MINUTES

HOUSE HEALTH & WELFARE COMMITTEE

DATE: Friday, January 18, 2013

TIME: 9:00 A.M.

PLACE: Room EW20

MEMBERS: Chairman Wood(27), Vice Chairman Perry, Representatives Hancey, Henderson, Hixon, Malek, Morse, Romrell, Vander Woude, Rusche, Chew

ABSENT/ EXCUSED: Representative(s) Malek

GUESTS: Bill Bankula, Idaho Resident and The Beutler Family; Corey Makizuiu, and Kathryn Hansen, Idaho Association of Developmental Disabilities Agencies (IADDA); Lisa Hettinger, Natalie Peterson, Sheila Pugatch, Art Evans, Division of Medicaid; Angela Lindig, Idaho Parents Unlimited; Carlyann McLaren, and Laura Sandidge, Advocates 4 Inclusion; Cam Gillilam, and Rebecca Fadness, Family & Community Services; Chard Cardwell, Bev Barr, Paul Leary, David Simnitt, Department of Health & Welfare (DHW); Ed Hawley, Department of Administration; Heidi Low, Ritter Public Relations; Jim Baugh, Disability Rights; Elizabeth Criner, Idaho State Dental Association (ISDA); Richelle Tierney, Idaho Resident & Parent.

Chairman Wood(27) called the meeting to order at 9:00 a.m.

MOTION: **Vice Chairman Perry** made a motion to approve the minutes of the January 16, 2013, meeting. **Motion carried by voice vote.**

MOTION: **Rep. Rusche** made a motion to approve the minutes of the January 17, 2013, meeting. **Motion carried by voice vote.**

DOCKET NO. 16-0310-1201: **Lisa Hettinger**, Chief, Division of Medicaid Financial Operations, presented **Docket No. 16-0310-1201**, a Pending Rule for Medicaid Enhanced Plan Benefits that addresses access and quality by creating a legislative presentation process for proposed rate changes for personal care, mental health, developmental disabilities (DD) and service coordination. It outlines how cost surveys are conducted, and the stratification of cost data to ensure proposed rate change efficiency . Federal law requires that reimbursement rates allow eligible participants adequate service access and quality.

Responding to questions, **Ms. Hettinger** stated that the identified triggers and thresholds are both federally prescribed and internal decisions, stating that further action on any complaint will be determined by its nature.

Kathryn Hansen, Executive Director, Community Partnerships of Idaho, on behalf of Vocational Services of Idaho and the IADDA, explained the background of rate increases, the last of which was in 2006. She talked about provider frustration and legal methods used to force rate increases. Ms. Hansen stated that they are concerned with rural access, access report completion time frame clarity, report presentation audience, and resulting actions. She requested follow up on rate study triggers and definition of the quality indicators. Ms. Hansen testified in support of the 100% mandatory participation; however, she expressed concern that smaller agencies would find the time required to complete the survey an issue, leading to disenrollment, and further impacting access.

Responding to questions, **Lisa Hettinger** stated that rate reviews will be done as access of quality concerns arise, with a type of rate based cost survey component scheduled. She remarked that a previous rate survey had a very small sample size that was not representative of the provider community at large. The Pending Rule changes help assure access is not an issue. **Paul Leary**, Administrator, Division of Medicaid, answered a committee question, stating that the Pending Rules are a federal mandate that provider payments are based on an exponential quality of service. **Kathryn Hansen** shared her concern about the implementation of payment rates and the unclear explanation of rate study time frames and triggers, especially in light of existing access issues. Lisa Hettinger stated that access reports indicating an issue will result in an issue determination and rate reimbursement increases. A trigger could be an increase in access complaints. Access measurement will be a baseline year minimum. Access reports are presented to the Legislative Health and Welfare Committees. Ongoing quality measures trigger a rate study prior to critical incidents or participant eligibility problems preceding any critical incident. Since an 85% survey participation could be a skewed example, they are working with providers and provider groups to obtain more information. The survey-regulated data base drives to the provider costs, which are not always reflected in their charges.

Ms. Hettinger replied that they must separate the exact costs of providing services from any profit margin. The proposed cost determination rate includes the cost outline. **Chairman Wood(27)** clarified that federal law states that no program like this is allowed to pay more than 100% of costs, with the exception of critical access hospitals. **Paul Leary** explained that the Administration of Medicaid is under a state plan in alignment with the federal government. Reimbursement methodology is subject to federal approval, which does not historically provide a built-in profit margin, only a supplemental amount to maintain the business and keep the doors open.

Bill Benkula, Idaho Resident, testified that a 2006 study found that DD service providers were paid sixty to eighty percent of costs, with an ten dollar average hourly wage, while the community hourly rates increased. Actual provider costs are an integral part of the rate that cannot be disregarded. Responding to questions, Mr. Benkula stated that he neither supports nor opposes the rules, and is testifying to point out that focus on rate increase follow up is very important.

Paul Leary, responding to questions, stated that the law directs that Medicaid participants will have the same services access as the general public. This includes rural area services, which may be within thirty miles. The mandatory 100% survey participation assures a sample of the whole population, which is critical in order to set a provider reimbursement rate and maintain Medicaid participant access at the appropriate quality level. He stated that the actual payment amount is authorized by the Joint Finance and Appropriations Committee (JFAC), while the House Health and Welfare Committee authorizes the procedural tools to appear before JFAC with rate increases.

MOTION: **Rep. Morse** made a motion, with reservation, to approve **Docket No. 16-0310-1201**.

For the record, no one else indicated their desire to testify.

Commenting to the motion, **Rep. Rusche** stated that the real issue is effective appropriation when determining lack of adequacy. The methodology is good only if the Department is listening to what the market is saying. **Chairman Wood(27)** agreed that the rule is about methodology, remarking that the budget committee review is from a different perspective, presented to them once confirmation that it works is evident.

VOTE ON MOTION: **Chairman Wood(27)** called for a vote on the motion to approve **Docket No. 16-0310-1201. Motion carried by voice vote. Rep. Rusche** requested that he be recorded as voting **NAY**.

DOCKET NO. 16-0310-1202: **Natalie Peterson**, Bureau Chief, Long Term, presented **Docket No. 16-0310-1202**, which aligns the administrative rules with federal requirements between the Development Disabilities (DD) and Aged and Disabled (A&D) Waivers.

Bill Benkula, A Twin Falls Community-based Provider, on behalf of the Beutler family, testified regarding **Docket No. 16-0310-1202**, stating his concern surrounding the limitation of services provided to residences lived in or owned by family members, and the environmental modifications required prior to Medicaid qualification. Living in the home prior to modification approval can result in emergency care costs, placing such modifications out of the reach of many awaiting Medicaid participants.

Natalie Peterson responded that the "unless otherwise authorized by the department" statement allows consideration of special circumstances, and provide an appeals process. For participants renting a residence, approval by the owner is a consideration. She stated that equipment can be temporary or permanent modifications. Participants in non-paid family homes may qualify as a certified family home (CFH), which requires accessibility for participants in their care.

Rep. Morse stated that the appraisal definition indicates an archaic Appraisal Institute reference which needs to be amended in the future.

For the record, no one else indicated their desire to testify.

MOTION: **Rep. Rusche** made a motion to approve **Docket 16-0310-1202**, with the exception of **Section 703.06 Subsection b,** the requirement that permanent modifications are required to a family-owned residence.

SUBSTITUTE MOTION: **Vice Chairman Perry** made a motion to approve **Docket No. 16-0310-1202**, commenting that Section 12 allows for temporary and permanent residential adaptations.

VOTE ON SUBSTITUTE MOTION: **Chairman Wood(27)** called for a vote on the substitute motion to approve **Docket No. 16-0310-1202. Motion carried by voice vote**. **Representatives Rusche, Chew and Hancey** requested that they be recorded as voting **NAY**.

DOCKET NO. 16-0310-1203: **Arthur Evans**, Bureau Chief, Bureau of Developmental Disabilities Services, presented **Docket No. 16-0310-1203**, that completes the full transition of the Children's DD System Redesign by removing the Children's DDA services and Children's DD service coordination. Additional changes include the addition of the Infant Toddler Program as a provider for children's DD services, and clarifications to the new Children's System Redesign rules.

Responding to questions, **Mr. Evans** stated that enrollee response to the budget adequacy is quite good; however those who haven't enrolled remain concerned with adequate budgets. He said they would continue reviews to assure adequacy. Mr. Evans indicated that Early Periodic Screen Diagnosis and Treatment (EPSDT) provides a safety net for additional funded services to meet needs not covered by a budget tier.

Kathryn Hansen on behalf of the IADDA, stated their concern that families are being told that habilitative support is only available in community settings, citing examples. Responding to questions, she agreed that their concern is in the implementation, not the rule, with the anticipation that the issues can be resolved.

Paul Leary, responded that discussions continue and the Department is committed to making sure participants get the right service in the right place, with the right outcomes. He said they will improve staff consistency through training.

In response to a committee question, **Kathryn Hansen** stated that since the rollout has just started, they are beginning to learn about issues, many of which may tie into field interpretation.

Angela Lindig, Director, Idaho Parents Unlimited, testified that complaints are surfacing that inconsistent and confusing information is coming from providers and the Department. Themes include not enough rural providers due to noncompete clauses, along with the availability, inconsistency, and schedule inaccessibility of family-direct classes. Parents are also being told sometimes that they are not qualified to be their child's support broker. Complaints about denials of goods & services which were to be part of the budgets are now surfacing and parents are being told that habilitative supports cannot be done in a center. She requested that notifications be done in a timely, consistent manner, or as promised. Ms. Lindig responded to a question that their concerns were about the adequacy of the budget along with the transition operation and management within the Department.

Marilyn Sword, Executive Director, Idaho Council on DD, described a crisis situation that resulted in acute hospitalization that could have been averted with better information and a local concrete process. She said her clients have been told there are no crises services on the plans, even though a backup plan is required.

Laura Sandidge, Advocates 4 Inclusion, shared that her concerns were the same as mentioned previously with the addition of individual respite accessibility. Additional concerns include certification requirements, and the two different methods of service coordination and case management.

For the record, no one else indicated their desire to testify.

MOTION: **Rep. Romrell** made a motion to approve **Docket No. 16-0310-1203.**

Rep. Rusche commented to the motion that he is concerned about the budget adequacy, providers understanding that they can get the necessary services, and the DHW role in helping children receive adequate care in their community.

VOTE ON MOTION: **Chairman Wood(27)** called for a vote on the motion to approve **Docket No. 16-0310-1203. Motion carried by voice vote.**

DOCKET NO. 16-0310-1204: **David Simnitt**, Deputy Administrator, Medicaid Division, presented **Docket No. 16-0310-1204**, a Pending Rule that details qualifications for dental services, the specific dental benefits covered, and the requirement and process for prior approval of concurrent skill building services.

Kathryn Hansen, testified to implementation concerns, stating that the dual diagnosis budget has been confusing since the DHW states that the $900,000 was never removed and is confusing with the statement that they are now available.

David Simnitt commented that the DD and Mental Health (MH) programs budget methodology reviewed the historic span in a variety of services. The original estimation used an historical number of adults receiving services; however, fewer requests than expected have been approved, and those not approved have lacked eligibility information. It is just coming to the Department's attention that there are questions and confusion that needs to be addressed before the budget dollars can be added. Responding to question, Mr. Simnitt stated that the $900,000 service allocation was based on the estimate number and is impacted by the lower-than-expected amount of requests.

Jim Baugh, Executive Director, Disability Rights of Idaho, testified that individuals who qualify for DD and Psychosocial rehab services also have intellectual disabilities or autism along with mental illness and, requiring support for basic living aspects with specialized coaching and training. DD trainers do not do the specialized coaching and training, so dual diagnosis situations require different providers with different qualifications. When computing their DD budgets, it is more appealing to not reduce items that cover staying in their homes and surviving, rather than request appropriate benefits. This may partially explain the lower request rate and may also indicate a possible future crisis from lack of mental illness services.

In response to a questions, **Mr. Baugh** stated that he is opposed to the rule text which neither requires nor prohibits the Department from using this method, an issue of interpretation and implementation. He said he would like clarification that costs for psychosocial rehabilitative services are not a duplication of DD services and do not come out of DD service budgets.

Rep. Vander Woude commented that testimony has been on the agency review, instead of the rule review. **Chairman Wood(27)** agreed, stating that he authorized implementation to the DHW and chose to allow the testimony to alert the legislature to possible issues.

For the record, no one else indicated their desire to testify.

MOTION: **Rep. Morse** made a motion to approve **Docket No. 16-0310-1204**.

Rep. Hixon commented to the motion that he is in favor of the Pending Rule, but the Department has to try to be all inclusive with the regulated rule process and communicating with stakeholders to curtail the issues mentioned today.

VOTE ON MOTION: **Chairman Wood(27)** called for a vote on the motion to approve **Docket No. 16-0310-1204**. **Motion carried by voice vote.**

DOCKET NO. 16-0310-1205: **Lisa Hettinger**, presented **Docket NO. 16-0310-1205**, which continue existing reimbursement methodology for nursing facilities and intermediate care facilities for the intellectually disabled (ICF/IDs) by changing the cost report year definition. Additional changes establish the authority and criteria to implement Behavioral Care Units and establish their rate structure.

For the record, no one indicated their desire to testify.

MOTION: **Vice Chairman Perry** made a motion to approve **Docket No. 16-0310-1205. Motion carried by voice vote.**

ADJOURN: There being no further business to come before the committee, the meeting adjourned at 11:22 a.m.

Representative Wood(27)
Chair

Irene Moore
Secretary