

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

DATE: Monday, January 29, 2018

TIME: 3:00 P.M.

PLACE: Room WW54

MEMBERS PRESENT: Chairman Heider, Vice Chairman Souza, Senators Martin, Lee, Agenbroad, Foreman, Potts, and Jordan

ABSENT/ EXCUSED: Senator Harris

NOTE: The sign-in sheet, testimonies and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.

CONVENED: **Chairman Heider** called the meeting of the Health and Welfare Committee (Committee) to order at 3:00 p.m.

MINUTES APPROVAL: **Senator Potts** moved to approve the Minutes of January 16, 2018. **Senator Jordan** seconded the motion. The motion carried by voice vote.

PASSED THE GAVEL: Chairman Heider passed the gavel to Vice Chairman Souza.

DOCKET NO. 16-0715-1701 **Rules Relating to Behavioral Health Programs.** **Treena Clark** introduced herself as a Program Manager for the Division of Behavioral Health with the Idaho Department of Health and Welfare (DHW). **Ms. Clark** explained that this docket relates to the Division of Behavioral Health's criminal history check clearance (CHC) waiver process. The Division of Behavioral Health allows individuals who are denied a criminal history clearance from DHW's Criminal History Unit to request an administrative review of their individual circumstances and seek a waiver to provide services. Reviewers consider the severity and nature of the individual's crime, the period of time since the crime occurred, and the circumstances surrounding the incident. Crimes of a sexual nature, violent crimes, crimes against children, and felonies punishable by life imprisonment or death are not eligible for the CHC waiver.

Ms. Clark explained that this process facilitates the provision of peer support services. She stated that support services from a peer or family provider are proven to effectively assist individuals with behavioral health issues. Peer providers bring a unique perspective and lived experience to the recovery process. Through the background check clearance waiver process, previously ineligible individuals have been able to provide peer support services in various behavioral health programs.

Ms. Clark noted that this docket simply clarifies that an individual may apply for a CHC waiver. Negotiated rulemaking was not conducted, and there will be no fiscal impact.

Senator Jordan commended the Division of Behavioral Health for its work on the CHC waiver process. She asked why financial crimes are not included in the list of crimes ineligible for the waiver process. She expressed concern that peer support providers could take advantage of an individual financially. **Ms. Clark** noted that waiver eligibility for financial crimes may have been discussed when the rule was developed. She mentioned that administrative reviewers consider each waiver application on an individual basis. They seek case information from various sources

in order to determine whether it is appropriate to grant the applicant a waiver.

Senator Jordan asked Ms. Clark if she would feel comfortable denying a waiver application to someone who had committed financial crimes. **Ms. Clark** responded in the affirmative. She noted that the reviewers are from the Idaho Supreme Court, the Idaho Department of Corrections, and the Idaho Department of Juvenile Corrections.

MOTION: There being no further questions or testimony, **Senator Jordan** moved to approve **Docket No. 16-0715-1701**. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 16-0717-1701 **Rules Relating to Substance Use Disorders Services.** **Ms. Clark** explained that this docket relates to voluntary substance use disorders services administered by DHW. In 2016, the Division of Behavioral Health removed the description of the CHC waiver process from this chapter; the process was added to IDAPA 16.07.15, "Behavioral Health Programs." As a result, recovery support service providers who only offer services through the Division of Behavioral Health's Management Services Contractor were made ineligible for a CHC waiver. **Ms. Clark** stated that this was an unintended consequence of the 2016 rule change. This docket will reinstate these providers' access to the background check clearance waiver process. The Division of Behavioral Health initiated this rule change at the request of providers and other affected parties interested in the waiver process. There will be no fiscal impact.

MOTION: There being no further questions or testimony, **Senator Martin** moved to approve **Docket No. 16-0717-1701**. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 16-0730-1701 **Rules Relating to Behavioral Health Community Crisis Centers.** **Ms. Clark** stated that this docket replaces a description of the CHC waiver process with a reference to the process in IDAPA 16.07.15. Negotiated rulemaking was not conducted, and there will be no fiscal impact.

Senator Martin asked why the CHC waiver process is being removed from the rule chapter. **Ms. Clark** explained that the Division of Behavioral Health wants the CHC waiver process to be described in only one rule chapter. Any changes made to the process can then be made in a single rule chapter.

MOTION: There being no further questions or testimony, **Senator Agenbroad** moved to approve **Docket No. 16-0730-1701**. **Senator Potts** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 16-0733-1701 **Rules Relating to Adult Mental Health Services.**

DISCUSSION: **Senator Martin** noted that this docket includes the same rule changes as **Docket No. 16-0730-1701**.

MOTION: There being no further questions or testimony, **Senator Martin** moved to approve **Docket No. 16-0733-1701**. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

DOCKET NO. 16-0750-1701 **Rules Relating to Minimum Standards for Non-Hospital, Medically-Monitored Detoxification/Mental Health Diversion Units.** **Ms. Clark** stated that this docket adds a reference to the CHC waiver process to the rule chapter. This reference was requested by the provider community.

MOTION: There being no further questions or testimony, **Chairman Heider** moved to approve **Docket No. 16-0750-1701**. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

**DOCKET NO.
16-0310-1701**

Rules Relating to Medicaid Enhanced Plan Benefits. **Sheila Pugatch** introduced herself as the Bureau Chief of the Division of Medicaid Bureau of Financial Operations within DHW. **Ms. Pugatch** stated that this docket is meant to facilitate an increase in behavioral care units. Nursing facilities typically provide several hours of skilled nursing per day to each Medicaid participant. **Ms. Pugatch** noted that behavioral care units care for individuals that require additional staff time due to their behaviors. In 2013, behavioral care units were incorporated into Medicaid's nursing facility reimbursement program. Since 2013, there have been six behavioral care units in Idaho, which serve approximately 200 participants annually.

In 2017, the Idaho Health Care Association contacted the Division of Medicaid about a lack of access to behavioral care units in Ada and Canyon counties. Current behavioral care units are located outside of Ada and Canyon counties; as such, Medicaid participants in these counties lacked access to proper behavioral care. DHW met with the Idaho Health Care Association and other stakeholders to discuss the issue. **Ms. Pugatch** noted that one solution was to remove the financial barrier for nursing facilities to establish behavioral care units.

The existing rule chapter requires nursing facility operators to invest money in additional staff time for behavioral care units for 18 months before entering Medicaid's nursing facility reimbursement program. The proposed rule change would reduce this requirement to two months. **Ms. Pugatch** explained that this is meant to encourage nursing facility operators to offer behavioral care services. **Ms. Pugatch** reported that negotiated rulemaking was conducted, but DHW received no substantive comments.

Senator Agenbroad noted that the definition of "BCU" (behavioral care unit) was stricken from the rule, but the acronym is still included. He asked if "BCU" was defined elsewhere in the rule. **Ms. Pugatch** stated that the term is defined in the rule.

Senator Lee sought further information regarding the fiscal impact of this docket. She asked for an estimate of costs or savings incurred by the rule changes, as well as the number of individuals who would be able to access the benefits. **Ms. Pugatch** stated that, in 2016, Idaho Medicaid paid almost \$500,000 to St. Luke's hospital for care that could have been provided by a behavioral care unit. She noted that this amount was equal to \$1,300 per day. Behavioral care unit daily rates range from \$253 to \$326.

MOTION: There being no further questions or testimony, **Senator Jordan** moved to approve **Docket No. 16-0310-1701**. **Chairman Heider** seconded the motion. The motion carried by **voice vote**.

RS 25838
RS 25839
RS 25840 **Relating to Organ Donation.** **Chairman Heider** explained that **RS 25838**, **RS 25839**, and **RS 25840** relate to organ donation. They address: 1.) procedures that first responders follow in regard to organ donation, and 2.) informing college students and state employees about the option to become an organ donor.

MOTION: There being no more questions, **Senator Agenbroad** moved to send **RS 25838**, **RS 25839**, and **RS 25840** to print. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

PASSED THE GAVEL: Vice Chairman Souza passed the gavel back to Chairman Heider.

ADJOURNED: There being no further business, **Chairman Heider** adjourned the meeting at 3:24 p.m.

Senator Heider
Chair

Rachel Goodman
Secretary