



MINUTES

Health Policy Oversight Committee

Second Meeting of the 2022 Interim

Friday, December 9, 2022

MEMBERS PRESENT

Senator Jeff Edler, Co-chairperson
Senator Joe Bolkcom
Senator Mark Costello
Senator Mike Klimesh
Senator Amanda Ragan

Representative Joel Fry, Co-chairperson
Representative John Forbes
Representative Shannon Lundgren
Representative Ann Meyer

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I. Procedural Business

The second meeting of the Health Policy Oversight Committee of the 2022 Interim was called to order at 12:32 p.m. in Room 103 of the Capitol and adjourned at 2:32 p.m.

II. Department of Health and Human Services Presentations

Ms. Kelly Garcia, Director of Health and Human Services (HHS), gave a presentation on the Glenwood Resource Center (GRC). Ms. Liz Matney, Medicaid Director, presented on the topics of Medicaid Community Integration, a community-based services evaluation, and a Medicaid rate review plan.

A. Glenwood Resource Center

Director Garcia commented on how the HHS realignment and Iowa's settlement agreement and consent decree (Consent Decree) concerning the United States Department of Justice (DOJ) investigation into the GRC have spurred HHS to develop new, innovative approaches to public services that are integrated throughout the agency in a way that the legacy agencies had not.

Director Garcia began with an overview of the history of the DOJ's investigation into GRC, which addressed substandard care at GRC and Iowa's compliance with the Americans with Disabilities Act (ADA). The investigation into substandard care at GRC was further subdivided into three separate investigations: human experimentation occurring at GRC, substandard medical care at GRC, and substandard behavioral health care at GRC. The DOJ report concerning substandard care at GRC was released in 2020, and the report concerning compliance with the ADA was released in 2021.

The department spent the last two years negotiating the terms of the Consent Decree, most of which focuses on GRC. However, many terms also apply to Woodward Resource Center (WRC). The Consent Decree contains nearly 300 separate provisions with which the State will have to comply. Director Garcia provided an overview of the reoccurring themes in the 300 provisions.

One of the themes is a prohibition on human research. HHS changed its policy to prohibit human research many years ago. However, when it became clear GRC was not complying, HHS adjusted its practices to align its actions with its policies. Due to HHS's response, Director Garcia believes HHS is already in substantial compliance with this theme of DOJ's investigation.

Another theme on which the DOJ spent a significant amount of time is related to integrated care. Director Garcia noted that integrated care is at the heart of HHS's services for persons with disabilities via multidisciplinary teams working with the member's guardian to deliver targeted care. While this system had been in place for some time, the DOJ investigation found the integrated care system to be broken. Director Garcia now believes that the system is in substantial compliance with the DOJ report, not only at GRC, but at the WRC as well.

Director Garcia then discussed substandard clinical care. The DOJ report included founded allegations of substandard care for persons who have complex co-occurring physical and mental health needs. The Consent Decree included two requirements related to remedying the substandard care: the State must retain a board certified medical director who has experience in serving populations with intellectual disabilities, and the State must retain a director of psychology that is a board-certified behavioral analyst with a minimum of five years of experience. Director Garcia noted the difficulty with the latter point as there are only 11 people in the State that meet this requirement. As this is an issue shared by many states in the region, HHS has partnered with the State of Nebraska to devise a regional solution. HHS



is also in the final stages of partnering with the University of Iowa Hospitals and Clinics to retain a chief medical officer for GRC.

Director Garcia stated that the Consent Decree also prohibits the over-utilization of restraints on persons receiving care. Prior to the investigation, the use of restraints was quite high, but HHS has retrained all staff relating to restraint and intervention techniques. The department is proud of the extent to which the usage of restraints has decreased since retraining staff.

The DOJ report stated the legacy department and GRC often fell short in how quickly a required incident report with all necessary details was completed. The department is now working with the central office to complete more thorough and swift investigations.

Director Garcia noted that GRC residents are in the process of being transferred to other facilities. For the first time, the number of GRC residents is fewer than that of WRC. The department is proud to offer GRC residents the opportunity to choose where they would like to be transferred.

The DOJ report stated that the department central office rarely appeared on site or verified the accuracy of facility reports for quality assurance. The DOJ noted that the Department of Inspections and Appeals appeared on site occasionally, but a third layer of quality assurance is necessary to ensure compliance. To meet this requirement, HHS has enhanced the capacity of the central office by taking steps such as hiring a new key team member to represent the central office but live at GRC. Once GRC closes, the team member will remain in southwest Iowa to ensure each former resident has been successfully transferred and is thriving after the transfer.

As part of the transfer process pursuant to the Consent Decree, HHS is monitoring the transferred individuals to track and avoid poor and negative outcomes. The department is specifically addressing the needs of individuals who are nonverbal to reduce distress with the transition.

The Consent Decree requires the appointment of a court-ordered monitor, and HHS and the Office of the Attorney General are currently interviewing individuals for the position. The hiring may take some time as there are few individuals across the country qualified to do this type of work. The current goal is to have a court-ordered monitor in place in January 2023.

The DOJ report also suggested greater Iowa investment into the individuals providing care on campus so there is active treatment available at all times. One of the main reasons for the decision to close GRC was the inability to obtain enough key workers, but HHS has deployed a number of tools to retain staff until closure.

The Consent Decree will terminate five years after the State attains substantial compliance for a period of one year. Director Garcia believes complying with the terms of the Consent Decree will likely be a long-term endeavor. Compliance for GRC will no longer be an issue upon its closure, but tools and procedures developed for GRC will be applied to other facilities to ensure compliance elsewhere.

The department has not yet received a copy of the report from the DOJ concerning Iowa's violation of the ADA, but HHS knows that it is in violation of the ADA. HHS is proactively addressing these issues by providing individuals with choices instead of being overly reliant on institutional care.

Senator Costello inquired whether the individuals at GRC would be transferred to WRC. Director Garcia stated that some individuals with complex medical needs would be transferred to WRC, but the ultimate goal is to transfer individuals to home and community-based services (HCBS). Senator Costello inquired whether transferring individuals to WRC would cause the number at WRC to reach 50 individuals. Director Garcia did not believe the number would reach 50.



Senator Costello inquired whether older individuals at GRC will be transferred to nursing facilities. Director Garcia answered that only people requiring substantial assistance and end-of-life care would transfer to a nursing facility, but decisions will be made on an individual basis in cooperation with each individual's guardian.

Senator Bolkcom inquired as to how HHS is ensuring transfers result in positive outcomes and that individuals survive the transfer. Director Garcia stated that planning begins long before a transfer, and there will be new layers of oversight, involvement of guardians, and constant checks to assure the best chances for a positive outcome for each individual. HHS also tries to transfer or involve in the transfer process the team members who previously worked with each individual.

Senator Bolkcom inquired what role Managed Care Organizations (MCOs) are playing in the transfers. Director Garcia stated that HHS will design and lead the process, but the MCOs will partner with HHS.

Senator Bolkcom inquired about how the court-ordered monitor will be hired. Director Garcia responded that the court, the DOJ, and HHS will vet the person, and then Director Garcia will make the final decision.

Representative Fry inquired as to how the \$11 million appropriation for GRC transfers is being used. Director Garcia stated the enhanced federal match has allowed HHS to fully fund the transfers so far, but HHS expects to begin using the appropriation in the course of the next year.

Senator Bolkcom inquired as to the capacity and current staffing situation at WRC. Director Garcia responded that both are currently stable, and HHS is monitoring the situation.

Senator Bolkcom inquired as to how WRC would be used in the future. Director Garcia stated that the goal is to transform WRC to act as a stabilizing facility for individuals before they are transferred to HCBS. Effectively no one would be admitted for a decades-long stay as in the past, but the goal is far from being realized. The most recent admissions to WRC have been youth with behavioral issues and WRC has been used purely as a short-term stabilizing center for them.

B. Medicaid Community Integration

Director Matney summarized Medicaid's progress toward transitioning from its historical reliance on institutional care to HCBS. The goal is to increase HCBS expenditures to at least the same level as institutional expenditures. In 2012, the number of individuals being served in HCBS settings was roughly 50 percent, and is currently about 64 percent.

Director Matney provided an overview of the per-day rates for serving an individual in HCBS care.

Director Matney reviewed the level of care acuity needs of the individuals being transferred from GRC. On a supports intensity scale of 1 to 6 (1 being the lowest acuity and 6 being the highest), the majority of individuals are a 4 or 5 on the scale. When individuals were asked to which region they would like to be transferred, the most frequent response was to remain in southwest Iowa. Medicaid is trying to match the transferring individuals with their region of choice, and is also working with other states, such as Nebraska, when an individual's family lives in these other states. This process is lengthy, so Medicaid has been working with these other states to devise a process for individuals to receive services while transitioning.

On the issue of cost of care, in most cases, the cost of care is much lower in HCBS settings than in institutional settings. Director Matney provided materials showing financial data which supports this.

Director Matney addressed the incentives for MCOs to consider HCBS services as an option for members. In order to remove an incentive for MCOs to favor institutional care, Medicaid blends the



costs of care for members and pays the MCOs a blended rate that is the same for each member regardless of what type of care the person receives.

Director Matney noted that HCBS providers have stepped up to address the care needs for individuals transferring from GRC. To address the issue of cost of living and rent increases for these individuals, Medicaid has been using federal American Rescue Plan funds to find a solution. Medicaid has also partnered with the Iowa Finance Authority to provide opportunities concerning HCBS housing.

Director Matney confirmed for Representative Fry that the new MCO capitation rates include the community living tiered rate.

C. Community-Based Services Evaluation

Director Matney reviewed Medicaid's evaluation of community-based services. The federal American Rescue Plan provided all states with an additional 10 percent match for HCBS expenditures. The department has used these funds to invest in ways that would serve long-term benefits instead of short-term gains.

The main investment has been through a contract with Mathematica to analyze community-based disability, behavioral health, and aging services. Medicaid utilized Mathematica to determine how other contributors to the service delivery system such as mental health and disability service regions intersect, the gaps in services, and how Medicaid may more efficiently interact to deliver services. Mathematica's final report is expected in January of 2023.

Mathematica's analysis focused on synthesizing Medicaid's quantitative data, holding listening sessions and one-on-one interviews with community members to compile qualitative data regarding Medicaid services, and reviewing Iowa, federal, and other state policies and procedures to compare efficiencies and outcomes.

One of the areas Mathematica has determined needs to be addressed is the State's process to equitably access HCBS services to align with a member's needs. The current system is a first-come-first-serve system that is diagnosis rather than needs-based. This results in individuals being on multiple waiting lists at the same time to meet their service needs. Overall, the structure, assessments, and alignment should be changed.

Director Matney stated that there is currently no way for a person to easily determine their position on a waiting list. Medicaid would like to create a portal to allow better transparency and response to inquiries into the waiting list system.

Medicaid currently provides HCBS through seven waivers and one State plan option. There is no waiting list for habilitation services or the elderly, or AIDS/HIV waivers. Eligibility for HCBS is based on diagnosis rather than need. Director Matney provided an example where an individual qualifies for a particular waiver based on diagnosis, but the services the individual needs are either not offered by that waiver or the services are not offered to the extent necessary to meet the individual's specific needs, so the individual is on multiple waiver waiting lists.

Individuals want Medicaid HCBS and the application process to become more user-friendly. Failing to make the process more user-friendly is a missed opportunity to avoid individuals being on multiple waiting lists and to blend and braid funding for individuals.

Director Matney thanked the individuals who worked with HHS and Mathematica for many months to identify the issues facing individuals with disabilities and their families.



Representative Fry inquired as to the timeline for implementing the recommendations from the Mathematica report. Director Matney estimated the recommendations will be implemented over the next few years.

Representative Meyer inquired whether Medicaid will require any legislative changes to implement the recommendations. Director Matney responded that she does not believe legislation will be required immediately because the relevant law is mainly in the administrative code.

Representative Meyer inquired if there is a way to determine how many people on the health and disability waiver have autism or are on the autism spectrum. Director Matney responded that she will compile the information and report back to the committee.

Senator Edler inquired whether a person's eligibility for a waiver can ever expire. Director Matney responded that a person could conceivably improve to a level where the person no longer requires the additional services, but usually a person is on a waiver long term.

Senator Edler inquired what would happen if a person on a waiver obtains insurance that would cover the services covered by a waiver. Director Matney stated that there is no insurance available in the State that covers HCBS.

D. Medicaid Rate Review Plan

Director Matney presented an overview of the current Medicaid reimbursement rates. There is a need to develop a regular cadence for increasing the rates for services. Typically rates have only increased when required by the federal government or when the legislature provides additional funding to do so. As a result, the rates have not increased in a significant manner for a long time. Medicaid plans to create a timeline to review rates every year or every other year based on the service. The rates to be reviewed every other year include those that are more difficult to review and require data from outside the State to determine. A comprehensive rate review is expected to be released in 2023 that will compare Iowa rates to the benchmark being used for a particular service. Mental health services, physician rates, and laboratory rates will be included.

Representative Lundgren inquired whether the review of the HCBS waivers includes consumer choice options. Director Matney responded that a consumer choice option is a self-driven program where the individual who is receiving services is the employer. Medicaid wants to make that option more available where appropriate, so it is included in the HCBS Review Plan.

Senator Bolkcom inquired if Director Matney could comment on whether the Medicaid rates are sufficient to provide enough services and providers to support the transition of individuals from GRC. Director Matney stated that Iowa's rates are currently comparable, but the regular review of Medicaid rates will help rates remain adequate. She noted that while rates are a factor in providing access to services, another factor is staff support and training to resolve issues as they occur.

III. Public Comment

Public comment was provided.

IV. Materials Filed with the Legislative Services Agency

Documents distributed at the meeting are posted on the committee's Internet Site: www.legis.iowa.gov/committees/meetings/documents?committee=24165&ga=ALL