



## Meeting Minutes



### Detroit Long Term Care System Change Task Force Legislation & Regulations Subcommittee Meeting Minutes

**Date:** Thursday, January 22, 2009

**Time:** 10:30 a.m.

**Place:** Detroit Area Agency on Aging  
Hildred Drew Dale Conference Center  
1333 Brewery Park Boulevard, 1<sup>st</sup> Floor  
Detroit, Michigan 48207

#### **MEMBERS PRESENT**

Eric Foster, Co-Chair  
Wanda Bailey Jenkins  
Kendra Howard  
Marilyn Lawson  
Laurie Solotorow  
Brenda Sowash  
Dorothy Stone Montgomery  
Margie Young

#### **MEMBERS EXCUSED**

Kay Andrzejak  
Gloria Hicks Long, Facilitator  
Avis Holmes  
Martha Little  
Tom Rau  
David Stobb

#### **MEMBERS ABSENT**

Bob Allison  
Patricia Anderson  
Beverly Hamlar  
Melissa Samuel  
Olivia Boykins  
Mildred Madison

#### **STAFF**

Karen Watson, Detroit Area Agency on Aging  
Marian Banks-Nickleberry

#### **RECORDER**

Leah Pippen

#### **I. CALL TO ORDER/ WELCOME & INTRODUCTIONS**

The meeting was called to order at 10:48 a.m.

Eric Foster asked members to state their names and agencies for the record. The Subcommittee welcomed Margie Young, Department of Human Services and Marian Banks Nickleberry and Karen Watson, Detroit Area Agency on Aging sitting in on behalf of Gloria Hicks-Long, Facilitator.

#### **II. CO CHAIR REMARKS**

Eric Foster had no remarks for the record.

#### **III. REVIEW AND APPROVAL OF MEETING MINUTES OF JANUARY 15, 2009**

Mr. Foster asked subcommittee members to review for approval, the meeting minutes of January 15, 2009. Kendra Howard asked to whom the proposed policy recommendations were due by January 30, 2009. Eric Foster clarified that they were due to the Legislation &

Regulations Subcommittee to allow time for a screening process before the subcommittee finalized them in preparation for the Policy Forum. The recommendations would also be presented to the Leadership/ Steering Subcommittee on February 6, 2009. Dorothy Stone Montgomery made a motion to approve; seconded by Brenda Sowash. **Motion carried.**

#### **IV. ADDITIONAL COMMENTS ON MEDICAID ELIGIBILITY REPORT**

The workgroup was unable to get another meeting set up to discuss some of the identified issues with the Department of Human Services. Margie Young said that she would be available to discuss those issues. A meeting would be scheduled before the next meeting date of the Legislation & Regulations Subcommittee to get the operational perspective of DHS to assist in addressing some of the issues that are associated with recommendations drafted by the Subcommittee.

There were no additional comments on the Medicaid Eligibility Report.

#### **V. BEGIN BUILDING ON POLICY RECOMMENDATIONS DOCUMENT**

The subcommittee is expected to begin directing incoming proposed policy recommendations into one of the three area phases, Legislative Action, Governmental Operation, or Appropriations.

A policy recommendation template was distributed at the last meeting. Mr. Foster had hoped to begin filling in the rationale, impact and citations of each recommendation that the Legislation & Regulations Subcommittee had developed. Since no one had drawn up the recommendation points into the document, Mr. Foster asked if the subcommittee would rather identify recommendation points today or take a few more days to think about policy recommendations and email to him, Jerry Gumbleton, Laurie Solotorow and Leah Phippen. It was decided that recommendation points could be identified today.

Brenda Sowash suggested that the subcommittee wait to discuss the Medicaid recommendation until after they have met with Ms. Young. Ms. Sowash stated that the guardianship component was one recommendation that the subcommittee had previously agreed on. Some type of regulations should be in place over guardians, both companies, and relatives, to ensure that they are meeting expectations in favor of the resident. Marilyn Lawson thought that we should begin identifying the guardianship companies to compile data including approximately how many companies are in business and where they are located. Mr. Foster said that research for that data could take six to nine months and while it would be prudent, it should not delay the initial recommendation; which is due in one week. It was clarified that the subcommittee would be making a broad recommendation and that data could be compiled as we go deeper into the process. Our recommendation should be focused on how to define structure for this industry for proper review, documentation and oversight for all guardianship entities. One example would be for a seminar to be held to explain guidelines that should be adhered to.

Ms. Howard identified a possible argument to our recommendation by the guardianship companies under the [Hedley](#) Amendment where they could say that we are asking them to do something without providing the funding for the actions to take place.

Mr. Foster said that the reimbursement adjustment lag is another area of policy recommendation. Wanda Bailey Jenkins asked if it is just policy or if it takes the state two years to actually process the reimbursement. Ms. Sowash said that they would need the accountant representation to answer that question and that the providers, Jerry Gumbleton or Betsy Rust could answer better than they could. They do know that it is based on the cost report. Mr. Foster flagged that as an area of focus for that particular recommendation and asked that a follow-up with those key individuals to better understand that reasoning is necessary to the development of this recommendation.

Mr. Foster said that the 85% occupancy rule is another area of policy recommendation that we had discussed. Karen Watson clarified that this rule states that the full payor mix has to meet 85% in order to qualify for a full Medicaid reimbursement. Ms. Lawson asked why that rule was

in place. Ms. Sowash responded that she thinks that the thought process when developing that rule the 85% was being taken from the businesses' profit and was in place so that monies are being awarded to facilities below 85% occupancy to prevent overpaying. Sector 3 facilities have not re-invested their profits back into their business to keep up with quality requirements and those are the facilities who are feeling the pressure because they cannot attract any residents other than Medicaid recipients. Mr. Foster said that the payor mix is a very important component of this problem and that a high Medicaid population creates challenges for owners. He suggested that the subcommittee look into the aspect of a population waiver; if your facility exceeds a certain number of Medicaid recipients, then the 85% rule should be waived. The question was asked, what if a facility is licensed for a certain amount of beds and only have 20 Medicaid residents; are we **dis-incentivizing** providers to the upkeep for quality purposes. Under those circumstances, giving them a pass because they cannot meet the criteria may encourage more providers to abuse the system. We need to keep in mind that this is still a business and that providers need to be business savvy to make it in this industry today. Ms. Bailey Jenkins suggested a recommendation on education/ training for providers on the importance of re-investing and keeping up the quality of their facility. It was noted that there is a Training Subcommittee to address that aspect. Mr. Foster said that the ability to be waived could be tie-barred with a time limit of 2 to 3 years with reporting of growth to get the facility up to 85%. As another recommendation addressing the physical plant improvement issue with regards to the reimbursable amount that you can bill back for capital improvement expenses, Mr. Foster suggested tie-barring that to allowing for reimbursement on a portion of marketing expenses. Ms. Lawson felt that the 85% rule should be cancelled entirely because monies should never be withheld that are reimbursable.

The subcommittee identified the "no un-funded mandating" as an area of recommendation. In 2012, a large portion of Detroit area nursing homes will be closing if they cannot meet the sprinkler system requirement. The subcommittee suggested recommending a pot of funding be available for those facilities to assist in meeting that requirement and that the funds would have to be used for that particular mandate. Mr. Foster asked the subcommittee to consider the fact that larger facilities would have access to that funding and would likely drain the source. Ms. Sowash suggested that a restriction be put in place to prevent facilities from other areas access to the funding.

Mr. Foster was pleased with the discussion today and said that we can always add onto our developments.

**VI. REVIEW REVISED LETTER TO THE MICHIGAN CONGRESSIONAL DELEGATION**

Mr. Foster asked members to review the drafted letter to the Michigan Congressional Delegation. On line 6, "received" was changed to "receiving" and "to study" was removed. On line 13, "and" was added between officials and leaders. On line 16, "are" was removed. On line 24, "contacting" replaced "be reaching out to you".

**VII. STATUS REPORT ON OTHER AAA'S - UCG**

A summary report was provided for review by the subcommittee that includes a list of responses from other AAA's to the survey developed by Urban Consulting Group, LLC.

**VIII. SUBCOMMITTEE SCHEDULED MEETINGS FOR 2009**

A.	2/12/2009	10:30 a.m.	DAAA – Hildred Drew Dale Conference Center
B.	2/26/2009	10:30 a.m.	DAAA – Hildred Drew Dale Conference Center
C.	3/12/2009	10:30 a.m.	DAAA – Hildred Drew Dale Conference Center

**IX. AGENDA BUILDING FOR THE NEXT MEETING**

- A. Medicaid Eligibility Report
- B. Policy Recommendation Document
- C. Feedback from other subcommittees

X. **ADJOURNMENT**

The meeting was adjourned at 12:20 p.m.

Respectfully Submitted by:

Leah Pippen

GHL/lp

*Moving Towards Enhancing the Quality of Care*