

**MINUTES OF THE
BOARD OF COMMUNITY HEALTH MEETING
October 14, 2010**

Members Present

Ross Mason
Norman Boyd
Archer Rose
Dr. Inman C. "Buddy" English
Hannah Heck
Jamie Pennington
William H. Wallace, Jr.

Members Absent

Sidney Kirshner

The Board of Community Health held its regularly scheduled meeting at the Department of Community Health, Fifth Floor Board Room, 2 Peachtree Street, N.W., Atlanta, Georgia. Commissioner Clyde L. Reese, III, 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). Vice Chairman Mason called the meeting to order at 10:35 a.m.

Election of Officers

Vice Chairman Mason called for the election officers according to the board bylaws. Ms. Heck nominated a slate of officers: Ross Mason, Chair, Norm Boyd, Vice Chair, and Archer Rose, Secretary. Mr. Wallace seconded the nominations. Vice Chairman Mason called for votes; votes were taken. The Board UNANIMOUSLY elected the slate of officers as nominated.

Resolution

Secretary Rose read in its entirety a Resolution recognizing and expressing gratitude and best wishes to former board member Richard L. Holmes for 13 years of dedicated and faithful service to the Boards of Medical Assistance and Community Health and as chairman of the Board. The RESOLUTION was UNANIMOUSLY ADOPTED. (A copy of the Resolution is attached hereto and made a part of these Minutes as Attachment #3).

Minutes

The Minutes of the August 26, 2010 and September 9, 2010 Meetings were UNANIMOUSLY APPROVED and ADOPTED.

Chairman's Opening Comments

Chairman Mason reminded the board and attendees that the November meeting will be held on November 18 since the second Thursday of the month is a state holiday. He stated that he was grateful to the board for electing him as Chairman of the Board.

Commissioner's Comments

Commissioner Reese updated the Board on several department initiatives that are not a part of today's meeting agenda. The State Health Benefit Plan Open Enrollment period began October 12 and will end on November 10.

The next meeting of the Public Health Commission is scheduled for Monday, October 18. The final meeting will be November 15, a report will be presented to the General Assembly on December 1, and the group will disband on December 31. The Commission's charge was to determine the ultimate disposition of the Division of Public Health within the State's healthcare infrastructure; whether it would stay in DCH, become a separate independent state agency; or become an administratively attached agency to a department.

The Department presented its budget proposals to the Governor and the Office of Planning and Budget on October 13. Commissioner Reese said budget hearings are happening earlier this year because of the desire of the current administration to hand over a complete notebook of all the work of state government to the new administration after the election.

Commissioner Reese reported that the contracts for the Medicaid Care Management Organizations (CMO) will be re-procured. The current contracts expire June 30, 2012. The Department is in the process of developing a Request for Procurement (RFP). The goal is to issue the RFP in February 2011. The Medicaid Division is studying all facets of the Department's experiences with managed care, other states' experiences with managed care, and the Medicaid budget and fiscal condition.

Finally, Commissioner Reese stated that the Department is converting to a new Medicaid Management Information System (MMIS) on November 1—flipping the switch from Affiliated Computer Service (ACS) to Hewlett Packard (HP). He said the Department does not expect 100% functionality and is aware there will be some glitches since these type systems do not go live without some problems. However, the

Department does not expect a repeat of the problems with functionality that it experienced in 2003. The Department has contingency plans in place to deal with problems as they arise. He advised providers to participate in the training that is available to become prepared to use the system.

Department Update

Dr. Jerry Dubberly, Chief, Medical Assistance Plans, presented several public notices. The Children's Intervention School Services (CISS) Public Notice introduces a cost settlement reconciliation process into the CISS program to more closely align reimbursement to the costs of the direct medical services provided to children consistent with the Individualized Education Plan in the school setting. There are no DCH funds involved; all state funds are provided by Local Education Agencies—generating additional federal funds. The Department provided an opportunity for public comment but received no oral or written comments. Mr. Rose MADE a MOTION to approve for final adoption the Children's Intervention School Services Public Notice. Ms. Heck SECONDED the MOTION. Chairman Mason called for votes; votes were taken. The MOTION was UNANIMOUSLY APPROVED. (A copy of the Children's Intervention School Services Public Notice is attached hereto and made an official part of these Minutes as Attachment # 4).

The Nursing Home Services Public Notice would increase the nursing home provider fee from \$12.21 per day to \$13.39 per day effective October 1, 2010. This would generate an additional \$8.8 million in state funds that would be used to support the continuation of the Fair Rental Value System (FRVS) that is in place in the State for the nursing homes. There was an opportunity for public comment but the Department received no written or oral comments. Ms. Pennington MADE a MOTION to approve for final adoption the Nursing Home Services Public Notice. Mr. Rose SECONDED the MOTION. Chairman Mason called for votes; votes were taken. The MOTION was UNANIMOUSLY APPROVED. (A copy of the Nursing Home Services Public Notice is attached hereto and made an official part of these Minutes as Attachment # 5).

The Pharmacy Services Public Notice provides for changes to the reimbursement methodology for specialty pharmaceuticals, and through the Public Notice, the Department has defined those through the type disease states these drugs are used to treat. For the non-Hemophilia blood related products the changes would establish an estimated acquisition cost of Average Wholesale Price (AWP) minus up to 18% depending upon the product being dispensed and the availability of that product at that price point in the market as well as the Department's ability to ensure access to the product at that reimbursement level. For Hemophilia blood related products the reimbursement methodology would move to an AWP minus 24% up to 42% depending on the product dispensed and the Department's ability to ensure access to the medication at that reimbursement level.

The Department received one oral comment and several written comments during the public comment period. The oral comment was received from a non-profit agency that provides services to individuals with hemophilia and other bleeding disorders. There was a concern that the adoption of a discounted rate will eliminate the availability of some factor products in the market. Another concern was about the continued use of AWP as a pricing benchmark. The commenter suggested that the Department review the use of Average Sale Price (ASP) as a pricing benchmark, and stated the current dispensing fees were not reasonable dispensing fees for blood clotting factors.

Also, the Department received written comments from a trade association representing manufacturers of plasma protein therapies, a pharmaceutical manufacturer of a clotting factor, and a major producer of biologic therapies used in treating bleeding disorders. Written comments suggested the Department's Most Favored Nation pricing requirement should put Georgia in a very competitive position. There was concern that providers would discontinue providing services to Medicaid and PeachCare for Kids™ members if DCH pursued this reduction. Another commenter referred to this change as an "unprecedented reduction" in pharmacy reimbursement and suggested that the sliding scale reductions would more negatively impact more mature products than the newer therapies on the market and could lead to a possible reduction in the number of pharmacies providing clotting factor to patients. The last commenter had concerns about the use of AWP as the payment methodology.

Dr. Dubberly stated that Department appreciates the commitment of the providers and stakeholders for providing the comments. He said as it relates to the AWP and two pricing compendiums no longer publishing AWP, it is important to note there are other compendia that will continue to produce AWP. The Department's source is Medi-Span which has issued written notice that they plan to continue using AWP. Dr. Dubberly stated regarding the concern about the use of ASP, both AWP and ASP are imperfect numbers in terms of the actual cost of the product in the market. Neither represents the actual acquisition cost in the market. The advantage of using AWP is receiving daily updates to the pricing file so as prices are changed as manufacturers increase prices, the Department will have current notification. With ASP, those prices are typically updated on a quarterly basis; therefore the Department would be less able to adjust pricing changes in the market.

Dr. Dubberly said the Department surveyed ten other states for reimbursement rates and dispensing fees for specialty pharmaceuticals and found that Georgia's proposed reductions were in line with those states, and in some cases more generous than other states. Also, the Department tapped the expertise of its pharmacy benefit manager which has implemented similar programs for other clients and found the proposed methodology to be consistent with other Medicaid programs and reimbursement levels within the market.

The Most Favored Nation clause the Department uses allows DCH to have pharmacies attest on an annual basis their lowest commercial rates. As a part of this review, the Department reviewed to determine if it currently had providers who were submitting at or within these ranges; consequently the Department feels it would not have an access issue given the reimbursement levels. Dr. Dubberly said pharmacy participation is a real concern. There may be pharmacies that choose to no longer participate. There may be providers who choose not to provide certain products because of reimbursement levels; however, the states the Department surveyed who have implemented similar programs at similar levels did not have access issues. There will be a review process no less than monthly for the first 90 days of reviewing the price points and then on a quarterly basis going forward.

Ms. Pennington said one of the letters submitted talked about the ambiguity of the language and specialty pharmaceutical reimbursement rates could also be interpreted as nonspecialty. She wanted to know if there was a reason for the ambiguity of the language. Dr. Dubberly said the definition of specialty pharmaceuticals is not a universal definition that is well defined. He said the Department did not want to have language so specific that the Department would have to come to the Board each time there is a new biologic product introduced into a category. Likewise, the Department did not want to make the language so generic such that each drug and new product would have to be labeled and included in the language.

Ms. Pennington said as it relates to AWP versus ASP, had there been a cost analysis on moving to ASP. Dr. Dubberly said the Department did not analyze moving to ASP since AWP has worked in other markets and other segments and ASP is not timely and updated regularly. If the Department used ASP, it would be ASP with an adjustment that would equate to the AWP minus adjustment. Ms. Pennington asked Dr. Dubberly to give her some sense of the fluctuation in these numbers. Dr. Dubberly said the hemophilia products vary more than many other products in a pharmacy program. There can be very wide swings in costs since these products are made from actual blood; consequently if there are issues with contamination, the manufacturing process, and supply of the product, the prices may increase due to market influences.

Mr. Boyd asked Dr. Dubberly if he believed the possible loss of providers was a real risk and had the Department made an estimate on the expected impact and if it is acceptable. Dr. Dubberly said based on the experiences of other states they were able to maintain access. The Most Favored Nation data cross match to the products that are being prescribed and used in these categories. The Department feels it will be able to maintain access.

Chairman Mason asked if there was more than one non-profit association that provides blood factor products in the State of Georgia. Dr. Dubberly stated he was aware of only one non-profit association providing blood factor products in the State. Mr. Mason asked if the Department had evaluated what this will do to the supply with the change in reimbursement. Dr. Dubberly said the Department met with those outside of the non-profit organization who have attested to their capacity and supplies to service the members.

Ms. Pennington asked if the Department had a clear definition of access. Dr. Dubberly stated that if one member could not receive a product or a service—that is an access issue. The Medicaid Division has a team of people who would then work to coordinate care and access for those members.

Ms. Pennington MADE a MOTION to approve for final adoption the Pharmacy Services Public Notice. Mrs. Heck SECONDED the MOTION. Chairman Mason called for votes; votes were taken. The MOTION was UNANIMOUSLY APPROVED. (A copy of the Pharmacy Services Public Notice is attached hereto and made an official part of these Minutes as Attachment # 6).

The Psychiatric Residential Treatment Facilities Public Notice changes the reimbursement methodology for services provided on and after January 1, 2011. Changes include utilizing the 2008 cost reports based on audited financial results; adjusting the bed utilization factor from 90% to 80% which is more reflective of ongoing fluctuations in bed occupancy; and applying an inflation factor through June 30, 2011. These changes will result in a decreased reimbursement to the provider totaling \$510, 907 state funds (The Department of Behavioral Health and Developmental Disabilities provides the state match funding for the PRTF program). The Department will provide an opportunity for public comment through November 5. Ms. Pennington MADE a MOTION to approve for initial adoption the Psychiatric Residential Treatment Facilities Public Notice to be published for public comment. Mr. Wallace SECONDED the MOTION. Chairman Mason called for votes; votes were taken. The MOTION was UNANIMOUSLY APPROVED. (A copy of the Psychiatric Residential Treatment Facilities Public Notice is attached hereto and made an official part of these Minutes as Attachment # 7).

Alison Earles, Legal Counsel for the State Health Benefit Plan, presented proposed changes to State Health Benefit Plan (SHBP) Rules. The two main reasons for the changes and the impact to the changes are to comply with the Patient Protection and Affordable Care Act of 2010 (commonly referred to as Healthcare Reform) and to support the ongoing financial stability of the SHBP. The Affordable Care Act requires the SHBP to cover all natural, adopted, foster and step children until they reach age 26 regardless of where the children live, whether they work, attend college, married, or financially dependent on the SHBP member. To comply with the Act, several eligibility requirements have been removed from the regulations and changes have been made to clarify how long coverage for dependent children must last. These changes have been made to Rules 111-4-1-.01, 111-4-1-.04 and 111-4-1-.09.

Changes to Rules 111-4-1-.02 are designed to support the financial stability of the SHBP. Changes have been made to reduce printing costs by discontinuing the printing of plan documents and annual legal

notices for active employees. Instead an electronic version of these documents is provided to the payroll locations; it is the responsibility of the payroll location to distribute the materials to employees. The SHBP Division of the Department will continue to print and mail these materials to retiree members.

In addition, changes have been made to clarify the amount of contributions that are required from contract employers. Contract employers are the entities that have joined the SHBP through a contractual relationship with a board that is specifically mentioned in the law. As set forth in past board resolutions contract employers have to pay the full costs of SHBP for every enrolled member plus an administrative fee. Ms. Earles said it has come to the SHBP's attention the full payment has not been collected for several retired employees of the contract employers. Instead several retirees have had the State subsidized premium deducted from their annuities. The Department estimates that this affects fewer than 100 retirees; however, this practice will change, and the entire payment will be collected. These entities are not required to offer SHBP coverage to their employees, and they may drop coverage at any time if they are not willing to pay the full cost of coverage.

Local school boards that decide to offer SHBP coverage to school board members through a contractual relationship will have to pay the cost of SHBP coverage, but the cost has to be calculated using the actual claims experience of all the local school board members and county employees who are under this particular law. In the past the cost of coverage for the school board members has been calculated using the claims experience of everyone in the SHBP. When the rates are set for 2012, the calculations will be correctly applied to only the school board members' experience. Since this is a small risk pool, this means the cost of SHBP coverage is expected to be much higher for school board members in 2012 than 2011 and will fluctuate from year to year based on the health of the covered school board members. The Department expects the value of providing SHBP coverage to local school board members will decrease significantly in 2012 and expect many local school boards may stop offering coverage to their local school board members.

The next change that has been made that relates to the financial stability of the SHBP is that changes have been made to support an accurate collection of required contributions from state agencies and local employers. Employing entities that pay employer contributions based on a percentage of state-based salaries must provide documentation from their payroll software systems to prove that the contribution was calculated correctly. The Department has requested this documentation from school systems since 2001, but many school systems do not consistently provide this documentation. As required by law, the Commissioner will notify the State Board of Education if a local employer (local board of education, library, RESA) fails to timely pay the required contribution. The law requires that the State Board of Education will then withhold allotments to that local employer until the contribution is paid. The Department has determined that communicating and implementing this requirement will help the SHBP timely collect revenue to which it is entitled. Ms. Earles said this is especially important given the financial status of the SHBP and its obligation to collect all required employer contributions while simultaneously seeking funds under the federal Early Retiree Reinsurance Program. Finally, the proposed changes will clarify that failure to pay required contributions is grounds for termination of coverage whenever a contract employer fails to pay the required contributions. Changes have been made to clarify that this applies to all contract employers including school boards when they provide SHBP coverage to school board members.

Mr. Wallace asked for clarification on Rule 111-4-1-.01 regarding creditable coverage to reduce a pre-existing condition limitation period. He asked if this rule is consistent with the federal Healthcare Reform regulations. Ms. Earles said as a result of the Healthcare Reform law, all pre-existing condition limits for children under 19 are no longer allowed. Now, the SHBP has no pre-existing limits at all. She said the definition is appropriate and used for other obligations that involve providing proof of coverage under the SHBP and will be helpful to have the definition although the SHBP has no pre-existing limits anymore. Mr. Wallace's second question pertained to active employees who have to go online to access plan documents and annual legal notices for active employees. He wanted to know what happens if the employee did not have access to a computer at home or at the library. Ms. Trudie Nacin, Chief of the SHBP, stated all employers provide access to computers during the Open Enrollment period.

Ms. Heck asked how many localities offer coverage to their local school board members. Ms. Earles stated and Ms. Nacin concurred there are approximately 80 school systems offering coverage to local board of education members. Ms. Heck asked if the SHBP was experiencing problems with contract employers not paying in a timely manner. Ms. Nacin stated that contract groups and school systems that do not pay timely average about \$2-\$15 million per month. Ms. Pennington MADE a MOTION to approve for initial adoption Rules 111-4-1-.01, 111-4-1-.02, 111-4-1-.04, 111-4-1-.05, and 111-4-1-.09 to be published for public comment. Mr. Wallace SECONDED the MOTION. Chairman Mason called for votes; votes were taken. The MOTION was UNANIMOUSLY APPROVED. (Copies of Rules 111-4-1-.01, 111-4-1-.02, 111-4-1-.04, 111-4-1-.05, and 111-4-1-.09 are attached hereto and made official parts of these Minutes as Attachment # 8).

Claudette Bazile of the General Counsel's Division began discussion on the modification of the Public Health Notifiable Disease List. She said the Board of Community Health must review and approve changes to the Notifiable Disease List, but the procedure does not require public comment. First the Department seeks approval to add Viral Hemorrhagic Fevers (VHF) to the list of diseases that are immediately reportable in Georgia. Human cases of VHF occur sporadically and irregularly; however, because of their potential for high mortality rates and potential for transmission from human to human, VHF has been designated as a possible bioterrorism agent. Also, this addition to the Notifiable Disease List will be consistent with the National Notifiable Diseases Surveillance System.

Ms. Bazile asked the Board to remove from the Notifiable Disease List the condition Guillain-Barre Syndrome, a condition that was added in 2009 to assist the Department with monitoring possible adverse events associated with the administration of the 2009 H1N1 vaccine. Since the findings did not yield a statistically significant association between Guillain-Barre Syndrome and the receipt of the 2009 H1N1 vaccine, the Department is asking that the hospitalization for new onset cases of Guillain-Barre Syndrome be removed from the list of diseases that are immediately notifiable in Georgia. Mr. Rose MADE a MOTION to add Viral Hemorrhagic Fevers to the list of diseases that are immediately reportable and remove the hospitalization for new onset cases of Guillain-Barre Syndrome from the list of diseases that are immediately notifiable in Georgia. Mr. Wallace SECONDED the MOTION. Chairman Mason called for votes; votes were taken. The MOTION was UNANIMOUSLY APPROVED. (Copies of the Memorandums regarding Modifications to the Notifiable Disease Lists are attached hereto and made official parts of these Minutes as Attachments # 9 and 10 respectively).

Commissioner Reese made one last comment about the Early Retiree Reinsurance Program. Healthcare Reform included a provision to reimburse States up to 80% of healthcare claims for retirees between the ages of 55 and 64. The SHBP applied for participation in the program and included those funds (\$110 million) in the Department's projections to address the deficit in the SHBP. The Department received notification that its application was approved. The next step is to get the actual claims amount and submit to the federal government to be reimbursed.

Chairman Mason reminded the audience that the Board will meet on November 18 since the second Thursday, November 11, Veterans Day, is a state and national holiday.

Adjournment

There being no further business to be brought before the Board, Chairman Mason adjourned the meeting at 11:31 a.m.

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

ROSS MASON
Chairman

ARCHER R. ROSE
Secretary

Official Attachments:

- #1 List of Attendees
- #2 Agenda
- #3 Resolution Honoring Richard L. Holmes
- #4 Children's Intervention School Services Public Notice
- #5 Nursing Home Services Public Notice
- #6 Pharmacy Services Public Notice
- #7 Psychiatric Residential Treatment Facilities Public Notice
- #8 Rules 111-4-1-.01, 111-4-1-.02, 111-4-1-.04, 111-4-1-.05, 111-4-1-.09 and 111-4-1-.24
- #9 Notifiable Disease List Modification Memo (Add Viral Hemorrhagic Fevers)
- #10 Notifiable Disease List Modification Memo (Remove Guillain-Barre Syndrome)