

JOINT PERFORMANCE REVIEW COMMITTEE

FEBRUARY 11, 2016

MINUTES

The Joint Performance Review Committee met at 10:00 a.m. on Thursday, February 11, 2016 in Room A, MAC Building, Little Rock, Arkansas.

Committee members present: Senator Clark, Co-Chair, Linda Collins-Smith, John Cooper, Jane English, Missy Irvin, Terry Rice, and Gary Stubblefield. Representatives Kim Hammer, Co-Chair, Scott Baltz, Kenneth Ferguson, Michelle Gray, Mary "Prissy" Hickerson, Josh Miller, Micah Neal, Milton Nicks, Jr., Chris Richey, Dan Sullivan, Dwight Tosh, and Clarke Tucker.

Other legislators present: Senators Linda Chesterfield, Jonathan Dismang, Stephanie Flowers, Bart Hester, and Jon Woods. Representatives John Baine, Bob Ballinger, David Branscum, Gary Deffenbaugh, Jim Dotson, Jon Eubanks, Bill Gossage, Michael John Gray, Grant Hodges, Sheilla Lampkin, Greg Leding, Kelley Linck, David Meeks, Stephen Meeks, Reginald Murdock, Betty Overbey, James Ratliff, James Sorvillo, and Nelda Speaks.

Call to Order

Senator Clark called the meeting to order.

Opening Remarks by Senator Clark and Representative Hammer, JPR Co-Chair

Representative Hammer recognized Kerrie Carlock, staff attorney, Bureau of Legislative Research. Ms. Carlock was asked to address the Committee concerning testimony given by state employees before the Committee. Ms. Carlock said communication by public employees to public officials is referenced in Arkansas Code Annotated 21-1-503, which states in part:

"an employer will not penalize employees political activity nor be prohibited from communicating with an elected public official concerning a matter related to the public employees job. A public employee is not prohibited from exercising a right or privilege under the freedom of information act. It shall be unlawful for any public employer to discipline, threaten to discipline, reprimand, either orally, or in writing, place a notation in the public employee's personnel file disciplining, or reprimanding the public employee, or to otherwise discriminate in any way against a public employee for any exercise of communication with an elected public official, or an exercise of a right or privilege under the freedom of information act".

Approval of Minutes – November 4, 5, and 9, 2015, and December 9 and 10, 2015 [Exhibit C, C-1, C-2, C-3, C-4]

A motion to approve the minutes of the November 4, 5, and 9, 2015, December 9 and 10, 2015 JPR committee meetings was made by Senator Cooper and seconded by Representative Nicks, Jr. The motion carried.

Brief Update on the Licensing Agreement Between CoCENTRIX and the Department of Human Services

Craig Cloud, Director, Aging and Adult Services, Department of Human Services (DHS), was sworn in under oath by Representative Hammer. Mr. Cloud was asked to give an update on the licensing agreement between DHS and CoCENTRIX. Mr. Cloud said that CoCENTRIX has delivered all of the requested items agreed upon between DHS and CoCENTRIX with the one exception due to be delivered by CoCENTRIX on Monday, February 15, 2016. The remaining item relates to an interface with the DHS "ANSWER" system, the portal that processes traditional Medicaid financial eligibility for the Medicaid population, specifically behavioral health, developmental disability, aging, long term care, and all population segments that did not shift with the implementation of the new system. Mr. Cloud said the DHS Project Manager, Northrop Grumman is responsible for testing delivered items and project testing takes three to four weeks. When testing is completed, DHS will make a final decision concerning its original contract through the Western States Contracting Alliance (WSCA), for CoCENTRIX, which was a five year agreement for maintenance of licenses.

Brief Review of Vendor Changes for the Health Services Account (HSA) and the Flexible Spending Account (FSA), Employee Benefits Division (EBD), Arkansas Department of Finance and Administration

Janis Harrison, Interim Director, Employee Benefits Division (EBD), was sworn in under oath by Representative Hammer. Ms. Harrison was asked to give an update on Health Savings Accounts (HSA) and Flexible Spending Accounts (FSA) for state and public school employees. Ms. Harrison said two different vendors processed the HSA and FSA accounts for a number of years. In January 2014, EBD developed and issued a Request for Proposal (RFP) and awarded a contract to WageWorks in October, 2015 to consolidate both accounts. The previous vendor for the HSA accounts, DataPath charged \$4.00 per participant, per month for administration fees, compared to WageWorks charge of \$1.90. The previous vendor for the FSA accounts, Fringe Benefits Management Company (FBMC) charge was \$3.75 per participant, per month for administration fees compared to WageWorks charge of \$3.25. Ms. Harrison said notification of the change of vendors was provided to all health insurance representatives and employees. The issues EBD discovered during the transition of vendors include:

- o missing participants were found during the health insurance open enrollment period for state and public school employees
- o WageWorks conducted an audit and manually processed forms that had not been uploaded into their system
- o FSA account participants received requests from a previous vendor for documents to support their claims
- o EBD learned the card and claims transaction information did not transfer from the previous vendor to WageWorks
- o WageWorks will process the claims within the next two weeks and notify 2015 FSA account participants.

Ms. Harrison said many of the issues resulted from the transition of vendors. EBD hopes to resolve all of the issues by the end of March, 2016.

Robyn Keene, Financial Consultant, Arkansas Association of Educational Administrators (AAEA) was sworn in under oath by Representative Hammer. Ms. Keene was asked to provide the perspective of the school districts concerning EBD's change of vendors. Ms. Keene said she has not heard many complaints. She said the school districts have the choice of submitting their payroll deductions through a transfer or by paper check. Only one school district reported a delay by WageWorks in processing payments to FSA account participants.

Discussion of Issues with the Division of Children and Family Services (DCFS), Arkansas Department of Human Services (DHS) and the Role of the Attorney Ad Litem Program, the Parent Counsel Program, and Court Appointed Special Advocates (CASA)

Senator Clark thanked the JPR Committee members for the diligence and time they are giving to these issues.

Brian Welch, Director, Arkansas Parent Counsel Program, was sworn in under oath by Senator Clark. Mr. Welch referenced Exhibit F-1, an overview of the Parent Counsel program and told legislators he has been the director of the program for two and half years. During his tenure, he seen the number of Parent Counsel attorneys increase from 51 to 64. Attorneys receive \$855 per case, whether the case involves a few months or a number of years. There are three criteria for a parent or custodian to receive representation through the program:

- The parent or custodian has had a child removed from their custody
- The court finds the parent or custodian to be indigent
- The parent or custodian must request representation

The Parent Counsel program follows the requirements established by Administrative Order 15, with client driven representation, which means the client directs the attorney in what they need the attorney to do. Mr. Welch said the first concern is reunification of the child and parents back into the home. When a court rules against reunification during the early stages of the proceeding, the representation shifts to ensure the program provides the parents or custodian with services, either court ordered or as needed to facilitate returning the children to their home. In the final stages of a case, representation will shift toward more parent centric when the court is moving toward termination of parental rights. Mr. Welch said the program represents parents or custodians only in dependency-neglect cases.

Renia Robinette, Administrative Office of the Courts (AOC), Director, Attorney Ad Litem Program, was sworn in under oath by Senator Clark. Ms. Robinette told the legislators she is the Director of the Dependency Neglect section of the Attorney Ad Litem program. This section represents child cases filed before the circuit court when there is an allegation of dependency-neglect, an allegation that the child has been subjected to abuse or neglect in their home of origin. The program functions under statute and Administrative Order 15. Attorney Ad Litem are mandated to provide an independent investigation of all the circumstances in each case. Information is obtained from the Department of Human Services (DHS). Attorneys also contact therapists, physicians, counselors, teachers, neighbors, law enforcement, and parents and relatives of the child. The attorneys are mandated to ensure they advocate for the child/children using all relevant information.

Ms. Robinette referenced Exhibit F-2, a flow chart listing the type of hearings that are conducted. She said the starting salary for a full-time Attorney Ad Litem is \$45,000. In Fiscal Year 2015, there were a total of 5,604 cases involving 8,981 children.

Joseph Cox, Assistant Director and Chief Fiscal Officer, Division of Children and Family Services (DCFS), was sworn in under oath by Representative Hammer. Mr. Cox was asked questions concerning mileage reimbursements to foster parents:

- ❖ There was a disputed amount of \$9,242.52 which was caused by errors on mileage reimbursement forms
- ❖ Is the average turnaround time to process mileage reimbursement two to three weeks
- ❖ What is the 300 mile rule

Mr. Cox responded to the questions as follows:

- ❖ Errors were discovered regarding the disputed \$9,242.52
- ❖ The average turnaround time is two to three weeks
- ❖ The 300 mile rule states that persons who travels in excess of 300 miles in one day, is required to obtain approval for payment by the Chief Fiscal Officer of the Division

Mr. Cox was asked to contact each DCFS county office and specifically request the number of pending mileage reimbursement forms.

Senator Clark recessed the meeting at noon to resume at 1:00 p.m.

At 1:15 p.m. Senator Clark reconvened the meeting and recalled Renia Robinette, Director, Attorney Ad Litem program. Ms. Robinette was asked questions regarding testimony provided earlier in the committee meeting:

- ❖ Has there been only one case investigated subsequent to legislation passed during the 90th legislative Session allowing an Attorney Ad Litem to petition the court in a dependency-neglect case
- ❖ Is an Affidavit involved
- ❖ In the event an Attorney Ad Litem petitions the court, do the courts automatically appoint the Attorney Ad Litem

Ms. Robinette responded to the questions as follows:

- ❖ Legislation passed during the 90th legislative Session allows an Attorney Ad Litem to file Ex Parte, a temporary order pending a formal hearing
- ❖ An Affidavit is required
- ❖ An Attorney Ad Litem would have to request an appointment by the Court

Discussion to Focus on Providing Better Services to Foster Care Children, Judicial Conflicts, and Enhancing Case Worker Performance

Kathryn L. Hudson and Justin S. Huett, Parent Counsel, Law Office of Kathryn L. Hudson, Little Rock were sworn in under oath by Senator Clark. Ms. Hudson told legislators her law firm became involved in 2015 in the representation of parents whose parental rights were being terminated by DCFS. She discussed in detail her concerns regarding inappropriate protocol occurring in the court system involving DCFS attorneys and caseworkers. She said her firm's clients were not served the appropriate court documents, nor were they notified of the

dates of court hearings. Justin S. Huett, Attorney, Law Office of Kathryn L. Hudson, discussed a specific case the law firm is litigating involving a child with mental illness. Mr. Huett said the child has been placed in foster care by DHS. DHS is moving toward the termination of parental rights.

Mary Beth Luibel, Director, Court Appointed Special Advocates (CASA), was sworn in under oath by Senator Clark. Ms. Luibel gave an overview of CASA program:

- Over 1,000 volunteers advocate for 3,800 children
- CASA becomes involved in dependency-neglect proceedings once they are entered into the court system
- Volunteers complete an application process and take a minimum of thirty hours of training under one of twenty-four CASA local programs
- All programs are performed in accordance with National and State CASA standards
- CASA volunteers are appointed by a judge and work closely with Attorney Ad Litem
- Volunteers file formal written court reports at each hearing
- Volunteers attend staffing meetings with the children and monitor the progress of parents

Jim Hall, parent, was sworn in under oath by Senator Clark. Mr. Hall discussed his personal experiences regarding his troubled daughter and the lack of behavioral health care facilities in the area where he lives, which has caused extensive travel time to obtain services.

With no further business, the meeting adjourned at 3:35 p.m.