

MEDICAID REFORM ADVISORY COUNCIL

ACTIONS ON RECOMMENDATIONS

SENATOR DON PEDERSON, CHAIR

1.0 – Fiscal Sustainability

The Medicaid Program in Nebraska, as it is currently structured, will not be fiscally sustainable in the future. State and federal expenditures for the Medicaid program in Nebraska approached \$1.4 billion in SFY2005, an increase of 41.9% over the last five years. General fund expenditures increased 48.1% for an average annual increase of almost 8.2%. During the same time, state revenues increased only about 3.5% per year.

The General Fund appropriation available for the Medicaid program will increase to \$1.4 billion by 2025, assuming Medicaid maintains its proportion of projected general fund revenues of 20.1%. The result is a \$785 million gap between projected Medicaid General Fund expenditures and the projected appropriations available for Medicaid in Nebraska in 2025. Unless efforts are taken to curb the growth in Medicaid expenditures, they will significantly outpace the projected growth in state revenues.

Recommendation 1.0a - Vote of support given.

Strategy 1.01a language:

“The purpose of the Nebraska Medicaid Program is to assist low-income persons to obtain access to needed health care and related services. Funding for the program will be based on an assessment of state resources and the competing needs of other state-funded programs.”

Strategy 1.0a2 - Motion was made by Kathy Campbell and seconded by Cory Shaw that ***there be reference in a biennial review to incorporate the core principals of - access, prevention, shared participation and responsibility, and sustainability*** – as part of the analysis of the long-term cost impact of the Medicaid program. Campbell emphasized that a review of those public and private partnerships also be included.

Aye: (10) Senator Pederson, Campbell, Douglas, Fitzsimmons, Martin, Ross, Shaw, Sensor, Snyder & Sorrentino.

PASSED

1.1 – Defined Contribution & Additional Waivers

States have many options for reforming Medicaid – some major changes to existing programs, changes within the current system, or major reform efforts. The intent is to transform their Medicaid programs from “defined benefit” to “defined contribution” plans.

Recommendation 1.1a – Motion made by Ron Ross and seconded by Kathy Campbell to approve Nebraska retaining the existing Medicaid defined benefit program and implement changes within the current structure, including the use of additional waivers.

Aye: (10) Senator Pederson, Campbell, Douglas, Fitzsimmons, Martin, Ross, Shaw, Sensor, Snyder & Sorrentino. **PASSED**

Recommendation 1.1b – Motion was made by Campbell and seconded by Shaw to require a *biennium report to the Legislature on how we are doing with regard to the Medicaid reform review*. The motion was then modified to *broaden what a consultant may recommend, which is not only to look at other states, but other bold ideas that perhaps other states do or have, as the evaluation occurs*. The motion was modified for the third time when Ross suggested Nebraska may need to modify any RFP's to include more than one consultant, thus the word "a" was removed and the word *consultant* was modified to "*consultants*."

Aye: (10) Senator Pederson, Campbell, Douglas, Fitzsimmons, Martin, Ross, Shaw, Sensor, Snyder & Sorrentino.

PASSED

1.2 – Eligibility

Eligibility in the Nebraska Medicaid Program is already quite restrictive with mandatory eligibility ranges from 37% to 70% of the Federal Poverty Level for adults and from 100% to 133% of the FPL for children. Only U.S. citizens and legal aliens are entitled to Medicaid eligibility.

Recommendation 1.2a - Motion was made to approve 1.2a by Campbell and seconded by Sensor. There will be no immediate substantive changes to current eligibility requirements, either by expanding or reducing eligibility standards.

Aye: (9) Senator Pederson, Campbell, Douglas, Fitzsimmons, Martin, Shaw, Sensor, Snyder & Sorrentino.

Nay: (1) Ross

PASSED

1.3 – Partial-Month Eligibility

Federal regulations require that Medicaid coverage be effective three months prior to the date of application and until the date an individual is no longer eligible. Nebraska would follow a more generous federal option to provide eligibility for the full month if an individual is eligible at any time during the month. Some states have elected partial coverage during the first and last months of eligibility, which is allowable under federal regulations.

Recommendation 1.3a - Motion was made by Snyder and seconded by Douglas to **delay** 1.3a during the first year of implementation of the program and address the issues brought up by the advisory commission. Sensor indicated his understanding of LB 709 was that of not passing costs onto providers. Campbell suggested that as part of the strategy, there be a statement to look at the timing, effect, and amount where actual savings will be incurred, prior to implementation.

Aye: (10) Senator Pederson, Campbell, Douglas, Fitzsimmons, Martin, Ross, Shaw, Sensor, Snyder & Sorrentino.

PASSED

1.4 – Medicaid Covered Services

To examine the appropriateness of services covered under the current Medicaid program in Nebraska, HHS completed a comparative analysis of the Medicaid program and the basic health, dental, and vision coverage available to Nebraska state employees. One difference noted is in the co-payment requirements (i.e., generic drugs, in-network office visits & outpatient surgery center).

Recommendation 1.4a - Motion was made by Sorrentino and seconded by Snyder to **use the Comprehensive Health Insurance Pool (CHIP) as a measure of comparison for optional services under Medicaid.** (Sorrentino indicated that CHIP has a mediating effect of making sure that base benefits are available, so this is a reasonable benchmark comparison).

Aye: (10) Senator Pederson, Campbell, Douglas, Fitzsimmons, Martin, Ross, Shaw, Sensor, Snyder & Sorrentino.

PASSED

1.5 – Cost Sharing

Cost sharing, in the form of co-pays, premiums and deductibles, is customary in the private insurance market. In the traditional Medicaid program, however, cost sharing is very limited and, just as importantly, unenforceable. Medicaid recipients cannot be denied services because they do not pay the co-pay. Federal regulations allow only minimal cost sharing for Medicaid eligible persons. Co-pays are controversial because of the argument that they do not only limit utilization of services to what is appropriate, but also reduce access to necessary health care.

Recommendation 1.5a – Motion was made by Shaw and seconded by Ross to approve 1.5a (separate state SCHIP program be established for children in families between 150% and 185% of FPL). Sliding fee cost-sharing will be established within federal limits, up to 5% of family income.

Aye: (8) Senator Pederson, Douglas, Martin, Ross, Shaw, Sensor, Snyder & Sorrentino.

Nay: (2) Campbell & Fitzsimmons

PASSED

Recommendation under Strategy 1.5b1 – Motion made by Campbell and seconded by Snyder to **strike “150%” and insert “200%”** regarding income exceeding that amount of the FPL, and they be required to contribute to the costs of Medicaid for their children on a sliding scale basis.

Aye: (10) Senator Pederson, Campbell, Douglas, Fitzsimmons, Martin, Ross, Shaw, Sensor, Snyder & Sorrentino.

PASSED

2.0 – Prescribed Drugs

Medicaid expenditures on prescribed drugs in Nebraska increased from \$127.6 million in SFY00 to over \$241 million in SFY05, for an average annual increase of 13.6%. Cost containment strategies already implemented in the Nebraska Medicaid drug program, including mandatory generics and prior authorization for certain classes of drugs; have shown some success in controlling prescription drug costs. Other strategies for controlling drug costs, including preferred drug lists and use of purchasing pools, can be considered by the Medicaid program.

Recommendation 2.0a – A motion was made by Campbell and seconded by Fitzsimmons to recommend that Nebraska adopt a program, similar to the Missouri Mental Health Medicaid Pharmacy Partnership Program model, to improve the use of drugs used to treat health conditions and to control the growth in Medicaid spending.

Aye: (10) Senator Pederson, Campbell, Douglas, Fitzsimmons, Martin, Ross, Shaw, Sensor, Snyder & Sorrentino.

PASSED

Recommendation 2.0b – Motion made by Martin and seconded by Campbell to add language **“work with professional organizations and health care providers”** to improve use of drugs and control spending in Medicaid. (Director Joni Cover, Nebraska Pharmacy Association, provided definition of the duties of the Drug Utilization Review Board process & makeup of board).

Aye: (10) Senator Pederson, Campbell, Douglas, Fitzsimmons, Martin, Ross, Shaw, Sensor, Snyder and Sorrentino

PASSED

Recommendation 2.0c – Motion made by Sensor and seconded by Shaw to support recommendation that HHSS contract with consultant to study the existing Medicaid pharmacy cost containment strategies and determine whether establishment of a preferred drug list or purchasing pool would result in additional savings to the Nebraska Medicaid Program.

Aye: (10) Senator Pederson, Campbell, Douglas, Fitzsimmons, Martin, Ross, Shaw, Sensor, Snyder & Sorrentino.

PASSED

3.0 - Long-Term Care

Long-term care services for the elderly and disabled are the largest expenditure categories in the Medicaid Program. Long-term care includes nursing facility services, Intermediate Care Facilities for persons with Mental Retardation (ICF-MRs), home health services, and Home & Community Based Services (HCBS), including assisted living.

Recommendation 3.0a – Motion was made by Campbell and seconded by Shaw to approve HHSS seeking approval from CMS (Center for Medicaid & Medicare Services) to incrementally expand the capacity of the Aged & Disabled Home and Community-Based Services waivers in Nebraska as Nebraska's population ages.

Aye: (10) Senator Pederson, Campbell, Douglas, Fitzsimmons, Martin, Ross, Shaw, Sensor, Snyder & Sorrentino.

PASSED

Recommendation 3.0b – Motion was made by Snyder and seconded by Shaw to approve HHSS contracting with a consultant to evaluate existing comprehensive assessment tools and to assist in identifying quality based performance measures to adequately assess the effectiveness of care in assisted living and in-home settings.

Aye: (9) Senator Pederson, Campbell, Douglas, Fitzsimmons, Ross, Shaw, Sensor, Snyder & Sorrentino.

Absent:(1) Martin

PASSED

Recommendation 3.0c – Motion made by Snyder and seconded by Douglas to approve recommending HHSS contract with consultants to revise the current reimbursement methods for long-term care providers of nursing facility, ICF-MRs, assisted living and in-home services.

Aye: (9) Senator Pederson, Campbell, Douglas, Fitzsimmons, Ross, Shaw, Sensor, Snyder & Sorrentino.

Absent:(1) Martin

PASSED

NOTE: Ron Ross indicated that he would like to provide a minority report on recommendation 3.0a regarding "cost of services." Although the advisory council had already voted in favor of that particular recommendation, and Chairman Senator Pederson indicated that it appeared to be more of an interdepartmental determination versus a subject of legislation, he would be willing to have a minority report attached to the recommendations, should Mr. Ross agree. Mr. Ross did agree. See Minority Opinion attachment.

Recommendation 3.0d – Motion was made by Campbell and seconded by Sensor to approve HHSS establishing an advisory committee to work with HHSS and encourage development of Home and Community Based Services, particularly in rural areas of the state.

Aye: (9) Senator Pederson, Campbell, Douglas, Fitzsimmons, Ross, Shaw, Sensor, Snyder and Sorrentino.

Absent:(1) Martin

PASSED

Recommendation 3.0e – Motion made by Douglas and seconded by Campbell to approve HHSS collaborate with AAAs to better inform older adults of available, appropriate and cost-effective alternatives to nursing facility care.

Aye: (9) Senator Pederson, Campbell, Douglas, Fitzsimmons, Ross, Shaw, Sensor, Snyder and Sorrentino.

Absent:(1) Martin

PASSED

3.1 - Technological Innovations

Another possible strategy for controlling costs within the Medicaid program is to take greater advantage of recent innovations in technology as they relate to health care. One such innovation is telemonitoring that connects the individual with his or her health care provider.

Recommendation 3.1a – Motion made by Campbell and seconded by Fitzsimmons that HHSS identify cost effective technologies to improve distance delivery of health care services to Medicaid recipients, especially those in rural areas.

Aye: (9) Senator Pederson, Campbell, Douglas, Fitzsimmons, Ross, Shaw, Sensor, Snyder and Sorrentino.

Absent:(1) Martin

PASSED

4.0 – High-Cost Medicaid Recipients

Consistent with the experience of commercial health insurance companies, a small percentage of Medicaid recipients account for the majority of Medicaid expenditures. While high cost clients spend a disproportionate share of the Medicaid dollars, and the reasons for high medical costs are often

complex and involve many factors, a plan is needed to ensure that these clients have access to appropriate services and these services are used in the most cost-effective way possible.

Recommendation 4.0a - Motion was made by Sensor and seconded by Ross to approve recommending that HHSS contract with a management entity to prepare, implement, and manage high-cost Medicaid recipients with multiple medical conditions. HHSS will provide close medical and administrative oversight of the contracted management entity to ensure that the goals of the program are met and maintained.

Aye: (9) Senator Pederson, Campbell, Douglas, Fitzsimmons, Ross, Shaw, Sensor, Snyder and Sorrentino.

Absent:(1) Martin

PASSED

Recommendation 4.0b – Motion made by Campbell and seconded by Sorrentino to approve that enhanced care coordination services for those Medicaid recipients with multiple medical conditions who are currently in managed care plans in Douglas, Sarpy, and Lancaster counties, be provided by their current managed care providers.

Aye: (9) Senator Pederson, Campbell, Douglas, Fitzsimmons, Ross, Shaw, Sensor, Snyder and Sorrentino.

Absent:(1) Martin

PASSED

4.1 – Enhanced Home Visitation Program for Pregnant Teens

Good prenatal care is essential in preventing adverse birth outcomes. Studies estimate that every dollar spent on prenatal care yields between \$1.70 and \$3.38 in savings by reducing neonatal complications. Prenatal care shows immediate cost benefits in caring for both the mother and the baby. Currently, a woman who receives Medicaid because of her pregnancy is eligible for prenatal care, and for 60 days of postnatal care. This may not be enough to ensure a healthy baby.

Recommendation 4.1a – Motion was made by Campbell and seconded by Fitzsimmons to approve that HHSS include, as a covered service, a nurse home visitation program for high risk pregnant teens and work with providers to establish such programs in those parts of the state where those services do not currently exist.

Aye: (8) Senator Pederson, Campbell, Douglas, Fitzsimmons, Shaw, Sensor, Snyder and Sorrentino.

Nay: (1) Ross (For the record, this is probably a good idea, but I am opposed because it's an additional service).

Absent:(1) Martin

PASSED

5.0 – Personal Responsibility

Medicaid is a public assistance program. In Nebraska's case, the source of the general funds that pay the state's share of Medicaid comes from sales tax and income tax revenues paid by residents from every income level. Nebraska taxpayers are prepared to assist low-income residents to obtain access to necessary healthcare, but they also reasonably expect Medicaid-eligible persons and families to assume personal responsibility, to the extent that they are able.

Recommendation 5.0a – Motion made by Sorrentino and seconded by Douglas to approve the cost-sharing recommendations and be adopted and implemented according to the strategies proposed as an appropriate part of personal responsibility (co-pay, premiums, deductibles).

Aye: (9) Senator Pederson, Campbell, Douglas, Fitzsimmons, Ross, Shaw, Sensor, Snyder and Sorrentino.

Absent:(1) Martin

PASSED

Recommendation 5.0b – Motion made by Sensor and seconded by Snyder to recommend that HHSS prepare and distribute educational materials that will assist Medicaid-eligible persons to better understand the healthcare system and how to make informed consumer choices.

Aye: (9) Senator Pederson, Campbell, Douglas, Fitzsimmons, Ross, Shaw, Sensor, Snyder and Sorrentino.

Absent:(1) Martin

PASSED

Recommendation 5.0c – Motion made by Douglas and seconded by Campbell that Nebraskans be encouraged to plan to provide for their own long-term care services as part of their retirement planning.

Aye: (9) Senator Pederson, Campbell, Douglas, Fitzsimmons, Ross, Shaw, Sensor, Snyder and Sorrentino.

Absent:(1) Martin

PASSED

5.1 – Cash and Counseling

Cash and counseling places responsibility on the consumer to obtain appropriate services. Under C & C, Medicaid beneficiaries are provided a flexible monthly allowance that allows them, or a personal representative, to directly purchase their personal care services and other needed support. This is a client-directed service model where clients are trained to recruit and monitor providers. Average costs are calculated by the state and the state then determines the amount of funds that would be allocated to clients to purchase their own services.

Experience of the states that have implemented these programs has been that the program is at least cost neutral considering both waiver and other Medicaid expenditures. Over time, any savings would be realized by encouraging and supporting home and community based services to avoid institutional long term care.

Recommendation 5.1a – Motion made by Campbell and seconded by Sorrentino to support a service delivery model, developed by HHSS, for consumer directed home and community based care. This service delivery model would improve recipient satisfaction by giving them the opportunity to direct a cash allowance to purchase home and community based services as an alternative to nursing facility care. (FYI- They will not be able to negotiate rates, but can select services like a mini-defined contribution program).

Aye: (9) Senator Pederson, Campbell, Douglas, Fitzsimmons, Ross, Shaw, Sensor, Snyder and Sorrentino.

Absent:(1) Martin

PASSED

6.0 – Alternatives to Medicaid

The Medicaid Reform Act also required the Medicaid designees to consider alternatives to Medicaid that should also be pursued.

Recommendation 6.1a – Motion made by Douglas and seconded by Sorrentino to recommend that HHSS work with the State Department of Insurance to explore the possibility of creating a public/private partnership with small employers to offer insurance coverage to employees.

Aye: (9) Senator Pederson, Campbell, Douglas, Fitzsimmons, Ross, Shaw, Sensor, Snyder and Sorrentino.

Absent:(1) Martin

PASSED

Strategy 6.1a1: Strategy that HHSS and the Dept of Insurance jointly create an advisory committee consisting of small employers, employees, and insurers to identify ways of improving the environment for affordable basic group health insurance plans. Tony Sorrentino suggested that it might be a good idea to also include some expertise from the broker community for input.

6.2 – Community Health Centers

Community Health Centers (CHC) are an important part of the primary health care network. CHCs can provide improved access to primary and preventive care, discounted prescription drugs, behavioral health care, and usually dental care for low income, Medicaid eligible and uninsured persons. They can be operated by local health departments and non-profit organizations.

Recommendation 6.2 a – Motion made by Ross and seconded by Campbell to recommend HHSS establish a technical assistance committee to work with local health providers, elected officials, and other community leaders to establish community health centers, satellites of existing community centers, and where possible, help them qualify as Federally Qualified Health Centers.

Aye: (8) Senator Pederson, Campbell, Douglas, Fitzsimmons, Ross, Shaw, Sensor and Snyder.

Absent:(2) Martin & Sorrentino

PASSED

6.3 – Federal Discount Prescription Program – 340B

The 340B program is a federal program that requires manufactures to sell covered outpatient drugs at a lower cost to certain “covered entities.” Covered entities include community health centers, migrant health centers, urban Indian clinics, and sexually transmitted disease clinics, to name a few. Currently, the community health centers in Nebraska are taking advantage of the 340B program, but it is estimated four to six other eligible entities in Nebraska could also be taking advantage of the program and reduce the cost of prescription drugs by 10 to 70 percent.

Recommendation 6.3a – Motion made by Sensor and seconded by Fitzsimmons to recommend that HHSS encourage eligible providers to participate in the federal 340B program to reduce the cost of prescription drugs for low-income persons, including Medicaid recipients.

Aye: (8) Senator Pederson, Campbell, Douglas, Fitzsimmons, Ross, Shaw, Sensor and Snyder.

Absent:(2) Martin & Sorrentino

PASSED

7.0 – Alternative Funding Strategy

Alternative Medicaid funding strategies are possible sources of additional federal funds, but they must be employed carefully to avoid holding state appropriations hostage to future changes in federal policy.

Establishing alternative funding programs can be complex. CMS examines all such proposals carefully, whether they are established under a state plan amendment or a waiver. There are stringent auditing requirements to be met.

Any proposal involving Medicaid funding strategies must be reviewed prudently. First, we must determine if the proposal will require an increase in general funds to support it. Second, we must consider the effect of a cutback in future federal funding, if there is a change in federal policy. The proposals need to be construed in such a way that if there is a change in federal policy, it will not require increased general fund expenditures to replace the federal funds.

Provider Taxes

Provider taxes involve the levying of a state tax on an entire category of health care providers as a method to generate revenue. The tax must be applied uniformly to all providers in the category, but providers may be reimbursed for the portion of the tax allocated to Medicaid clients if their reimbursement is cost-based. Nebraska currently applies a 6% net revenue tax to ICF-MR providers, whose clients are largely Medicaid eligible. The Medicaid related portion of the tax expense is paid back to the facilities as an allowable cost of doing business and the reimbursement of this expense draws 60% of federal funding.

Certified Public Expenditures (CPE)

Certified public expenditures use public funds provided through a public entity other than the Medicaid agency to satisfy state matching requirements to leverage federal funds. Other state agencies incur a Medicaid eligible expense and provide the public funds for the required non-federal match. The Medicaid agency then includes the expense on federal claims and passes the federal matching share through to the certifying entity.

CPE is used to pull in federal funding for state obligations that would otherwise be financed primarily with state dollars.

Recommendation 7.0a – Motion made by Ross and seconded by Campbell to recommend that HHSS carefully study possible ways to leverage federal funds without increasing the burden on the state general fund. (FYI – the proposal must also contain an exit strategy that will provide for the eventuality of a change in federal policy that limits or eliminates the strategy. Legislation and a state plan amendment would be required to implement any provider taxes).

Aye: (8) Senator Pederson, Campbell, Douglas, Fitzsimmons, Ross, Shaw, Sensor and Snyder

Absent:(2) Martin & Sorrentino

PASSED

ADDITIONAL RECOMMENDATIONS

Recommendation 1 – A motion was made by Campbell and seconded by Sorrentino to investigate whether a Family Planning Waiver would benefit the state of Nebraska. CMS has approved waivers that provide for family planning coverage and extends out for some period of time after the child is born, with the emphasis on family planning and avoiding unwanted pregnancies. There are 22 states that have obtained a family planning waiver, which would allow them to go up to two years after a child is

born. Is this council interested in having HHSS look into what the other states have done and saved quite a bit of money on or not?

Aye: (9) Senator Pederson, Campbell, Douglas, Fitzsimmons, Ross, Shaw, Sensor, Snyder and Sorrentino.

Absent:(1) Martin

PASSED

Mr. Sensor felt compelled to make a comment about the estimated net savings. I constantly struggle with the front-end cost of a program versus the true savings.

1. First, articulate the cost of new programs versus the savings of new programs
2. Cost avoidance
3. Cost reduction - I don't see cost avoidance in the same venue that I see cost reduction - suggest that you consider articulating the difference between the two – one is a real savings and one is meaning our costs are not going to up even further. Those are not created equal in my mind.
4. Low probability – high probability – I would want to know your confidence level.

As a member of this committee, we have made our remarks under the belief that although these recommendations are not going to save the day, they may well stabilize, while indeed at some period time, learning's from other states and other ideas will allow more far-reaching reform.

Projected Cost Savings from Recommendations

Each of these recommendations was analyzed by the Medicaid Reform Advisory Council to determine the effect the proposed reform would have on the current eligible populations and current expenditures. These recommendations are intended to moderate the growth of Medicaid in Nebraska and reduce the amount of additional state dollars that are currently being projected as needed.

It is anticipated that the first full year of implementation for the recommended Medicaid reforms will be in SFY2008. Many of these recommended reforms will have up-front costs, particularly in the early years.

Estimated Net Savings for SFY2008 are \$72, 837,000

SFY 2015 are \$181,488,000

SFY 2025 are \$546,173,000

Estimated savings Table 4 attached

CLOSING COMMENTS

Senator Pederson indicated that to his knowledge, the Medicaid Reform Advisory Council was one of the first efforts that he has seen to actually reverse the course, or minimize the course, and it was very encouraging. This effort has not been in vain, it is a starting point. Everyone has played a role in trying to achieve this goal. Most of the items that were discussed really involve departmental activity versus legislative activity, although a few of them would require legislation.

Kathy Campbell indicated that it is critical how you set into motion the ongoing review of what is here. It shouldn't happen every five years, but the committee and the department should add this benchmark's and review how far we've gotten and what needs to be done, rather than starting over again.

Pat Snyder indicated that she was impressed with the work that was accomplished and the process. We only touched the issues, and we probably are not going to solve the problem, which tells me we need a system of being able to move forward. I think there could be merit to this system being repeated again.

Compiled on 12/14/05 by Joyce Morgan, RA for Senator Don Pederson, from notes, transcription and voting records.