ARIZONA HOUSE OF REPRESENTATIVES
Fiftieth Legislature –Second Regular Session

COMMITTEE ON HEALTH AND HUMAN SERVICES

Minutes of Meeting
Wednesday, February 8, 2012
House Hearing Room 4 -- 9:00 a.m.

Chairman Ash called the meeting to order at 9:08 a.m. and roll call was taken by the secretary.

Members Present

Mrs. Brophy McGee	Ms. Hobbs	Mrs. Yee
Mrs. Gonzales	Mrs. Judd	Mrs. Carter, Vice-Chairman
Mr. Heinz	Mr. Pierce	Mr. Ash, Chairman

Members Absent

None

Committee Action

HB2063 - DPA S/E (9-0-0-0)
HB2252 - DPA S/E (5-2-0-2)
HB2334 - DPA (7-1-0-1)
HB2568 - HELD AT REQUEST OF SPONSOR
HB2696 - DPA (7-0-0-2)
HB2703 - DP (6-0-0-3)
HB2739 - DP (9-0-0-0)

CONSIDERATION OF BILLS

HB2568 - surrogacy; health insurance - HELD AT REQUEST OF SPONSOR

Chairman Ash announced that HB2568 will be held at the request of the sponsor.

HB2739 - health insurance; vaccines - DO PASS

Mrs. Yee moved that HB2739 do pass.

Ingrid Garvey, Majority Research Analyst, explained that HB2739 provides that stock or mutual insurers, health care services organizations, disability or group disability insurers, blanket disability insurers or accountable health plans that enter into or renew a contract with a health care provider on or after January 1, 2013 must reimburse the health care provider for the cost of child and adolescent immunizations (Attachment 1).

Representative Nancy McLain, sponsor, stated that some insurance companies adequately reimburse pediatricians for vaccines, but some do not. She sponsored a bill last year on which an informational hearing was held in the Banking and Insurance Committee that brought some insurance companies to the table to discuss the issue, but a few reluctantly participate or do not participate in ongoing discussions to find a solution so doctors can continue to give vaccines to young patients. She added that she opposes mandates to insurance companies because it increases the cost to everyone, but this is a public health issue.

Dr. Mike Perlstein, Arizona Chapter of the American Academy of Pediatrics (ACAAP), spoke in favor of HB2739. He related that pediatricians and family practice physicians provide 70 percent of the immunizations in Arizona but, unfortunately, it has become cost-prohibitive. Over the past four years, efforts were made to engage with health plans to resolve the issue of reimbursement; some progress has been made but not enough, and it has not been uniform across health insurance plans. He responded to questions concerning vaccine expenses in relation to other office costs, the reimbursement process, storage of and unused vaccines.

Dr. Jeff Couchman, pediatrician, representing self, spoke in favor of HB2739. He stated that Blue Cross Blue Shield of Arizona worked diligently with ACAAP staff and implemented the majority of items in the bill. UnitedHealthcare of Arizona has been supportive in meetings and made changes nationally as a result of efforts elsewhere. The rest of the industry has not responded adequately. He reviewed costs associated with acquiring and administering vaccines, noting that a survey in Arizona indicated that if physicians are compensated at least 21 percent for shipping, handling and storage costs as required by the bill, most practices could break even. Physicians cannot continue to provide these services to patients if they lose money; even patients with insurance may have to go to public health clinics to be vaccinated at taxpayers' expense. He responded to questions concerning public health clinics and legislation passed last year allowing vaccines to be administered at pharmacies, which he said he does not believe encompasses pediatric vaccines.

Jake Logan, Vice President, UnitedHealth Group, UnitedHealthcare of Arizona, stated that he reluctantly opposes HB2739 because this is an important issue that needs to be addressed; however, imposing mandates is bad public policy and increases the cost of health care. That is why an attempt was made to address concerns outside the legislative process.

Bob Beauchamp, Chief Medical Officer, UnitedHealthcare of Arizona, stated that immunizations are important and extremely cost-effective. Meetings were held with representatives of the ACAAP and a number of changes occurred:

- In 2011, a standard fee schedule was implemented to pay for vaccines at the Centers for Disease Control (CDC) private sector rate plus 18 percent nationwide.
- Criteria used for a child to be covered include Food and Drug Administration approval and recommendations from the Advisory Committee on Immunization Practices (ACIP), which is published in a document called *Morbidity and Mortality Weekly Report* from the CDC, with implementation within 60 days of the publication.
- Vaccine payments are updated quarterly.

Mr. Beachump expressed the need to keep primary care physicians, including pediatricians, in Arizona by making it a desired place to practice, but indicated that he respectfully opposes the bill as an imposed mandate.

Dr. Jennifer Tinney, Program Manager, Arizona Partnership for Immunization, in favor of HB2739, said that making sure immunizations are available for children is a private sector concern with pediatricians, and a public health concern. She discussed the cost of a measles outbreak in 2008 in Pima County (Attachment 2). The goal is to keep immunization rates at 80 percent coverage so diseases are not spread to the most vulnerable or those who cannot or do not have vaccines. A few years ago, immunization rates for children started decreasing and the number of privately-insured children going to the Maricopa County Department of Public Health for immunizations increased; up to 70 percent were going to public health departments in some rural counties. A survey of private physicians showed that 50 percent referred patients to county health departments, with one-third indicating that it was because of reimbursement rates for immunizations. This is placing an undue burden on public health departments at a time when budget cuts are being made.

She stated that federal funds are available for public health departments to immunize these children, but the CDC recently advised that the funds will not be available in the future. Individuals with private insurance will be at risk for preventable diseases, which increases the risk of more outbreaks, disease surveillance and another cost to public health. Children should be treated in their medical home, which is where they receive immunizations as well as medical assessments. In response to a question, she related that SB1298, pharmacists; drug therapy protocols (Laws 2011), applies to children age six and older.

Kathi Beranek, Government Relations Coordinator, Blue Cross Blue Shield of Arizona, spoke in opposition to HB2739. She stated that while she supports the concept of adequately reimbursing pediatricians for vaccines, it is not a good idea to place reimbursement rates in statute. Blue Cross Blue Shield is meeting the majority of the provisions in the bill and will continue to work with the ACAAP on the provision requiring the use of current year Medicare rates to cover the cost of administering the vaccines; the connection between Medicare and pediatric immunizations is unclear. She responded to questions concerning the response of other insurance companies and Medicare reimbursement rates.

Karlene Wenz, Government Affairs Specialist, America's Health Insurance Plans (AHIP), opposed HB2739. She indicated that placing this reimbursement mandate in statute could lead to placing other reimbursement mandates in statute. She questioned what that will mean for the affordability of health insurance in Arizona in the future. In response to a query, she stated that public health is safer by “immunizing the herd.”

After some discussion, Chairman Ash commented that the Committee’s primary focus is on public health and human services as opposed to insurance. He does not like placing reimbursement mandates in statute for a specific amount because costs can increase or decrease, but legislation is sometimes sponsored to bring stakeholders to the table.

Representative McLain remarked that if the bill passes, it will be placed on the agenda for the next Banking and Insurance Committee meeting. Discussions will continue and she is amenable to an amendment in that meeting to address concerns.

Chairman Ash announced the names of those who signed up in support of HB2739 but did not speak:
David Landrith, Vice President of Policy and Political Affairs, Arizona Medical Association
Tara Plese, Arizona Association of Community Health Centers
Matt Jewett, Research Associate, Children's Action Alliance
Rory Hays, representing self
Susan Cannata, Attorney, Arizona Academy of Family Physicians
Kelly Ridgway, Chief Executive Officer, Arizona Pharmacy Alliance
Seth Apfel, representing self
Amanda Weaver, Executive Director, Arizona Osteopathic Medical Association
Arthur Martinez, Chief Clinical Officer, El Rio Community Health Center

Chairman Ash announced the names of those who signed up in opposition to HB2739 but did not speak:
Jaime Molera, Lobbyist, Aetna
Kelsey Lundy, R & R Partners, UnitedHealthcare of Arizona
Kathryn Busby, Health Net
Genevra Richardson, President, GovGroup LLC; UnitedHealthcare of Arizona
Wendy Briggs, Lobbyist, Cigna

Question was called on the motion that HB2739 do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 3).

HB2696 - vulnerable adults; financial exploitation - DO PASS AMENDED

Vice-Chairman Carter moved that HB2696 do pass.

Vice-Chairman Carter moved that the Ash 11-line amendment to HB2696 dated 2/7/12 (Attachment 4) be adopted.

Joe DeMenna, Majority Assistant Research Analyst, explained that HB2696 specifies that a vulnerable adult is not exploited if the person's assets are transferred for the primary purpose of obtaining or maintaining eligibility for benefits under the Arizona Health Care Cost Containment System (AHCCCS), Supplemental Security Income (SSI), Medicaid, Medicare or Veterans' Administration programs (Attachment 5). The amendment makes technical, clarifying and conforming changes (Attachment 4).

Chairman Ash, sponsor, stated that this bill was requested by attorneys who have been experiencing difficulties from people challenging expenditures made by vulnerable adults and their spouses. The courts have been attempting to interpret current law in line with what the bill proposes, but more clarification is needed to do so.

Richard White, elder law attorney, representing self, spoke in favor of HB2696. He related that the Arizona Long Term Care System (ALTCS) provides care for individuals who contract chronic illness, but federal regulations require individuals applying for the benefit to spend all assets but $2,000, and the spouse is allowed to retain some of those assets. While it is implied, it is not explicitly stated that a healthy spouse can utilize Medicaid benefits, veterans' benefits or transfer assets from the ill spouse without concern about violating the vulnerable adult statute. This bill makes it clear that the healthy spouse can care for the ill spouse and avail themselves of the benefits that are available without being subject to double damages by someone else who believes the healthy spouse is exploiting the ill spouse.

In response to a question, he indicated that there are not many cases like this, but there is a current case where a spouse cared for her husband, who had Alzheimer's, during the last five years of his life. She availed herself of the ALTCS benefits and she is now being pursued by the adult children for transferring assets.

Victoria Blair, elder law attorney, representing self, spoke in favor of HB2696. She testified that many clients require long-term care because of diminished capacity so someone else deals with their assets, usually the spouse. A person must transfer all but $2,000 of an ALTCS spouse's assets into the well spouse's name or lose ALTCS eligibility. There have not been a lot of cases where this is an issue, but she receives many phone calls from Adult Protective Services and court-appointed attorneys who are not familiar with the ALTCS rules and question placing all of the assets in the spouse's name, but it is necessary to maintain ALTCS benefits.

Emily Kile, elder law and estate planning attorney, representing self, spoke in favor of HB2696. She reiterated the testimony of the previous speakers. She said she has had clients who feel guilty about transferring the assets from a spouse's name to theirs and removing their spouse from a joint account. Having this language in statute will clarify that it is not considered exploitation or wrong and is required by the ALTCS rules. She noted that a power of attorney or court order will still be needed.

Vice-Chairman Carter announced the names of those who signed up in support of HB2696 but did not speak:
Don Isaacson, LeadingAge Arizona
Genny Rose, Executive Director, LeadingAge Arizona
Kathleen Pagels, Executive Director, Arizona Health Care Association
Kari Curry, Enrichment Director, LeadingAge Arizona
Cornell Morgan, Assisted Living Manager, Christian Care
Vanessa Torres, Medical Records Coordinator, LeadingAge Arizona
Linda Daquilante, Executive Assistant, LeadingAge Arizona
Stephanie Everson, Executive Director Human Resources, LeadingAge Arizona
John Spellman, Facilities Director, LeadingAge Arizona
Mark Winn, representing self
Michelle Just, Senior Vice President of Health Services, LeadingAge Arizona
Dennis Grindel, Executive Director of Residential Services, LeadingAge Arizona
Sylva Leduc, Executive Coach, LeadingAge Arizona
Paul Loomans, representing self

Question was called on the motion that the Ash 11-line amendment to HB2696 dated 2/7/12 (Attachment 4) be adopted. The motion carried.

Vice-Chairman Carter moved that HB2696 as amended do pass. The motion carried by a roll call vote of 7-0-0-2 (Attachment 6).

HB2063 - home health agencies; technical correction - DO PASS AMENDED S/E
S/E: community health centers; walk-in patients

Vice-Chairman Carter moved that HB2063 do pass.

Vice-Chairman Carter moved that the Brophy McGee three-page strike-everything amendment to HB2063 dated 02/02/2012 (Attachment 7) be adopted.

Joe DeMenna, Majority Assistant Research Analyst, explained that the strike-everything amendment to HB2063 (Attachment 7) specifies that the contract between the Arizona Department of Health Services (DHS) and qualifying community health centers allows urgent care services for walk-in patients (Attachment 8).

Mrs. Brophy McGee, sponsor, related that the strike-everything amendment to HB2063 will give community health centers (CHC) the ability to provide extended hours, open scheduling and walk-in appointments for patients, which will confirm that they are in compliance with Patient-Centered Medical Home certification and, therefore, able to meet the requirements for Health and Human Services Medicare demonstration projects.

Tara Plese, Director of Government Media Relations, Arizona Association of Community Health Centers (AACHC), spoke in favor of the strike-everything amendment to HB2063. She advised that federally-qualified health centers are located in medically underserved areas where there is an insufficient number of primary care providers or a large number of low-income patients. Extended hours and additional days of service will allow for greater access to primary health care services and help prevent inappropriate use of hospital emergency rooms.

Mrs. Yee asked if expansion of the ability to access services will increase taxpayers' expense and the potential impact to urgent care centers. Ms. Plese answered that CHCs already have contracts under Medicaid and Medicare and receive no state reimbursement. CHCs work in conjunction with urgent care clinics. CHCs provide continuity of care for the patient population, whereas urgent care centers address immediate needs of patients who present at the door, and urgent care centers sometimes refer patients to CHCs.

Mrs. Brophy McGee noted that a stakeholder meeting was held the previous day with urgent care physicians and their representative to ensure that there is no conflict.

Arthur Martinez, Chief Clinical Officer, El Rio Community Health Center; Chairman, Clinical Committee, Arizona Association of Community Health Centers (AACHC), spoke in favor of the strike-everything amendment to HB2063. He indicated that the mission of CHCs is to provide accessible, affordable, comprehensive and quality health care, which is why CHCs would like

the opportunity to have extended hours. If services can be coordinated through the primary care physician, there will be a significant impact in cost savings and an increase in quality of care. The language in the Patient-Centered Medical Home certification requires that an opportunity is provided for urgent care He noted that there is concern that licensed, independent urgent care facilities will be opened, which is not the intent. CHCs want to provide continuum of service to patients from birth to death.

Chairman Ash announced the names of those who signed up as neutral on the strike-everything amendment to HB2063 but did not speak:
Colby Bower, Director of Government Relations, Arizona Department of Health Services

Chairman Ash announced the names of those who signed up in support of the strike-everything amendment to HB2063 but did not speak:
Richard Bitner, Legislative Counsel, Arizona College of Emergency Physicians

Vice-Chairman Carter announced the names of those who signed up in support of the strike-everything amendment to HB2063 but did not speak:
Michelle Pabis, Assistant Government Relations Director, Scottsdale Healthcare
Rory Hays, Lobbyist, Arizona Nurses Association
Kathleen Pagels, Executive Director, Arizona Health Care Association
Susan Cannata, Attorney, Arizona Academy of Family Physicians
David Landrith, Vice President of Policy and Political Affairs, Arizona Medical Association
Deb Gullett, Arizona Association of Health Plans
Sue Braga, Arizona Academy of Pediatrics
Kristen Boilini, Lobbyist, Arizona Association of Community Health Centers
Amanda Weaver, Executive Director, Arizona Osteopathic Medical Association

Question was called on the motion that the Brophy McGee three-page strike-everything amendment to HB2063 dated 02/02/2012 (Attachment 7) be adopted. The motion carried.

Vice-Chairman Carter moved that HB2063 as amended do pass. The motion carried by a roll call vote of 9-0-0-0 (Attachment 9).

HB2334 - regional behavioral health authorities; requirements - DO PASS AMENDED

Vice-Chairman Carter moved that HB2334 do pass.

Vice-Chairman Carter moved that the Ash two-page amendment to HB2334 dated 02/07/2012 (Attachment 10) be adopted.

Bethan Jones, Majority Intern, explained that HB2334 requires the Arizona Department of Health Services (DHS) to assemble an advisory committee when considering the award of any contract with a behavioral health contractor that would act as a regional behavioral health authority (RBHA) (Attachment 11). The amendment contains the following provisions (Attachment 10):

- Replaces the term "advisory committee" with "committee".
- Specifies that beginning January 1, 2013, 90 days before DHS issues a Request for Proposals (RFP) or extends an existing contract for a RBHA, DHS must assemble a committee with the same composition as described in the bill.
- Stipulates that the committee must submit a written report to DHS and describes the content that the report must include.
- Requires DHS to make available through its website an opportunity for public comment regarding the RFPs.

Representative Russ Jones, sponsor, conveyed that a summit was organized in his district for mental health care providers to work out ways to deliver mental health services more effectively with available resources. One of the recommendations was to allow local input and participation in dealing with DHS through regional behavioral health authorities (RBHA) about the needs of the region and to find ways to improve efficiencies for services that are delivered. The amendment addresses a concern by DHS by ensuring that the advisory study committee will meet and make recommendations prior to issuance of an RFP. In response to questions, he acknowledged that the bill applies to all RHBAs. He indicated that he has not been in contact with chambers of commerce and is not aware of the reason for their opposition to the bill.

Robert Pickels, Administrator, Yuma County, spoke in favor of HB2334. He advised that Title 36 requires county governments to be financially responsible for the screening and evaluation process of petitions for court-ordered evaluations, which has increased 70 percent in the last few years. This is a financial concern for the county. There is a strong nexus between the treatment aspect and reoccurring petitions for screening and evaluation, which means issues need to be addressed within the treatment community; therefore, the county would like to be able to engage in dialogue prior to DHS soliciting for a RHBA.

Colby Bower, Legislative Liaison, Arizona Department of Health Services (DHS), neutral on HB2334, informed the Members that there were initial concerns from the Procurement Office about the original bill, but DHS worked with the sponsor to formalize an input process for local communities. For legal reasons, DHS wants to ensure this activity happens prior to issuing an RFP.

Vice-Chairman Carter announced the names of those who signed up in support of HB2334 but did not speak:
Todd Madeksza, Director of Legislative Affairs, County Supervisors Association
Heather Bernacki, Government Relations Associate, Yuma County
Eric Emmert, Yuma County

Vice-Chairman Carter announced the names of those who signed up in opposition to HB2334 but did not speak:
Gretchen Conger, Director of Government Relations, Arizona Chamber of Commerce and Industry

Question was called on the motion that the Ash two-page amendment to HB2334 dated 02/07/2012 (Attachment 10) be adopted. The motion carried.

Vice-Chairman Carter moved that HB2334 as amended do pass.

Mrs. Yee noted that she received an email from a chamber of commerce representative and it appears there is concern regarding the additional layer of complexity the bill adds with the advisory committee that is not done in any other contract-related services, and ensuring that those involved in receiving the contract are "at an arm's distance" from those who make contract decisions.

Vice-Chairman Carter stated that a common theme she has noticed about contracts for services is that there is a need for more direct communication with the people who receive the services.

Representative Jones remarked that he does agree that this is another layer of bureaucracy. The bill provides more transparency; DHS has a website so individuals who have an issue with services can provide input. It does not impose any regulatory requirement on the Director of DHS other than to appoint the committee in a timely manner, so it does not impact the procurement process. He said he hopes that allowing input will result in improved contracts for services that meet the needs of the particular region.

Question was called on the motion that HB2334 do pass. The motion carried by a roll call vote of 7-1-0-1 (Attachment 12).

HB2252 - custodial parents; medication; full access - DO PASS AMENDED S/E
S/E: custodial parents; pharmacy access

Vice-Chairman Carter moved that HB2252 do pass.

Vice-Chairman Carter moved that the Ash 11-line strike-everything amendment to HB2252 dated 2/6/12 (Attachment 13) be adopted.

Bethan Jones, Majority Intern, explained that the strike-everything amendment to HB2252 (Attachment 13) states that a parent with joint legal custody must not designate one pharmacy in a single location as the only source of the child's prescription medication unless the other parent agrees (Attachment 14).

Representative Terri Proud, sponsor, stated that the strike-everything amendment to HB2252 allows both parents to have joint consent over medication. If the courts award joint custody, both parents should be able to pick up medication at any pharmacy of their choice instead of one parent designating only one pharmacy. She related a personal experience in which she was not able to obtain medication for her daughter while she was visiting in Phoenix because of a restriction placed by her former husband on where the medication can be obtained, which was at a pharmacy located in Tucson. She added that she spoke with a doctor in Tucson and called the National Cystic Fibrosis Association, and she is not the only person who experienced a situation in which a parent restricted medication.

Vice-Chairman Carter expressed concern about the provision stipulating that a person in violation of the section commits an act of neglect, although she does believe this is an important issue. Representative Proud responded that provision was included because there is no point of

having a law without consequences. She said she believes that one parent restricting another parent violates the court order for joint custody. The language allows the judge to make a finding of neglect; it is not mandatory.

Vice-Chairman Carter suggested changing the language to "may be deemed neglectful as defined by the judge." Representative Proud indicated that she is willing to amend the language.

Vice-Chairman Carter stated that if the parents have joint custody and the child is covered under one parent's insurance plan, perhaps one retailer can be designated based upon insurance requirements. Discussion followed.

Amy Love, Legislative Intern, Administrative Office of the Courts, neutral on the strike-everything amendment to HB2252, stated that with this provision in Title 25, which governs family law proceedings, and referencing Title 8 and neglect, which is investigated by Child Protective Services, a family law judge would not be able to make a finding of neglect within the divorce or custody proceeding. It may be better to place the language in Title 8 §201 to provide clarity to the Department of Economic Security.

Mrs. Yee asked about a situation in which one parent allows a prescription such as birth control medication for the child, but the other parent chooses not to. Representative Proud answered that would be treated the same as any other issue relating to joint custody; the issue would be taken to court if the parents cannot reach agreement. She indicated that she is willing to discuss the issue.

Chairman Ash announced the names of those who signed up as neutral on the strike-everything amendment to HB2252 but did not speak:
Seth Apfel, representing self

Question was called on the motion that the Ash 11-line strike-everything amendment to HB2252 (Attachment 13) be adopted. The motion carried.

Vice-Chairman Carter moved that HB2252 as amended do pass. The motion carried by a roll call vote of 5-2-0-2 (Attachment 15).

HB2703 - AHCCCS; hospital emergency care; funding - DO PASS

Vice-Chairman Carter moved that HB2703 do pass.

Ingrid Garvey, Majority Research Analyst, explained that HB2703 provides that the Director of the Arizona Health Care Cost Containment System (AHCCCS) must take all actions necessary to obtain federal matching Medicaid funding of monies deposited into the Trauma and Emergency Medical Services Fund (Attachment 16).

Representative Russ Jones, sponsor, noted that approximately $20 million from Indian gaming funds is provided to the state annually and deposited into the Trauma and Emergency Medical Services Fund. He plans to offer an amendment in the Appropriations Committee to distribute the money based on uncompensated care throughout the state.

Chairman Ash announced the names of those who signed up in support of HB2703 but did not speak:
Barbara Fanning, Legislative Liaison, Arizona Hospital and Healthcare Association

Chairman Ash announced the names of those who signed up as neutral on HB2703 but did not speak:
Jennifer Carusetta, Chief Legislative Liaison, AHCCCS

Vice-Chairman Carter announced the names of those who signed up in opposition to HB2703 but did not speak:
Noel Maloney, representing self
Lillian Maloney, representing self
Donna Boracchia, representing self

Vice-Chairman Carter announced the names of those who signed up in support of HB2703 but did not speak:
David Landrith, Vice President of Policy and Political Affairs, Arizona Medical Association
Heather Bernacki, Government Relations Associate, Arizona Physical Therapy Association
Ryan Harper, Triadvocates LLC, Vanguard Health Systems

Question was called on the motion that HB2703 do pass. The motion carried by a roll call vote of 6-0-0-3 (Attachment 17).

Without objection, the meeting adjourned at 11:39 a.m.

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Linda Taylor, Committee Secretary
February 21, 2012

(Original minutes, attachments and audio on file in the Chief Clerk's Office; video archives available at http://www.azleg.gov)