

**Members**

Sen. Patricia Miller, Chairperson  
Sen. Luke Kenley  
Sen. Ryan Mishler  
Sen. Vi Simpson  
Sen. Sue Errington  
Sen. Connie Sipes  
Rep. William Crawford  
Rep. Charlie Brown  
Rep. Peggy Welch  
Rep. Timothy Brown  
Rep. Suzanne Crouch  
Rep. Don Lehe



# SELECT JOINT COMMISSION ON MEDICAID OVERSIGHT

*Legislative Services Agency*  
200 West Washington Street, Suite 301  
Indianapolis, Indiana 46204-2789  
Tel: (317) 233-0696 Fax: (317) 232-2554

**LSA Staff:**

Casey Kline, Attorney for the Commission  
Al Gossard, Fiscal Analyst for the Commission  
Kathy Norris, Fiscal Analyst for the Commission

Authority: IC 2-5-26

## MEETING MINUTES<sup>1</sup>

**Meeting Date:** October 20, 2009  
**Meeting Time:** 10:00 A.M.  
**Meeting Place:** State House, 200 W. Washington St., Room 130  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 3

**Members Present:** Sen. Patricia Miller, Chairperson; Sen. Luke Kenley; Sen. Ryan Mishler; Sen. Sue Errington; Sen. Connie Sipes; Rep. William Crawford; Rep. Charlie Brown; Rep. Peggy Welch; Rep. Timothy Brown; Rep. Suzanne Crouch; Rep. Don Lehe.

**Members Absent:** Sen. Vi Simpson.

Chairperson Miller called the meeting to order at 10:08 a.m. and announced that the Commission would not be hearing testimony on the FSSA modernization contract due to the announcement last week that FSSA would be terminating the contract. Chairperson Miller further stated that the Budget Committee would be hearing testimony on the subject at its meeting on Friday, October 23, 2009.

---

<sup>1</sup> Exhibits and other materials referenced in these minutes can be obtained electronically by requesting copies at [licrequests@iga.in.gov](mailto:licrequests@iga.in.gov). Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

### **Commission action**

Chairperson Miller announced that the Commission would first vote on whether the Commission should recommend the Phase II nursing home reimbursement changes presented to the Commission by FSSA at the Commission's September 30th meeting. The Commission voted 10 to 1 to recommend the nursing home reimbursement changes. See Exhibit 1.

Chairperson Miller explained that Preliminary Draft (PD) 3159 removed the statutory expiration dates of the Office of the Secretary of Family and Social Services, the Office of Medicaid Policy and Planning, and statutes concerning directors of divisions and advisory committees within FSSA. The Commission voted 11 to 0 to recommend PD 3159. See Exhibit 2.

The Commission considered the Commission's final report, and Senator Miller explained to the Commission that staff would also need to include action from today's Commission meeting in the final report. The Commission voted 11 to 0 in favor of approving the final report. See Exhibit 3.

Chairperson Miller explained to the Commission that the statutory language concerning receiving a report from the state contractor that processes Medicaid claims for payment, EDS, does not require that the report be given at each meeting. Chairperson Miller explained that EDS has provided a written report for the Commission for this meeting. See Exhibit 4.

### **Closure and conversion fund update**

Ms. Faith Laird, FSSA, provided the Commission with information on the nursing facility closure and conversion fund (Fund). See Exhibit 5. Ms. Laird explained that the closure and conversion fund was created from money generated by the nursing facility quality assessment fee. Ms. Laird stated that the information provided to the Commission shows that there is about \$38 million in the Fund in state fiscal year 2009, but remarked that the actual number may be lower because of over-projecting of revenue. Ms. Laird added that even if the number is closer to \$33 million, leveraging of federal funds would result in around \$100 million. Ms. Laird testified that in 2006 and 2007, FSSA attempted to establish a list of priorities to determine the order in which nursing homes would be eligible to receive money from the Fund, but the federal Centers for Medicare and Medicaid Services (CMS) rejected the plan and FSSA put aside the priority list until this year. Ms. Laird stated that FSSA met with representatives from the nursing home industry in August to discuss a priority system and received feedback. Ms. Laird indicated that FSSA will continue to work on this priority list, although not many nursing homes have expressed an interest in accessing money from the Fund. When asked why nursing homes are not showing much interest, Ms. Laird responded that unless the nursing home is under financial distress, the money the nursing home can get from the Fund is not enough to entice the nursing home to close. Ms. Laird elaborated that there is also a market for the sale of Medicaid beds now due to the nursing facility bed moratorium and each bed may be worth between \$10,000 to \$15,000 in the market. When asked about using the funds to convert the facility to another level of care, Ms. Laird responded that there has been some interest by nursing homes to use the funds for this, and that this is a business decision for a nursing home. When asked how much is paid through the Fund per Medicaid bed, Ms. Laird responded that this price is negotiated by FSSA and needs CMS approval.

### **Phase III of nursing home reimbursement changes**

Ms. Laird provided the Commission with information on FSSA's next step in identifying quality components for determining nursing home reimbursement. See Exhibit 6. Ms. Laird stated that advocates will be included in developing Phase III of nursing home reimbursement changes and that she hopes Phase III will be ready for implementation either in the fall of 2010 or 2011.

### **Hospital Medicaid and charity care**

Mr. Doug Elwell, FSSA, provided the Commission with a list of the top ten Medicaid expenditure hospitals in 2007, 2008, and 2009. See Exhibit 7. Six out of the ten hospitals in 2007 are also disproportionate share hospitals (DSH). Mr. Elwell commented that in 2008, the hospitals did not vary much from 2007, and in 2009, Ball Memorial came into the group, partly because of being a big provider under the Healthy Indiana Plan (HIP, a Medicaid waiver program). The Commission asked Mr. Elwell to provide a list of the hospitals and the dollars the hospitals have received under HIP, and a comparison of the dollars the hospital would have received if the \$50 million in DSH money was distributed under DSH instead of being transferred to HIP.

Mr. Elwell also provided the Commission with a list of the top ten charity care hospitals. See Exhibit 7. Mr. Elwell testified that the charity care information came from State Department of Health reports by the hospitals and that 2007 was the latest data available. Mr. Elwell predicted that the 2008 and 2009 figures would be higher due to the economic downturn.

When asked about the time frame for establishing the new DSH eligibility, Mr. Elwell stated that FSSA plans to use State Fiscal Year 2009 cost reports from the hospitals and reported that FSSA would be sending material out to the hospitals in the next thirty days. Mr. Elwell elaborated that each hospital would be informed of the Medicaid expenditures calculated by FSSA for the hospital and would be given a chance to add costs to this figure, including out of state services. Hospitals would also be given a chance to appeal, and then the calculation of the hospital cap would occur. Mr. Elwell stated this whole process would take approximately ten months and that the first DSH distribution for State Fiscal Year 2010 would occur before December 31, 2010.

Representative Charlie Brown asked for information concerning the possibility of the state offering a program that parallels HIP for more childless adults without using federal dollars. When asked what happens to the \$50 million that was transferred from DSH to HIP in 2012 when the HIP waiver expires, Mr. Elwell responded that if FSSA does not ask for renewal of the HIP waiver, the \$50 million would return to the DSH program.

### **Emergency room physician reimbursement**

Mr. Lou Belch, representing the Indiana Chapter, American College of Emergency Physicians, updated the Commission on the reimbursement negotiations between MDWise and the emergency room physicians, stating that he hopes the matter will be resolved in the next two or three weeks. Mr. Belch stated that one of the issues involved is that more access points are needed for care on the Eastside of Indianapolis and that this matter is being considered as well.

In response to a question about the FSSA modernization contract and the Budget Committee's meeting later this week, Sen. Kenley responded that FSSA will be providing information at the Budget Committee's October 23rd meeting concerning the transition process following the termination of the contract. Representative Crawford asked Sen. Kenley to consider, in the Budget Committee's evaluation of the contract, requesting the

work product from a contractor, First Data, that was contracted by FSSA to monitor the implementation of the modernization contract.

The meeting was adjourned at 11:07 a.m.