Idaho Council on Developmental Disabilities
Public Policy Committee
8:30 – 10:00 am, January 27, 2011
Joe R. Williams Building, 700 W. State Street, First Floor

Public Policy Committee Meeting Minutes

Committee Members: Denise Wetzel, Jim Baugh, Ritchy Cardwell, Kelly Hall, Jenniffer Halladay, Joe Raiden, and Paul Tierney

Absent: Jean Christensen

Guest: Art Evans, Medicaid Bureau Chief attending on the behalf of Jean Christensen

Staff: Christine Pisani

Welcome Committee Members
Welcome and introductions were made.
No changes were made to the agenda.

Approval of Minutes
Jim Baugh moved to accept the minutes of the October 27, 2011 meeting as amended. Paul Tierney seconded. Motion passed.

Review 2012 Legislative Slate Recommendations
Criminal History Background Checks
Christine asked if everyone understood why we couldn't move forward with the proposed legislation for criminal history background checks for potential guardians and/or conservators. She explained that Rep. Burgoyne is still dedicated to seeing this through. The task force may research the procedures used for adoptions to see if the process may work for guardianships. Jim Baugh said he would like to review the adoption process as he is concerned with the lack of due process. Jim spoke with Rep. Burgoyne and he shared similar concerns. Jim is more interested in asking the proposed guardian and/or conservator to share the results to the parties involved. It is still a closed case so it wouldn't be public. The

FBI is concerned about the right to privacy of the person having the background check. The task force will begin drafting legislation after the end of this legislative session.

Children's Redesign

Art Evans reported that Medicaid is working with Centers for Medicare and Medicaid Services (CMS) on the transition plan. He is hoping by next week they will have a termination date for the old children's services. The current plan was developed so children wouldn't transition until their birthdays. The problem is that parents are choosing to stay on the old plan and this will cause major issues because such a high number of children will need to be transitioned at the same time opposed to staggering the dates of transition. He said there is a huge resistance to the new services. Art explained that has served as a Developmental Specialist, Intensive Behavioral Intervention professional, and a Licensed Master of Social Work and he feels the new services are good. Jim explained how states have to get CMS approval to redesign systems. Art said now people want all services – IBI, DT, and new plan budgets. This is an issue of duplicative services. Christine asked about a letter from Dave Simnitt re: EPDST. Jim explained that 1905(a) services – these are the mandatory services that every state has to provide and a menu of services that are optional these are regarded as the 1905(a) services. Now we have other services on various waivers. These have to be approved by CMS. Under EPSDT children can receive all 1905(a) services if a doctor has said they are medically necessary. Art said EPSDT is a stand-alone service, it is not for all children. 1915(c) is the home and community based services – this includes the DD waiver and A&D waiver. Under children's redesign is the creation of new 1915(c) waivers. For example habilitative services is a new waiver. Habilitative intervention is not listed on 1905(a) therefore it is a 1915(c) waiver, same with the parent consultation. Art said they have 12 months from the time they put it together to get CMS approval. Jim said that it is very clear that if you feel your child is not having their needs met under children's redesign, parents can submit an EPDST request. Habilitative supports, respite care and family education are all 1915(i) services. Services under 1915(i) are exclusive to state plan services. Rehabilitative services are a 1905(a) service. As long as it is there and people are eligible they can receive it. There is confusion between rehabilitation and habilitation and how it applies to people with developmental disabilities. Rehabilitation is helping people gain a skill that they lost due to illness or injury. Habilitation is helping someone gain a new skill they never had.

Christine asked if a child isn't receiving the services through children's redesign would the child be able to get the services if the doctor indicated that the service was medically necessary. Art said the short answer is yes. People may apply for EPSDT services and each case is evaluated individually. Christine asked if the child needs IBI may they access it through EPDST. Art said they are looking at state plan and children's redesign to eliminate duplication. If you are getting habilitative intervention and you want IBI, receiving both would be a duplication of services. However it is possible to get more hours. Jim said that there is a federal rule that if you have the same services in your plan you have to use the state plan hours first before you can start billing your waiver services. Jenn Halladay said she is concerned that her daughter isn't getting the services she needs now, she asked if it will follow her daughter into adulthood. Art said the budget setting for adults is completely separate. They haven't even begun looking at moving adults to a tiered budget system. They use the SIB-R and social & medical background to set adult budgets. They will define level of need or disability, health and safety issues and various other things so they get a broad spectrum of issues. The bottom line is that they have to move to tiers because it's in statute now. He said they used to have tiers. Jim said in waiver services there is a daily rate which is similar to a tier. For example, in supported living the daily rate has 4 budget categories based on the individual formula. Art said that the SIB-R confirms but does not drive the calculation. He couldn't say much about it because of the current lawsuit. Art said individual needs are looked at and if you answer things a particular way it drives the cost up because the need is higher.

School-Based Services

Kelly Hall reported that a plan has been completed for school based services to send to CMS. She said occupational therapy, physical therapy, speech language pathology, psycho-social rehabilitation, and personal care services are not changing. Developmental therapy (DT) and intensive behavioral intervention (IBI) are going away since Children's Redesign removed those services from the state plan. In school-based services, behavior intervention will have 3 different levels: 1) Para-professional, 2) bachelors level teacher, and 3) Masters level consult to create a behavior intervention plan. Kelly thinks the consultation will really help rural areas that can't afford a masters level staff. So far CMS and Health & Welfare are supportive of this plan. There is a struggle to find a replacement for DT as they are trying figure out how to address the needs of students to fully participate in the classroom. She gave an example of a student that needs help

navigating the hallways and get books out of their lockers, etc. It is the responsibility of the school to teach students but there are times a student needs help that isn't academic, but is necessary to the student. SDE has been looking at other states' Medicaid services. In some other states, the only school-based service that are offered are occupational therapy, physical therapy, and speech language pathology. Maine provides quite a lot of school-based services, but they were clear on their website that their community services and school-based services are the same. If the services are offered in the community they are offered in school. Medicaid is going to look into what the state of Maine is doing. Kelly said the biggest problem is that services need to be figured out for the 2012-2013 school year because state plan services are going away. The State Department of Education (SDE) is working to craft temporary rules and will write procedures for schools in May-June. After that they will train school staff. Art clarified the target date to "kill" state plan services is the end of the 2013 legislature. Paul Tierney asked if school based services would come out of the individual plan or not? Kelly said they do not want to become competition for the community providers. Art said they are taking IBI and DT out of the state plan because CMS thinks they should never have been in the state plan to begin with. CMS is encouraging all states to remove IBI and DT from their state plans. Kelly asked Art why community services can't be offered in the school. Jim said it had to do with what happened in the 70s and 80s. Schools were excluding students with disabilities. They were put in home placements by the schools. Providers said they would provide all services at home but when the student attends school we won't provide those services. Congress then passed the Medicaid Catastrophic Act which states you have to provide services wherever people are. Jim filed the lawsuit in Idaho. The suit was not to create a new funding source or new services it was so students with disabilities could be in school and get the services they needed to stay in school. Jim said the problem is that schools have come to think of this as a funding source to help pay for special education services. It was never supposed to be a separate type of services for school. Whether funding to pay for school-based services comes out of individual budget's is an issue, it needs to be adjusted so they aren't penalized for what the school should provide anyway or schools should pay for services out of the education budget. Unfortunately, that means students will lose services. Parents could refuse for the schools to be their child's Medicaid provider and bill the budget. Art said it is an ongoing issue that schools aren't necessarily providing quality supports anyway and certainly schools have been relying on that for funding. CMS is looking at Medicaid monies spent in

school districts across the country and have recouped a lot of money. The Idaho Department of Health & Welfare (DHW) is doing the same.

Adult Services

A group of providers put together a task force to come up with recommendations for DHW regarding adult services redesign. Christine said they are looking for more self-advocates to be part of this task force. Health & Welfare is also planning to put together a group. Christine said that Paige Grooms with Health & Welfare contacted her about participating at a meeting to discuss changes to state plan services. Art said that because Children's Redesign removes DT, Health & Welfare needs to decide how this will look for adults. Art said he will know next week where they are going with a work group about redefining DT. He also said that DHW is not looking at a redesign of adult services like they did with children. Art said they would like to collaborate with the Council, but they are not ready to commit. There is a meeting tentatively for February 6th to redefine DT.

Update on Disability Advocacy Day

Disability Advocacy Day at the Capitol is February 3rd from 8:00-3:00. Members of CID will have display tables on the fourth floor. Also that day, the Joint Finance and Appropriations Committee (JFAC) is holding a public hearing from 8:00-10:30 am. JFAC will hear from the public on all budget issues, not just Medicaid. Council staff and other members of CID are encouraging people to come out and help JFAC understand how the cuts to Medicaid are impacting people.

Adjourned

Meeting adjourned at 10:20 am.