

**MINUTES**  
**JOINT PERFORMANCE REVIEW COMMITTEE**  
**June 20, 2017**

The Joint Performance Review Committee met Tuesday, June 20, 2017 at 1:00 p.m. in Room A, MAC Building, Little Rock, Arkansas.

Committee members present: Senator Missy Irvin, Chair, Alan Clark, Jonathan Dismang, Lance Eads, Jane English, Trent Garner, Jim Hendren, and Jimmy Hickey, Jr.. Representatives Mark Lowery, Chair, LeAnne Burch, Caroly Dalby, Trevor Drown, Kenneth Ferguson, David Fielding, Jack Fortner, John Maddox, Reginald Murdock, Aaron Pilkington, Brandt Smith, Nelda Speaks, and Clarke Tucker.

Other members present: Representative David Branscum, Charlotte Douglas, Charlene Fite, Joe Jett, Bob Johnson, James Sorvillo, and Richard Womack.

**Call to Order**

Representative Lowery called the meeting order.

**Opening Remarks**

Representative Lowery advised that witnesses appearing before the Committee will be sworn in only during committee meetings when discussing an investigative agenda item. Senator Irvin outlined the responsibilities of the Committee, which is to perform random and periodic reviews of specific governmental programs and agencies, and to conduct hearings on citizen complaints and/or suggestions regarding the operation of state government.

**Consideration of a Motion to Authorize the Co-Chairs to Approve Special Expenses Incurred by the Joint Performance Review Committee [Exhibit C]**

A motion to authorize the Co-Chairs of the Committee to approve special expenses incurred was made by Representative Fielding and seconded by Representative Dalby. The motion passed unanimously

**Discussion of Procedures Used to Prevent or Detect Fraud, Waste, and Abuse Within the Medical Assistance Programs and the Implementation of Cost Prevention Measures [Exhibits D, D-1]**

Elizabeth Smith, Medicaid Inspector General, Arkansas Office of the Medicaid Inspector General, (OMIG) gave an overview of the OMIG office, which was created in 2013. The Centers for Medicare and Medicaid (CMS) requires states to perform oversight of federal funds using a state Medicaid Program Integrity Unit. Ms. Smith explained that the Program Integrity Unit was previously housed under the Arkansas Department of Human Services (DHS). Following the creation of the OMIG in 2013, as a part of the Governor's Office, the Program Integrity Unit was then transferred to the OMIG. Ms. Smith was appointed in 2015 and is serving as the current Medicaid Inspector General.

Following her appointment, a number of recommended changes have been implemented resulting in substantial savings to the state's Medicaid program by eliminating waste and abuse within the program. She cited statistics covering the first three quarters of FY2017 including:

- 33 referrals for provider fraud
- 32 referrals for recipient fraud
- 30 arrests or convictions through the Attorney General's Medicaid Fraud Control Unit
- 8 false claims act cases

- 75 provider exclusions

Recoupment statistics include:

- \$2.6 million in the first three quarters of Fiscal Year 2017
- \$3.6 million total projected by the end of Fiscal Year 2017
- \$2.7 million total collected for Fiscal Year 2016

The OMIG is developing recommendations using initiatives that include:

- Behavioral Health Reform (Group Psychotherapy)- changes recommended to the Medicaid manual have reduced this expenditure by \$14.5 million.
- Recommended changes to the Medicaid manual for vision therapy, which are projected to reduce yearly expenditures by \$2 million.
- Non-emergency transportation- recommendations and new procedures have resulted in a savings of \$2 million.
- Personal Care and Home Health Reform- audits and reviews of ARChoice waiver programs resulted in 25 fraud referrals to the Medicaid Fraud Control Unit at the Attorney General's office.

Discussion of audits performed by the OMIG, regarding provider groups detailed efforts to help stop unwarranted and erroneous billing to prevent fraud, abuse and waste in the future.

Cory Cox, Legislative Director, and Lloyd Warford, Deputy Attorney General and Director of the Arkansas Medicaid Fraud Control Unit, Attorney General's Office, described the work of Arkansas's Medicaid Fraud Control Unit (MFCU). Mr. Cox cited the U.S. Government Accountability Office, which show estimates of \$30 to \$60 billion in improper payments and spending within the entire U.S. Medicaid program over the past decade. Medicaid fraud has harmed both taxpayers and individuals who have legitimate Medicaid claims. The Arkansas MFCU works on a state level to prosecute and stop these illegal acts.

Mr. Warford referenced Exhibit D and gave a brief history of the MFCU. Congress created the MFCUs in 1975 as voluntary programs that states could choose to participate in, which included a 75% federal funding match. The MFCU's became mandatory in 1995, with Arkansas receiving its certification in 1979 as one of the first in the U.S. Mr. Warford explained that the MFCU functions as an investigative and prosecutorial arm of the A.G.'s Office. The Unit prosecutes criminal cases by targeting providers who commit fraud. It also has the authority to initiate civil actions against persons who knowingly submit false claims, or who are found to have colluded with a provider in the process of committing fraud. Arkansas's MFCU currently has 27 employees. He highlighted statistics found in Exhibit D as of June 7, 2017, which were compiled from data collected and submitted to the federal government. The statistics include:

- 30 convictions over the past 30 months compared to a total of 39 in the past 60 months
- 18 settlements in the previous 30 months under the Medicaid False Claims Statute compared to 1 case per year over the previous 4 years
- \$487,244.00 in funds collected in the past 30 months compared to \$32,587.24 over the previous 4 years
- 56 total convictions over the past 30 months

John Parke, Director, Office of Payment Integrity and Audit, Arkansas Department of Human Services (DHS), referenced Exhibit D. He described the development and purpose of his office as established by Governor Hutchinson, and explained their use of data analysis to identify areas

where Medicaid provider payments should be reduced. His office works with the OMIG and focuses on cost prevention by reviewing policies, rules, and edits that can be modified to help save future funding. His employees include the Director, a vendor manager, a registered nurse, a coding nurse, and a data analyst. Audits are performed on providers targeted for investigation. An example he gave was of changes to the speech therapy diagnosis codes, resulting in savings of Medicaid funds.

**Reports on Activities Under the Arkansas Whistleblower Act (A.C.A. §21-1-601—610) Referrals, Reward Payments, Other**

Kay Barnhill, Administrator, Office of Personnel Management (OPM), Arkansas Department of Finance and Administration, explained that no formal claims under the Whistleblower Act have been filed with OPM. Jennifer Elkins, OPM Attorney Specialist, stated that OPM is not an official office for claims under the Whistleblower Statute. She explained the process employees use to report fraud or a violation. They make their report to the appropriate authority within their state agency. An employee can also file a civil action in the courts.

Discussion focused on the concern that the Whistleblower Statute doesn't provide sufficient protection for employees. It was suggested that a separate Ombudsman Office should be created to specifically address violations that occur, plus use a proactive approach to protect employees or citizens who file reports. Ms. Elkins advised that a website has been created called "My Idea for Arkansas". It is monitored by the Governor's Office of Transformation, which will collect the suggestions made by state employees and citizens and be used to implement improvements to state government.

**Discussion of Primary Procurement Methods – Including Requests for Qualifications (RFQ), Requests for Proposals (RFP) and Invitations for Bids-sealed bids (IFB)**

Edward Armstrong, Administrator, Office of State Procurement (OSP), Arkansas Department of Finance and Administration (DF&A), gave an overview of the OSP. He was appointed as Administrator in 2016. He noted a policy change that he implemented following his appointment, which was to improve the negotiations process. When these improvements were used on a large number of Request for Proposals (RFP), it resulted in a total savings of \$17 million. He described other procurement processes which include:

- Invitation for Bids (IFB)- the traditional competitive sealed bids, where a public notice is provided to vendors and includes detailed information about the commodity or service the state is seeking
- Sole source- reserved for designated commodities or services where it is not practicable to use any other provider

**Other Business**

Senator Irvin announced that two JPR Committee meetings will be held in July, 2017. One meeting will include a review of the policies and protocols for non-emergency transportation of children by the Arkansas Department of Human Services (DHS). A second meeting will include committee member's participation in a Little Rock elementary school USDA Summer Feeding Program.

There being no further business, the meeting adjourned at 3:45 p.m.