to seek out reimbursement from Medicaid for palliative and end-of-life care. He said that most medical costs are incurred during the final few days of a person's life, when in fact the patient would prefer to receive care in their own home.

8. Substance Abuse Treatment Fraud

Mr. Eric Schmidt, President, Utah Association of Addiction Treatment Providers, reported on fraudulent activity in treatment centers. He described treatment center operators who force their employees to use the employee's address to sign up out-of-state clients, allow sexual relationships between patients and staff, and bill for therapy when in fact no therapist is on staff. He said that such practices make it difficult for legitimate treatment centers to offer competitive rates because fraudulent care costs less than legitimate care. Mr. Schmidt said that because there is little that providers of legitimate care can do, they are working with Rep. Hutchings to prohibit some of these unethical activities through enforcement of existing laws and through licensing.

Mr. Travis Whitter, Chairman of the Board, Odyssey House, indicated that the quickest way to address this issue would be to expand the Department of Human Services' regulatory authority so that it can address fraudulent billing, criminal activity, and moral turpitude.

Mr. Andrews explained that the regulatory authority of the Office of Licensing within the Department of Human Services is limited primarily to health and safety issues.

Mr. Randy Maurer, Manager, External Audit and Investigations, Cambia Health Solutions, cited some of the abuses seen by his company, including the recruitment of patients from county jails and the use of the treatment provider's address as a home address for out-of-state clients. He said this fraud is costing Regence BlueCross BlueShield of Utah tens of millions of dollars per year in Utah alone. He indicated that Cambia is scrutinizing the activities of 10-15 treatment facilities.

Ms. Allyson Ramirez, former employee, Utah Rehab Specialists, described violations she had witnessed, including clients who were told to use her home address as their address, staff who were having sexual relations with clients, providers who were being billed for clients who were no longer in the facility, bonuses that were offered to facility owners who signed up clients, and facilities that did not require clients to attend therapy. Yet, she said, these facilities are still in business.

Mr. Travis Wood, Community Solutions Consulting, indicated that the fraudulent activities described to the task force threaten the existence of the private insurance market and the implementation of the Justice Reinvestment Initiative passed during the last general session of the Legislature.

MOTION: Rep. Sanpei moved that a committee bill file be opened to address substance abuse treatment fraud. Because a quorum was not present, a vote was not taken. However, Rep. Sanpei requested that staff open a bill file on this issue.

9. Adjourn

MOTION: Rep. Gibson moved to adjourn the meeting. The motion passed unanimously with Sen. Christensen, Sen. Adams, Sen. Davis, Rep. Poulson, and Rep. Redd absent for the vote.

Chair Dunnigan adjourned the meeting at 4:40 p.m.