

**MINUTES OF THE  
BOARD OF COMMUNITY HEALTH MEETING  
December 10, 2009**

**Members Present**

Richard Holmes, Chairman  
Ross Mason, Vice Chairman  
Kim Gay, Secretary  
Norman Boyd  
Dr. Inman C. "Buddy" English

**Members Absent**

Raymond Riddle  
Hannah Heck  
Sidney Kirschner  
Archer Rose

The Board of Community Health held its regularly scheduled monthly meeting at the Department of Community Health, Fifth Floor Board Room, 2 Peachtree Street, N.W., Atlanta, Georgia. Dr. Rhonda Medows, Commissioner, was present also. (An agenda and a List of Attendees are attached hereto and made official parts of these Minutes as Attachments #1 and #2). Chairman Holmes called the meeting to order at 10:41 a.m.

**Minutes**

The Minutes of the November 12, 2009 meeting were UNANIMOUSLY APPROVED and ADOPTED.

**Commissioner's Comments**

Dr. Rhonda Medows, Commissioner of DCH, reported that the Department is awaiting the Governor's budget presentation to assess and compare them to the Department's proposal. Dr. Medows said the November revenue projections continued to decline for the twelfth consecutive month—a 16-17% reduction compared to November 2008.

Dr. Medows reported that the State Health Benefit Plan Open Enrollment period has ended. At least 35% of the members chose a consumer directed health plan option compared to 8% last plan year and 4% the previous year. Most retirees chose the premium Medicare Advantage program.

The Department is assessing Healthcare Reform bills to determine the impact on the Medicaid and PeachCare for Kids programs as information becomes available. In addition, DCH is following changes to the Health Insurance Exchange and the public option alternatives.

Dr. Medows said Georgia continues to see a decline in the number of H1N1 cases and a decline in the number of acute care and emergency visits, hospitalizations and deaths. She said while this is good news, the state must not become complacent in monitoring and surveilling the virus. She urged citizens to continue seeking the seasonal flu and H1N1 vaccinations. The State has been allocated 2.5 million dosages of the H1N1 vaccine. This week the vaccine has been opened to the general public; however outreach efforts are still focused on the five priority groups. Some of the vaccine has been distributed to large chain pharmacies and providers in addition to county health departments and district health offices.

**Department Updates**

Clyde Reese, General Counsel, presented for initial adoption proposed changes to Certificate of Need (CON) Rule 111-2-2-.40 relating to ambulatory surgery services. Some of the changes are update language to reflect that the Office of Regulatory Services of the Department of Human Resources is now the Healthcare Facility Regulation Division of the Department of Community Health and the Joint Commission for the Accreditation of Health Care Organizations is now The Joint Commission. The substantive change is to delete an exception from the need methodology. Mr. Reese explained that in most Certificate of Need services there is a numerical need methodology to determine if there is a need for new or additional service. The Department has an exception to the need methodology when the formula does not show the need for new services. An applicant can still request approval based on some reason to vary from the need methodology. One of those exceptions, atypical barrier, which an applicant shows that in the proposed area where they want to offer service, there is something in the service area or particular service that is atypical—that based on some cost, quality or access issue, they should be allowed to move forward without numeric need. Mr. Reese said that atypical barrier standard has been the subject of much litigation over the years and has been difficult for the Department to administer and the applicant to determine from an objective point of view what is atypical. The Department would like to do away with this exception and institute more specific examples based on quality, financial access, geographic access, and in the context of ambulatory surgery, a specific exception that would address situations where exempt single specialty ambulatory surgery centers would allow outside physicians of the same specialty who may not be members of the practice to come into that surgery center. The exception would be for that situation only and nothing else would change except for their designation. Mr. Reese asked the board's favorable consideration to publish the rules for public comment and conduct a public hearing. Mr. Mason MADE a MOTION to approve for initial adoption Certificate of Need Rule 111-2-2-.40 to be published for public comment. Ms. Gay SECONDED the MOTION. Chairman Holmes called for votes; votes were taken. The MOTION was UNANIMOUSLY APPROVED. (A copy of Certificate of Need Rule 111-2-2-.40 is attached hereto and made an official part of these Minutes as Attachment # 3).

Mr. Reese said the second set of proposed changes to Certificate of Need Rule 111-2-2-.32 relates to Home Health Services. The proposed changes update language to reflect that the DHR Office of Regulatory Services is now the DCH Healthcare Facility Regulation Division and change Joint Commission for the Accreditation of Health Care Organizations to The Joint Commission. The substantive change is the required percentage of annual adjusted gross revenues an applicant must commit to services for indigent and charity patients. The definition of indigent charity care is a percentage of adjusted gross revenue. Adjusted gross revenue is the total revenue minus Medicare, Medicaid and bad debt. The industry has consistently asserted to the Department its inability to provide 3% of adjusted gross revenue to indigent care because of the payor mix in home health services. Mr. Reese said the rationale for indigent and charity care commitment is that the provider is actually providing the particular service to people who cannot pay. What is actually happening is home health agencies are meeting the commitment by paying the indigent care shortfall penalty (which is the difference between the amount that is committed and the amount actually provided) instead of providing the services directly. Those penalty payments go into the Indigent Care Trust Fund which primarily goes to hospitals. The Department believes that by lowering the percentage to 1% more accurately reflects payor mix, the services will be provided to home health patients who cannot pay as opposed to paying the penalty to the State to meet that commitment. Mr. Reese said the Department has precedence for taking into account the payor mix of a particular service. The Department is hopeful that at 1% the service will actually be provided to home health patients who cannot pay. Mr. Mason MADE a MOTION to approve for initial adoption Certificate of Need Rule 111-2-2-.32 to be published for public comment. Ms. Gay SECONDED the MOTION. Chairman Holmes called for votes; votes were taken. The MOTION was UNANIMOUSLY APPROVED. (A copy of Certificate of Need Rule 111-2-2-.32 is attached hereto and made an official part of these Minutes as Attachment # 4).

Next Mr. Reese asked the Board to approve a revised fee schedule for vital records. He said the administration of the State's vital records became a function of the Department of Community Health in House Bill 228. The statute provides for the State Office of Vital Records, the official repository of birth, death, marriage and divorce information, to charge a fee for certified copies of this information, and the Board of Community Health to approve the fee schedule for vital records. The Office of Vital Records would like to increase the fees for birth and death certificates from \$10 to \$15. Mr. Mason MADE a MOTION to approve the revised schedule to increase the fees for birth and death certificates from \$10 to \$15. Dr. English SECONDED the MOTION. Chairman Holmes called for votes; votes were taken. The MOTION was UNANIMOUSLY APPROVED. (Copies of the Vital Records Fees Memo to the Board of Community Health and Fee Schedule are attached hereto and made official parts of these Minutes as Attachment # 5).

Dr. Jerry Dubberly, Chief, Medical Assistance Plans, presented for final adoption the Nursing Facility Special Ventilator-Dependent Reimbursement Rates Public Notice that creates a reimbursement rate and methodology for nursing homes that handle long-stay ventilator-dependent patients. This public notice establishes an initial payment rate of \$463.87 a day and would be adjusted annually on January 1 based on an inflation factor until June 30, 2012. The Department held a public comment period and received two written comments. The first commenter referenced this as a positive new benefit for members who previously had to go out of state to receive such services. However, there was mention of concern to make the Department aware of the vulnerability of this population and appropriate safeguards and standards need to be in place and recommended that the Healthcare Facility Regulation Division of DCH develop specific standards for training, education, facility equipment, and care plans. The second commenter was supportive of the rate and further offered technical and clinical support to the Department. Dr. Dubberly said the Department recognizes the vulnerability of the members who are ventilator-dependent and has started outreach to stakeholders and experts to ensure appropriate standards and safeguards are in place regarding the standards of care that must be met as well as the referral process. Dr. Dubberly stated said the recommendation to include the standards from the Healthcare Facility Regulation Division is an item that should be pursued separately from the Public Notice which is a reimbursement issue. Ms. Gay MADE a MOTION to approve for final adoption the Nursing Facility Special Ventilator-Dependent Reimbursement Rates Public Notice. Mr. Mason SECONDED the MOTION. Chairman Holmes called for votes; votes were taken. The MOTION was UNANIMOUSLY APPROVED. (A copy of the Nursing Facility Special Ventilator-Dependent Reimbursement Rates Public Notice is attached hereto and made an official part of these MINUTES as Attachment # 6).

Finally Dr. Dubberly presented the Disproportionate Share Hospital Allocation for Private Hospitals Public Notice for initial adoption. The public notice proposes changes to the distribution of the State Fiscal Year 2010 Disproportionate Share Hospital (DSH) allotments. The public notice has two key components. The Department is seeking to restore and clarify the private non-deemed hospitals DSH allotments that will be available. In the past the Department had to decrease the maximum amount the private non-deemed hospitals were able to obtain due to the lack of state funds to match to fulfill 100% of the calculated amount as outlined in the State Plan. The first purpose of the public notice is to restore that funding and clarify the Department's intent to move it back to 100%. The second intent of the public notice is regarding the Department's strategy to increase recognition of hospitals that provide a larger proportion of uncompensated care. The Department has been pursuing this strategy for about two years. This is the next iteration of that strategy to make sure that the hospitals providing more disproportionate share are accounted for in the Department's methodology. The Department reviewed various options to progress to the next level of the strategy. The Department had four viable options that were posted to the DCH web site, along with the impact of each of those options at a hospital level. DCH also convened a small focus group to discuss the various options. The public notice presented today is a result of both the Department's recommendations and the feedback received to date regarding the most appropriate of the

four options. The public notice calls for the changes to become effective for DSH payments made on or after December 10, 2009. The financial impact to restore funding to the pool of private non-deemed hospitals is \$8.6 million. The second component seeks to increase recognition of disproportionality in DSH funding by decreasing the relative weighting of the prior year DSH payments from 75% to 50% for small rural hospitals and from 50% to 25% for non-small rural hospitals. Dr. Dubberly said this was put in place previously as a stop-loss stop-gain to make sure the impact of these changes, as the Department moves forward with its strategy, is not borne at one time. The second component also increases the current limitation threshold on newly eligible hospitals from 10% to 25%. An opportunity for public comment will be held on December 29. Ms. Gay MADE a MOTION to approve for initial adoption the Disproportionate Share Hospital Allocation for Private Hospitals Public Notice to be published for public comment. Mr. Mason SECONDED the MOTION. Chairman Holmes called for votes; votes were taken. The MOTION was UNANIMOUSLY APPROVED. (A copy of the Disproportionate Share Hospital Allocation for Private Hospitals Public Notice is attached hereto and made an official part of these MINUTES as Attachment # 7).

### **Adjournment**

There being no further business to be brought before the Board, Chairman Holmes adjourned the meeting at 11:04 a.m.

THESE MINUTES ARE HEREBY APPROVED AND ADOPTED THIS THE \_\_\_\_\_ DAY OF \_\_\_\_\_, 2010.

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RICHARD L. HOLMES  
Chairman

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KIM GAY  
Secretary

#### Official Attachments:

- #1 List of Attendees
- #2 Agenda
- #3 Rule 111-2-2-.40
- #4 Rule 111-2-2-.32
- #5 Vital Records Fees Memo and Fee Schedule
- #6 Nursing Facility Special Ventilator-Dependent Reimbursement Rates Public Notice
- #7 Disproportionate Share Hospital Allocations for Private Hospitals Public Notice