

**MINUTES OF THE  
BOARD OF COMMUNITY HEALTH MEETING  
February 11, 2010**

**Members Present**

Richard Holmes, Chairman  
Ross Mason, Vice Chairman  
Norman Boyd  
Dr. Inman C. "Buddy" English  
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 10:36 a.m.

**Minutes**

The Minutes of the January 14 meeting were UNANIMOUSLY APPROVED and ADOPTED.

**Committee Reports**

Hannah Heck, Chairman of the Care Management Committee, reported that the Committee received an update on CMO enrollment data; emergency room visits and rates, and the factors influencing the rates; increase of external quality review performance measures; and encounter reconciliation data. Ms. Heck said today the Care Management Committee began receiving updates from the State Health Benefit Plan. SHBP staff updated the Committee on results of Open Enrollment and the status of the Consumer Directed Health Plans.

**Commissioner's Comments**

Dr. Rhonda Medows, Commissioner of DCH, stated that issues concerning the budget and the Department's legislation are still pending since this is the midway point of the Legislative Session. She said Vince Harris, the Acting CFO, will present the Governor's Recommended Budget but there are many steps to go before the Department knows what the final Amended FY 2010 and FY 2011 budgets will be.

Dr. Medows shared with the Board what she calls extraordinary efforts being done by extraordinary people—the work of the Emergency Preparedness staff in conjunction with many individuals and entities across Georgia who have come together to welcome those severely injured by the earthquake in Haiti. She said for most nights Georgia has been receiving three to eight medical transports from Haiti who have significant injuries and accompanying family members. Dr. Medows said she had an opportunity to witness the arrival of the medical transports and at least 40 individuals were there late night representing at least ten different federal, state and nonprofit agencies to welcome the transports. She stated that she was impressed with the efficiency of those individuals to transport the patients off the plane, into an ambulance and to the receiving hospitals so quickly and effectively. She said the welcoming hospitals deserve accolades which include Children's Healthcare of Atlanta, Grady Memorial Hospital, Atlanta Medical Center, and WellStar Health System. Once the patients are stabilized the federal government will develop a plan to manage their ongoing care and return home.

**Department Updates**

Clyde Reese, General Counsel, first discussed Certificate of Need (CON) Rule 111-2-2-.32, Specific Considerations for Home Health Services. In December the Board approved the rules for initial adoption to be released for public comment. The substantive change was to reduce the required percentage of annual adjusted gross revenues an applicant must commit to services for indigent and charity patients from 3% to 1%. The rationale was to recognize the payor mix in home health and to encourage direct services for indigent patients by this reduction. The Department conducted a public hearing on January 20 but did not receive any oral comments. The Department received three written comments in support of the proposed rules. Also, the Department received no comments from the House and Senate Health Committees. Mr. Rose MADE a MOTION to approve for final adoption Certificate of Need Rule 111-2-2-.32. Mr.

Mason 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 # 3).

Mr. Reese stated that in December the Board approved for initial adoption Certificate of Need Rule 111-2-2-.40, Service Specific Considerations for Ambulatory Surgery Services. The substantive change was to delete the atypical barrier exception from the need methodology and to insert more specific examples of exceptions to the need methodology for this particular service. The Department conducted a public hearing on January 20. During the comment period there were four oral comments in opposition to the proposed rules; one in support; eight written comments in opposition; and five written comments in support. Mr. Reese stated that with this particular rule the intent of the Department was to address the atypical barrier exception which has been the source of a lot of litigation over a period of time and try to develop standards that would be easier during the application process and for the Department to administer. He said he thought the comments in support were lukewarm; those opposed were vociferous and adamant in their opposition. Mr. Reese said he believed the intent was misunderstood; the intent seemed to be interpreted as trying to open up the ambulatory surgery center debate again which was not the intent of the Department. Mr. Reese asked the Board to table these provisions. The Department intends to work with the Healthcare Facility Regulation Division to rewrite, revise and update the overall ambulatory surgery center rules for both CON and state licensure. Later this year, the Department will consider presenting to the Board proposed rules for both programs as a package for release and comment. The Board UNANIMOUSLY TABLED Certificate of Need Rule 111-2-2-.40.

Mr. Reese presented Rule 111-9-1, Administrative Rules for the Special Supplemental Nutrition Program for Women, Infants and Children (WIC Program). WIC is administered by the Division of Public Health, Maternal and Child Health Unit, and is 100% federally funded. Mr. Reese said there are no administrative rules codified for the WIC Program. The proposed rules presented today are administrative rules to incorporate definitions, purpose and administration of the program, vendor terms and conditions, and rules governing vendor administrative review, hearings, and appeals into the DCH Administrative Code. Mr. Boyd asked if there was precedent for suspending vendor payment during a fraud investigation. Mr. Reese answered yes and gave examples of how the process worked in the Certificate of Need and Medicaid programs. Mr. Mason MADE a MOTION to approve for initial adoption Rule 111-9-1 to be published for public comment. Ms. Heck SECONDED the MOTION. Chairman Holmes called for votes; votes were taken. The MOTION was UNANIMOUSLY APPROVED. (A copy of Rule 111-9-1 is attached hereto and made an official part of these MINUTES as Attachment # 4).

Ms. Alison Earles, Legal Counsel for the State Health Benefit Plan, presented proposed changes to the SHBP Rules. Rule 111-4-1-.01 (Definitions) are changes to definitions to eliminate potential conflict with federal law and reflect changes to Rule 111-4-1-.02 and Rule 111-4-1-.10. Rule 111-4-1-.02 (Organizations) revises descriptions to employer contributions to better reflect the direct billing process, eliminates references to specific plan design terms, and clarifies certain obligations of Employing Entities. The purposes of proposed changes to Rule 111-4-1-.10 (Plan Benefits) are to state that the SHBP shall be designed to comply with applicable law and to further the specific plan design goals set forth in the Georgia Code and eliminate provisions that are not required and may conflict with these purposes. Rule 111-4-1-.11 (Claims) clarifies that a two-year period specified in the Code and regulations for submitting claims is a maximum liability period. The Board UNANIMOUSLY APPROVED for initial adoption State Health Benefit Plan Rules 111-4-1-.01, 111-4-1-.02, 111-4-1-.10 and 111-4-1-.11 to be published for public comment. (Copies of Rules 111-4-1-.01, 111-4-1-.02, 111-4-1-.10 and 111-4-1-.11 are attached hereto and made an official part of these MINUTES as Attachments # 5, 6, 7 and 8 respectively).

Mr. Doug Colburn, Chief, Healthcare Facility Regulation Division, discussed the End Stage Renal Dialysis Advisory Council nominations. He said DCH and the Healthcare Facility Regulation Division have oversight of End Stage Renal Dialysis centers. To assist the Department in the creation of rules and quality oversight for the dialysis centers, O.C.G.A. 31-44 requires the formation of the Renal Dialysis Advisory Council which members are appointed by the Board of Community Health. The statute designates that certain members must come from specific associations while others come from the industry. Members serve a term of four years with the option of a second term. The nominations are as follows: Marlin Gottschalk, Ph.D., recommended by the Georgia Association of Kidney Patients; Sheldon Shore, M.D., and Don W. Williamson, M.D., two physicians specializing in nephrology recommended by the Georgia Renal Physicians Association; Tracy Jenny, recommended by the National Kidney Foundation of Georgia; Cathy Brown and Gwen Taylor, two administrators of facilities certified as outpatient dialysis facilities in Georgia; Ada Jo Anne Appling, Rebecca Girtman, and Randy Baker – three members of the general public, two of whom shall be dialysis patients or family members of

dialysis patients; Joycent Parkinson and Stephanie Knight – members representing technicians working in renal dialysis facilities; Beverly F. Luke, M.S.W. – a member representing social workers working in renal dialysis facilities; and Heather Ansley, R.D. – a member representing nutritionists working in renal dialysis facilities. Marlene Currier is currently serving a term on the Council and was recommended by the Dogwood Chapter of the American Nephrology Nurses Association. Ms. Heck MADE a MOTION to approve the slate of nominations as presented. Mr. Mason SECONDED the MOTION. Chairman Holmes called for votes; votes were taken. The MOTION was UNANIMOUSLY APPROVED. (A copy of the Renal Dialysis Advisory Council Nominations is attached hereto and made an official part of these MINUTES as Attachment # 9).

Vince Harris, Acting Chief Financial Officer, provided a comparison of the Governor's Recommended Budget for DCH Amended FY 2010 and FY 2011 budgets to the request made by DCH. Mr. Harris reviewed each program budget and highlighted the differences in what the Department requested in its September request to the Governor's recommendation. The Governor's budget recommendations results in a decrease in Total Funds of \$64 million or 0.5% and a decrease in State Funds \$114 million or 4.8%. The targeted OPB state fund cut to Medicaid and PeachCare was 3% or \$44.4 million. DCH was required to redirect existing resources to fund program growth and other needs and permitted to meet the 3% cut through the recognition of FY 2009 Incurred-But-Not-Reported (IBNR) reserves that were rolled forward into FY 2010 and used to replace state funds. The DCH request submitted to OPB on September 1, 2009 estimated the IBNR reserves at \$52.7 million; however, the final audited IBNR reserve amount of \$35.1 million became available in October 2009 and is reflected in the Governor's Recommendation. DCH proposed to generate additional state fund savings of \$61.5 million in FY 2010 and to roll forward these funds to cover program needs in FY 2011. The proposed additional savings were generated as a result of revised Medicaid and PeachCare projections, member merge savings, national drug company settlements, and Breast and Cervical Cancer Program eligibility reviews. The Governor's AFY 2010 Recommendation includes a \$20.3 million state funds reduction (\$80.6 million total funds) for Outpatient Hospital Cost Settlements and \$225,000 state funds reduction (\$2.3 million total funds) due to the delay of the proposed Family Planning Waiver. Finally, the Governor's Recommendation rolls forward only \$32.3 million of the \$61.5 million DCH proposed to roll forward; the difference is cut from the DCH budget. In addition, DCH was required to submit 4%, 6% and 8% budget reduction scenarios for Administration and Public Health. The 8% scenario was ultimately recommended.

The Governor's recommendation for FY 2011 increases the Department's FY 2011 total funds appropriation by \$218,968,066 or 1.8% and state fund appropriations by \$70,542,719 or 3.2%. The targeted OPB state fund cut to Medicaid and PeachCare for FY 2010 was 3% or \$44.4 million. DCH was also required to redirect existing resources to fund program growth and other needs. In FY 2011 certain fund sources from the FY 2010 budget will no longer be available. DCH did not identify reductions or revenue enhancements to cover this loss. The funding no longer available for FY 2011 includes end of ARRA FMAP December 30, 2010, Tobacco Funds, CMO QA Fees, and ICTF Reserves. The Governor's FY 2011 recommendation replaces the loss of these funds with the following strategies: the ARRA Stimulus FMAP is extended through June 30, 2011 (based on the Governor's recommendation, this generates \$378.5 million in federal funds including Medicaid growth; the House Jobs for Main Street Act of 2010 contains the proposed Stimulus FMAP extension); institutes a Hospital Provider Fee and a Managed Care Provider Fee to generate \$247.8 million in revenue (this will require legislation and CMS approval); removes the Medicaid CMO exemption from the 2.25% Department of Insurance premium tax (this generates \$67.9 million in revenues of which \$19.8 million goes to DCH and \$48.1 million is appropriated to the Department of Behavioral Health and Developmental Disabilities). DCH proposed to meet the 3% cut and cover Medicaid growth of \$83.2 million through the recognition of \$61.5 million in FY 2011 funds that would be rolled forward into FY 2011 and proposed reductions that included a 1.86% across the board provider cut, revised PeachCare projections, an increase in the nursing home provider fee and adjustments to CMO coverage and rates. The Governor's FY 2011 Recommendation recognizes \$32.2 million in FY 2010 surplus funds, reduces Medicaid growth expenditures, uses the proposed hospital and managed care fee revenues to cover Medicaid growth and maintain hospital level of service, and applies an across the board provider cut of 1.98% to all providers except inpatient and outpatient hospitals, non-emergency transportation providers and home and community based programs. The recommendation also includes a DCH request to increase the nursing home provider fee and make adjustments to CMO coverage and rates. Finally, the recommendation also shows savings from the change in FMAP between FY 2010 and FY 2011. These savings were part of the DCH projection and not broken out as part of the agency FY 2011 request. After addressing questions from the Board regarding distinguishing total funds and state funds, Georgia Trauma Care Commission funds and SHBP employer/employee contributions, Mr. Harris concluded his presentation. (A copy of the Governor's Recommended Budget for DCH

AFY 2010 and FY 2011 Presentation is attached hereto and made a part of these Minutes as Attachment #10).

Dr. Medows introduced Dr. Rony Francois, the new Public Health Director. Dr. Francois previously served as Florida Secretary of Health and Deputy Secretary -Public Health Director for the State of Louisiana.

### **Chairman's Closing Comments**

Chairman Holmes added to the March 11 meeting agenda the election of the Board Secretary.

### **Adjournment**

There being no further business to be brought before the Board, Chairman Holmes adjourned the meeting at 11:36 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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Secretary

### Official Attachments:

- #1 List of Attendees
- #2 Agenda
- #3 Rule 111-2-2-.32
- #4 Rule 111-9-1
- #5 Rule 111-4-1-.01
- #6 Rule 111-4-1-.02
- #7 Rule 111-4-1-.10
- #8 Rule 111-4-1-.11
- #9 Renal Dialysis Advisory Council Nominations
- #10 Governor's Recommended Budget for DCH  
AFY 2010 and FY 2011 Presentation