

**JOINT LEGISLATIVE FISCAL COMMITTEE**

Legislative Office Building, Rooms 210-211

Concord, NH

Wednesday, May 28, 2014

**MEMBERS PRESENT:**

Rep. Mary Jane Wallner, Chair

Rep. Ken Weyler

Rep. Peter Leishman

Rep. Cindy Rosenwald

Rep. Dan Eaton

Sen. Jeanie Forrester

Sen. Bob Odell

Sen. Chuck Morse

Sen. Sylvia Larsen

(Meeting convened at 1:07 p.m.)

**1. OLD BUSINESS:**

CHAIRWOMAN WALLNER: I'll call the Fiscal Committee together and turn your attention to materials that have been provided for us. The first item is Old Business. And as you'll see, it is a letter that we -- that we looked at on -- at our last meeting on May 22<sup>nd</sup>. So it's here for -- it's here for your information. I don't think we need to act upon it. And I will move now into New Business.

**2. NEW BUSINESS:**

CHAIRWOMAN WALLNER: And I will ask Jeff Meyers and Commissioner to go through the Building Capacity for Transformation 1115 Demonstration Waiver for us.

JEFFREY MEYERS, Director, Intergovernmental Affairs, Department of Health and Human Services: Thank you, Chairman Wallner, Members of the Committee. For the record, I'm Jeffrey Meyers, Director of Intergovernmental Affairs for the Department of Health and Human Services, and I'm here today with Commissioner Nick Toumpas.

There are a couple documents in front of you. The largest document is a copy of the Waiver Application itself. It is -- I'm going to just briefly describe what's in that document just to orient you. There's a separate document that I'm going to go through with a little bit more detail which are changes to the Waiver Application that the Department made as a result of the public comment from the version that was submitted to you previously.

The Waiver document has a Table of Contents that you can obviously look at. The first 36 pages is the narrative of the Department's proposal to CMS, and it describes the purpose of the Waiver, the Designated State Health Funding proposals, what our current health challenges are, what our plan for the demonstration is and so forth. That material mirrors the presentation that Mr. Hardy and I did for you last Thursday with the PowerPoint presentation. So there's been no changes in the programs from the presentation that you received last Thursday.

Then there are a series of Appendices to the Waiver that begin on page -- and I should point out the pages are sequentially numbered. So Page 36 is the last page of the Waiver Application itself and then 37 is just a cover page for the Appendices. If you turn to Page 38 in the large document, you will see a list of all the Appendices to the Waiver. So there Appendix A, for example, is a list of the cost not otherwise matchable. The monies that we've identified there are state and county and local general fund spending that are now not matched by CMS that we are using as a bucket of money to match, if you will, for this Waiver proposal.

Appendix B is a chart that identifies any new benefit that the State will be introducing as a result of this Waiver. And there are some -- the benefits that are noted are the adult dental benefit which relates to the pilot program for pregnant women and children, and then the F.A.S.T. Forward benefit which are certain enhanced mental health services and care

coordination services for kids. That was the last Designated State Health Program that we added more recently.

Appendix C on Page 45 is just a list of -- this is a form that has to be filled out by the State and it basically lists the services, the benefits, if you will, and those providers that are qualified now to provide those services. So this only speaks to the services that are identified in the Waiver. For example, if there's a pilot program that's funded, then there'll be a separate process after the CMS approves the Waiver to identify criteria about how the funding -- how that funding of the pilot program will be made, how the money will flow, who will be offering those services under the pilot program and what credentials they have to have. So the benefits described on Appendix C are just only with respect to the new benefits that are already identified in this Waiver. They don't speak to any pilot programs that may be stood up as part of the Waiver.

Appendix D is the public notice, just a copy of the public notice the Department issued for this Waiver.

Appendix E are copies of all the public comments. We are required to submit physical copies of all the public comments and our responses. And the way we have done this -- if you turn to Page 61 in the document. So, for example, the first public comment that's noted here which was at the beginning of the process was submitted by an individual who asked is it possible to get a copy of the Waiver. I can only find the summary or Concept Paper but would like to review the details. And then our response follows it. Thanks for your inquiry. A copy of the full draft was posted to the website for public review on Monday, April 28<sup>th</sup>. And so what we've done in this section, which is the bulk of the document before you, is to list all of the public comments received by approximately 35, either organizations or individuals, and then our response. So, for example, if someone sent us a letter, and there were several letters that were sent especially toward the end, the copy of the letter has been reprinted as part of the Waiver Application

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so you can see the entire comment and the entire request from the individual.

This section also notes the testimony that was provided at the two public hearings, one on May 8<sup>th</sup> and one on May 12<sup>th</sup>, and our comments on the testimony provided at the public hearings as well. So we have gone through and noted all of this. And the public comments section runs almost to the very end of the document. And then starting on Page 201 -- well, I take that back. Excuse me.

The Budget Neutrality Appendix is F and that starts on 196. And so this sets out the Department's proposal for how we are going to establish Budget Neutrality -- how we are proposing to establish Budget Neutrality phase to ensure CMS that the money that they spend in New Hampshire on our Medicaid Program with the Waiver is no more than they would have spent without the Waiver. And then after the Budget Neutrality pages starting on Page 201, 202, to the end, are a series of tables that show the expenditures and savings of the DSHP Programs.

Now, there is one additional Appendix that's going -- we are going to propose to add. And the reason it's not in the document is that it was not fully prepared yet. It is a very technical Appendix. It's known as Appendix J. I know I provided copies to the Senate. I have additional copies.

JEFFRY PATTISON, Legislative Budget Assistant, Office of Legislative Budget Assistant: The Members have it.

MR. MEYERS: Okay. Great. So this is a form that is filled out with some of the finance folks in our Medicaid Office, as well as our actuary. The form simply attests to how the State funds the State's share of our Medicaid Program. How we account for UPL payments. Whether or not -- how we justify the county and local expenditures. Where those payments come from. So our actuary began work on this but because of the entirety of the work the actuary is doing for the Department right now, including on rates for both the year three of our Department of

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Care Contract as well as the rates for the new health protection population, they were not able to complete it. This will be completed. It will be attached to the version of the document that is submitted to CMS by Friday, and I will supply the completed form to you when it's filed. So that would be the last attachment to the Waiver.

I would also like to take a moment to go through fairly briefly a second document that you have in front of you and it's got the State's seal on the top and it says Building Capacity for Transformation Waiver. It's a single-page document. It's printed front and back. It says Changes to Waiver Application and Appendices from Version Dated April 28<sup>th</sup>. So this is a document that summarizes all of the changes to the version of the Waiver that we published on April 28<sup>th</sup>. And you can see this document is divided into three different sections to the Programmatic Changes, to basically the Updates, what we have now included, including all the Appendices. And then, lastly, some style -- stylistic changes and minor edits that are also noted so that you have a sense of what we have done to the document. I'm just going to highlight the major program elements that we changed.

We -- as we talked about last Thursday, we have added -- we made some changes to Community Reform Pool. We've added sub pools to that program, which is now a \$21.8 million Reform Pool Program. We've added the Community Mental Health Centers to the Capacity-retention Payment Program. So they will be eligible to obtain a 10% increase in rates over a period of time under the Waiver as a result of not reducing services from a baseline year. That baseline year, I believe, we will negotiate with CMS to be 2012. Previously, that Capacity-retention Program had been designated solely for hospitals. It's now been broaden to include the Community Mental Health Centers.

We've added the sub providers to the other Mental Health Pool Programs, the Capacity-expansion Program, the New Service Program, and the Provider Incentive Pool. They were not -- the sub providers were not added to the Capacity-retention Payment

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because they largely have not been billing Medicaid. They have not been enrolled in the system with providers so there was no baseline for the sub providers to get Retention Payments. But we have added them to the new -- to the Expansion Program and New Service Payment Program and the Incentive Pool Program. Do you have a question, Senator?

CHAIRWOMAN WALLNER: Yes.

SEN. FORRESTER: Thank you, Jeff. To that issue of the Capacity-retention Payments, as you know probably, this Substance Use Disorder issue is a big issue in New Hampshire.

MR. MEYERS: Yes, yes.

SEN. FORRESTER: And very important to the Senate.

MR. MEYERS: Yes.

SEN. FORRESTER: And to the Capacity-retention Payments my question is, and you just said that they were getting block grants, that there's a hard way -- there's a hard way to match that. But is that something you'll commit to looking asking CMS, because if we can get that funding it's funding that we need.

MR. MEYERS: We want to strengthen the capacity of the SUD providers in New Hampshire given the benefit we're standing up in the program. We understand the concern and interests that all of you have in ensuring that there's a -- that there's adequate -- more than adequate capacity to handle the population coming on. We will certainly be talking with CMS about how we can maximize funding for the SUD providers as we go forward. And as I've said to you before, we will continue to be willing to appear before Fiscal throughout this process and report on how those discussions are going.

SEN. FORRESTER: Is that in this e-mail that I received, and you probably know this recently with the expansion of the health protection plan, it is going to expand access to

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substance use treatment to approximately 7,000 New Hampshire residents.

MR. MEYERS: Right.

SEN. FORRESTER: So --

MR. MEYERS: Yes.

SEN. FORRESTER: -- we want to make sure that we get the funding we need to help those folks.

MR. MEYERS: And I commit to you we will raise this issue with CMS.

SEN. FORRESTER: Okay.

MR. MEYERS: We clarified that Community Providers such as -- this is now still in the same Pilot Pool under programmatic changes that's entitled Changes to Community Reform Pool. The third sub bullet there we clarified the Community Providers, such as Community Mental Health Centers, Federally Qualified Health Centers, and Rural Health Centers will be eligible for the Pilot Program and the Provider Incentive Pool. And, lastly, we've added a further description of the Pilot Pool Programs, the sub pools were the result of the public comments.

We added the six DSHP Programs which I've noted this System of Care/F.A.S.T. Forward Services to enhance Community-Based Mental Health Services for Children and Youth. There were some commenters that pointed out that a lot of the programs that were being stood up under both the *Ten-Year Mental Health Plan* and the Community Health Agreement, the DOJ settlement, were aimed at adults. And the comment essentially was that they hoped that the Department would emphasize and make available funds under this Waiver to provide more services for kids as well. So this is one of the ways we're proposing to do that by extending and funding the System of Care Programs.

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We -- the next bullet refers to broadening the scope of the SUD Workforce Development Designated State Health Program to include some other treatment components, including alcohol abuse, adolescent use of marijuana and prescription drug abuse. So those services would be -- resources for those services would be available under that DSHP as we have tried to clarify it.

We then -- the last bullet refers to changes to the Oral Health Pilot Program for Pregnant Women. We clarified in this Waiver Application now that payment for services because this is a pilot, because it's a temporary program being stood up, that will be paid on a fee-for-service basis. The Waiver money will not be -- will not go through the MCOs. So we will keep the Waiver -- the money, excuse me, under the Waiver for this program on a fee-for-service basis, given the limited benefit and given the limited nature of the program being stood up. We are, obviously, open in the future to looking at ways to structure payment that may be more advantageous through an ASO, Administrative Service Organization, or other means. But I think in order to get this benefit up and running and to be able to do it in a way that eliminates the need for negotiation between MCOs and providers and so forth that we felt it best to just pay it on a fee-for-service basis.

We've also -- I want to point out there was a change that was to be made in the Waiver that was not but will be corrected in the final version. We had described a -- basically an evaluation study of the program and the initial draft of the document reflected that women who participated, pregnant women who participated in this would be requested to participate in the evaluation and study. We are going to require that women who participate and get the benefit participate in the evaluation study. So the final Waiver Application will be amended to -- and this is on Page 30 -- there will be a change of the word "requested" to "required" and that change will be made.

Those are the major programmatic changes that were made from the version on April 28<sup>th</sup>. I've also made reference to the additional Appendices. There's a number of minor stylistic

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changes on the flip side of this document. I'm happy to address any one you'd like me to address. I don't know that there's a need to go through all the minor changes.

Just to clarify, if the Committee approves this document today, it will be finalized and will be filed by -- with CMS by Friday so that it's down there. That will begin a process at CMS for the consideration of the Waiver. I fully anticipate that CMS will put this whole document out for public notice and comment for a 30-day period. That is typically what CMS does once it receives -- excuse me -- a completed Waiver Application. So I don't know when exactly that will happen.

I have spoken with the State Coordinator at CMS who we are dealing with and the Project Manager for the Waiver, staff who are in Baltimore, and as soon as this is submitted, I will be on the phone with them either at the end of this week or beginning of next week to kind of walk through with them what the timetable and schedule is going to be. I'll, obviously, notify the Committee. We'll put public notice up on our website so that people -- so that you or people -- other people in New Hampshire who continue to have comments that they wish to register with respect to this Waiver can do so through the CMS comment process as well.

After that comment process is over, I anticipate that there will be negotiations and discussions that will begin between the State and CMS. I pledged before and the Commissioner and I will pledge again that we're happy to appear here before the Fiscal Committee on a regular basis to report on how those discussions are going to keep everyone informed and to get your input in terms of how this Waiver Application is developing with CMS.

CHAIRWOMAN WALLNER: Thank you.

MR. MEYERS: Thank you.

CHAIRWOMAN WALLNER: Questions of Mr. Meyers? Yes, Senator Morse.

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SEN. MORSE: Thank you. Jeff, under the public comment part of this document, how many public comments do you have from the hospitals?

MR. MEYERS: None, Senator.

SEN. MORSE: Have the hospitals contacted you during the last week when we received this first briefing on this document?

MR. MEYERS: In the last week? No, sir.

SEN. MORSE: Thank you.

CHAIRWOMAN WALLNER: Further questions?

SEN. FORRESTER: I have a question.

CHAIRWOMAN WALLNER: Yes, Senator Forrester.

SEN. FORRESTER: Jeff, under the Pilot Pool -- the Pilot Program Pool --

MR. MEYERS: Yes.

SEN. FORRESTER: -- would grant applications be available for the Integrated Care Model? It's called specifically Integrated Care Pilot Pool.

MR. MEYERS: Yes, that would be an available program. That would be available program to be funded through a pilot, one of the pilots, yes.

SEN. FORRESTER: Okay. Thank you.

CHAIRWOMAN WALLNER: Further questions? Yes, Representative Rosenwald.

REP. ROSENWALD: Thank you, Madam Chair. Just a quick question on the Oral Health Program. Does the Department have a plan to develop a provider network?

MR. MEYERS: For this particular program?

REP. ROSENWALD: Yeah, for the pregnant women.

MR. MEYERS: We are -- there's not a specific proposal in the Waiver Application.

REP. ROSENWALD: Right.

MR. MEYERS: In order for the program to be stood up, we are going to have to develop some sort of program criteria and a program to do that. So that will come in the next phase. So once the CMS approves the Waiver, there will be a second phase where the Department will work with CMS and the public as well, including the Legislature, in standing up the criteria. We'll put out public notice. We'll put out initial draft criteria. We'll seek public notice and comment on that criteria that will have to be approved by CMS eventually as well. And so as part of that criteria we will have to develop a program for how that benefit is going to be administered.

REP. ROSENWALD: Thank you.

CHAIRWOMAN WALLNER: Further questions?

REP. EATON: Move approval.

CHAIRWOMAN WALLNER: Senator Forrester has a motion.

**\*\*** SEN. FORRESTER: I move the Committee amend and approve Item 14-071, Part #2, by including Appendix J, and on Page 30 in the first sentence of paragraph four by replacing the word "asked" with "required".

I further move the Department of Health and Human Services be authorized to make technical and administrative changes which are necessary to reflect the intent of this item as approved. And I understand the Department will report back to the Fiscal Committee all changes made under this approval.

MR. MEYERS: That's correct.

REP. WEYLER: Could I have that in writing?

CHAIRWOMAN WALLNER: Yes, you can have it in writing.

REP. ROSENWALD: Second.

CHAIRWOMAN WALLNER: Representative Rosenwald seconds. Should we take a voice vote or -- voice vote okay? All in favor? Any opposed?

REP. WEYLER: I'm opposed.

CHAIRWOMAN WALLNER: So it looks like it was 9 to 1. One opposed.

SEN. ODELL: Eight to one.

CHAIRWOMAN WALLNER: Oh, I'm sorry, 8 to 1. The motion passes.

**\*\*\* {MOTION ADOPTED}**

**\*\*** REP. EATON: Move approval as amended.

CHAIRWOMAN WALLNER: And Representative Eaton moves approval as amended.

SEN. FORRESTER: Second.

CHAIRWOMAN WALLNER: Senator Forrester seconds. All in favor? Any opposed? None opposed. So the motion passes.

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\*\*\* {MOTION ADOPTED}

CHAIRWOMAN WALLNER: So now off to CMS; right?

MR. MEYERS: We're off to the races.

CHAIRWOMAN WALLNER: We've been waiting for that for a long time.

MR. MEYERS: We have. Thank you.

CHAIRWOMAN WALLNER: Thank you. I think our next meeting is on Monday, June 9<sup>th</sup>, at 10 o'clock. That's our regular scheduled Fiscal Committee meeting. So motion to adjourn the meeting.

\*\* SEN. ODELL: So moved.

SEN. FORRESTER: Second.

\*\*\* {MOTION ADOPTED}

(Meeting adjourned at 1:29 p.m.)

## CERTIFICATION

I, Cecelia A. Trask, a Licensed Court Reporter-Shorthand, do hereby certify that the foregoing transcript is a true and accurate transcript from my shorthand notes taken on said date to the best of my ability, skill, knowledge and judgment.

Cecelia A. Trask  
Cecelia A. Trask, LSR, RMR, CRK  
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