



Legislative & Public Policy Committee Meeting

August 16, 2021 -- 10:00 AM – 12:00 PM

Zoom Only (no in-person meeting)

<https://zoom.us/j/458897508>

MEETING MINUTES:

Attendance:

Council Committee Members Present: Ali Thompson (late), Christine Owen, Dawn Russell, Lucinda Rowe

Council Committee Members Absent: N/A

Community Committee Members Present: Gerrie Frohne, Michael Hoover (disability rights representative and past Council member)

Community Committee Members Absent: N/A

Guests: Andrea Mercier, Donna Downing (past-president of the National Autism Committee)

Staff Present: Vanessa Hernandez, Robert “Bob” Lawhead

Meeting Minutes:

1. Ali not available so Bob is going to serve as chair today until Ali can join. Meeting called to order at 10:05.
2. Quorum present:
 - a. Review agenda: No changes
3. Minutes: July 19th, 2021 minutes
 - a. Christine made a motion to approve. Gerrie seconded.
 - Approvals: Lucinda, Michael, Christine, Gerri
 - No: N/A
 - Abstain: N/A
 - b. Minutes approved.
5. New Business:
 - a. Gerrie: Survey related to huge change that will affect all waiver people to case management in Colorado. This allows you to provide written feedback to HCPF.
 - b. Case management redesign survey:
<https://docs.google.com/forms/d/e/1FAIpQLSe9QwCjIsQ6mGH3owM63exW7aPNYwMZzAFtraYHG11vGfRydA/viewform>

- c. **Better Care Better Jobs (BCBJ) Act:** The BCBJ Act is part of budget reconciliation planning in line with President Biden's "Build Back Better" initiative. There is pressure in Congress to reduce the \$400 billion earmarked for Home and Community Based Services (HCBS) within the BCBJ Act. HCBS is the federal funding source for Colorado's four Medicaid waiver programs for adults (HCBS-DD and HCBS-SLS) and children (HCBS-CES, HCBS-CHRP). According to national advocates \$400 billion just barely does the job so we are trying to assure the \$400 billion is not reduced. The BCBJ Act is considered a "once in a lifetime" opportunity to get closer to properly funding HCBS services in Colorado and across the nation. It's purpose is to: 1) eliminate waitlists (Colorado's HCBS-DD waiver presently has about 3,000 people waiting for services), 2) increase compensation for the direct care workforce (low staff compensation is seen as the major factor causing the HCBS workforce crisis) and 3) improve HCBS service quality. Part of Congressional motivation for passing this legislation is the fact that deaths from COVID-19 infections have occurred disproportionately in congregate housing (nursing homes, group homes, assisted living facilities) and HCBS expansion will allow more people to live in their communities rather than these institutional settings. We will be asking the committee to contact their Congressional Representatives and Senators on this important issue (watch our social media).

6. Bills in Congress discussed:

- a. **Disabled Access Credit Expansion (DACE) Act:** Was introduced on 7/25, the eve of the ADA anniversary. The bill would:
 - i. Expand the Disabled Access Credit (DAC), allowing businesses to get more tax benefits for accommodating people with disabilities;
 - ii. Increase funding for the Dept. of Justice's (DOJ) ADA Mediation Program. This would mean more trained mediators and staff to help people with disabilities and businesses find a solution without going to court; and
 - iii. Require a report to Congress on the specific types of calls the ADA Information Line receives. This would improve the ways people with disabilities and businesses learn about their rights and how to be ADA-compliant.
- b. **Freedom and Right to Emancipate from Exploitation Act or "FREE Act" (draft):** Would offer an "escape hatch out of abusive guardianships." It would allow subjects to have their private guardian, with an independent public guardian. This could happen without having to prove misconduct or abuse. The bill also would:
 - i. assign "wards" their own independent case workers,
 - ii. require more financial information be shared to prevent conflicts of interest and
 - iii. require states to provide a real-time database of the number of people under court-ordered guardianships.(Currently, there are few ways to know how many people have conservatorships.)
- c. **Supporting Our Direct Care Workforce and Family Caregivers Act (draft):** Would authorize over \$1 billion in supporting the direct care workforce and family caregivers. Specifically, the bill outlines that the U.S. Department of Health and Human Services (HHS), through the Administration on Community Living (ACL), will award grants to states, or other eligible entities, to build, retain, train, and otherwise promote the direct care workforce (including self-directed workers and

direct care supervisors or managers). Notably, this educational and training support is for both paid and unpaid family caregivers.

- d. **Work Without Worry Act (S. 2108, H.R.4003)**: Would change the Social Security Act so that people who get Social Security benefits called the Disabled Adult Child (DAC) benefit can work. Adults who qualify for Social Security DAC benefits have life-long disabilities but can and often want to work as an adult. Under current law, many young adults fear that if they try to work, they will lose future DAC benefits, which are often vital.
- e. **Better Care Better Jobs Act is a draft bill** that would offer states a 10% increase in the matching funds they receive from the federal government for home and community-based services if they meet certain requirements. In addition, it includes incentives for states to strengthen the direct care workforce. This is similar to several other proposals.
- f. **The Behavioral Intervention Guidelines Act of 2021** (S.1383/H.R.2877) is under consideration in the Senate following its passage by the House by a vote of 323-93 on May 13, 2021. The bill would require the Substance Abuse and Mental Health Services Administration to develop best practices for schools. These best practices would include creating behavioral intervention teams and properly training them on how to intervene. This helps avoid inappropriate use of mental health assessments and law enforcement. Voices in the civil rights and disabilities communities have shared concerns about research that shows the biases that are often part of behavioral evaluations. These biases can increase the risk of interventions linked to the justice system for students (the “school to prison pipeline”).
- g. **The Supplemental Security Income (SSI) Restoration Act** (H.R.3763) would enhance the SSI program by updating the general income disregard to \$123 per month, adjusting the earned income disregard to \$399 per month, and increasing the resource limits to \$10,000 for an individual and \$20,000 for a couple. This means people could have more income and assets and still qualify for SSI. Congress has not changed these limits in many years. The SSI Restoration Act would also stop other requirements and penalties that make it hard for two people getting SSI to be married. This is important legislation and is seen as a major priority for many national advocacy groups at this time!
- h. **The Accelerating Kids Access to Care Act** (S. 1544 / H.R. 3089) is bi-partisan legislation that eliminates administrative burdens that get in the way of accessing out-of-state care for children with special health care needs. It does this by creating a limited, streamlined federal Medicaid enrollment and screening process.
- i. **Keeping All Students Safe Act Reintroduced** (S.1858 / H.R.3474). This bill would prohibit physical restraint that is life-threatening or restricts breathing, mechanical restraint, chemical restraint, and seclusion in schools that receive federal funding. Physical restraint would only be allowed when a student’s behavior poses an imminent danger to self or others. The bill also requires states to ensure schools have appropriately trained staff. It prohibits individualized education programs (IEPs) or behavior intervention plans from including the use of restraint or seclusion. See the fact sheet here and the press release here.
- j. **Credit for Caring Act** (S.1670 / H.R.3321) to provide for those who are taking on added financial responsibilities as family caregivers supporting a loved one. The nonrefundable tax credit of up to \$5,000 could be used toward expenses such as

transportation, home modifications to accommodate a family member, medication management services, and training or education for the caregiver.

- k. **All Stations Accessibility Program** (ASAP) Act of 2021(S.1680 / H.R.3317). This bill would help make public transportation systems more accessible to passengers with disabilities. It would fund upgrades to existing public transportation and commuter rail stations to meet or exceed accessibility standards under the Americans with Disabilities Act (ADA).
- l. **Allied Health Workforce Diversity Act** (S.1679 / H.R.3320). This bill would increase opportunities for individuals underrepresented in the professions of physical therapy, occupational therapy, speech-language pathology, respiratory therapy, and audiology. The legislation would provide funding to accredited education programs for these professions toward using evidence-based strategies to increase the recruitment, enrollment, retention, and graduation of students who are currently underrepresented, such as:
 - i. racial and ethnic minority populations,
 - ii. people with disabilities, and
 - iii. those from economically disadvantaged backgrounds.
- m. **Behavioral Intervention Guidelines Act of 2021** (H.R. 2877) would require the Substance Abuse and Mental Health Services Administration (SAMHSA) to help schools create behavioral intervention teams. Would require the teams be trained on how to intervene and avoid inappropriate use of mental health assessments and law enforcement. This legislation supports the efforts described in item f. above (The Behavioral Intervention Guidelines Act of 2021).
- n. **The Supporting And Empowering the Nation to Improve Outcomes that Reaffirm Careers, Activities, and Recreation for the Elderly (SENIOR CARE) Act** (S.1476) would lift the Ticket To Work Program's Medicaid age restriction. This would allow for seniors over the age of 65 to continue to work and keep their Medicaid coverage. Senators Portman and Casey first introduced the SENIOR CARE Act in 2019.
- o. **Spousal Impoverishment Protections** (S.1099 and H.R. 1717) would make permanent the protections that allow the spouse of a person receiving Medicaid Home and Community Based Services (HCBS) to keep some income and assets without losing Medicaid. These protections are currently only temporary for HCBS recipients through 2023.
- p. **Direct Creation, Advancement, and Retention of Employment (CARE) Opportunity Act** H.R. 2999 was introduced to help address the workforce shortage for direct support professionals who work with people who have disabilities and older adults.
- q. **ABLE Age Adjustment Act** (S.331) would expand the number of people who qualify for Achieving a Better Life Experience (ABLE) accounts. The change would allow people who became disabled before age 46 (instead of the current age limit of 26) to open an account. ABLE accounts enable individuals with disabilities to save and pay for disability-related expenses.
- r. **Transformation to Competitive Integrated Employment Act** (H.R.2737) would phase out below minimum wages for workers with disabilities. It would provide states and employers with the resources to transition workers with disabilities into integrated employment. Currently, employers can apply for Section 14(c) waivers under the Fair Labor Standards Act to pay workers with disabilities less than federal

minimum wage. Introduction of this legislation follows the release of President Biden's American Jobs Plan, which calls for ending 14(c) waivers and supporting competitive, integrated employment for people with disabilities. Colorado's SB21-039, signed by Governor Polis this summer, basically implements these efforts throughout Colorado over a four year period.

- s. **The Home and Community-Based Services Access Act** (HAA) is a discussion draft bill that would eventually end waiting lists for Medicaid home and community-based services (HCBS). HCBS allow people with disabilities and older adults to live at home in their communities with their friends and family, instead of institutions and nursing homes. Today, there are nearly 850,000 people on waiting lists across the country. People with disabilities and their families often wait years — sometimes decades — to access these services. The BCBJ Act, discussed previously, would provide the funding necessary to accomplish this same thing.

7. Upcoming Meetings:

- a. September will just be one meeting date, which is September 20th.
- b. In October the committee will determine if two meetings are needed.

8. Public Comment: None at this time.

9. Meeting adjourned at 11:59 AM.

Next Meeting: Monday September 20, 2021 10 AM until 12 noon via Zoom

Action Items:

1. N/A

Motions Made:

1. Meeting Minutes from July 19, 2021:
 - Christine made a motion to approve. Gerrie seconded. Minutes passed.