

**Disability Commission
Legislative Action Plan 2003
December 6, 2002**

Legislative Meeting

The Disability Commission held its fourth and final meeting of the 2002-03 interim on December 6, 2002 to determine its legislative agenda for the upcoming General Assembly Session and any administrative follow-up actions needed based on the work of the previous meetings. This report summarizes the Commission's final determinations.

The members participating in the December 6th meeting included Lieutenant Governor Kaine, Delegates Bloxom, McQuigg, Broman, and Mayer, Senators Puller and Nolen, and gubernatorial appointees James McDonald, William Howell, Dr. Fred Orelove and Karen Michalski-Karney. Staff in attendance included Carey Friedman (Director of Policy, Lieutenant Governor's Office), Barbara J. Ettner (Assistant Director, Virginia Board for People with Disabilities), and Janet W. Hill (Research Consultant for VBPD/Commission, VCU Commonwealth Institute).

I. Legislative Action for 2003 Session

The Disability Commission was made aware of the concerns of private providers of services for Virginians with disabilities that no direct providers of services were participating on the Virginia Board for People with Disabilities. The Commission agreed that a minor language change in §51.5-31 would ensure direct service provider representation. A single legislative action for the Commission was defined as follows:

- Sponsor a legislation to modify §51.5-31 to specify that at least one member of the Virginia Board for People with Disabilities be a representative of a service provider organization by replacing the term, *agency concerned with services*, with to term, *agency that provides services* in the listing of the Board's composition.

II. Related Administrative Actions for 2003

The Commission determined numerous strategic, administrative actions related to the upcoming 2003 General Assembly Session during the interim. These were considered and determined in the reviews of each of the key categories of work covered by the Commission as shown in the order below: 1) Commission community program initiatives and interests, 2) Housing, and 3) Employment -- the Medicaid Buy-In. The Commission agreed to defer Transportation issues until next year due to the complexity of the other priorities this year.

1) Community Program Initiatives and Other Interests

a. Monitoring Impact of Budget Cuts

During the meetings of the 2002-03 interim session, consumers and advocates brought forward concerns regarding the budget cuts in Commission-related programs especially the Rehabilitation Services Incentive Fund and the Centers for Independent Living. The Commission discussed the relative merit trying to restore budget cuts by submitting budget amendments for these programs during the General Assembly session. The Lieutenant Governor reminded the Commission that a letter had been sent to the Governor in October 2002 asking for special considerations for these and other programs in the Governor's budget. The Chairman suggested a review the Governor's final budget before considering budget amendments at this time. In addition, the Department of Rehabilitative Services (DRS) reported that efforts were made to contour the required budget cuts to minimize reductions in direct consumer services and to maintain the infrastructure of services in order that supports can be increased when the economy stabilizes. Senator Puller recommended that the Commission wait to see if the DRS plans are effective and asked for more consumer outcome data on the impact of these programs.

- After release of the Governor's Budget, Commission members will further analyze reductions in services and review impact of the DRS plans to manage service reductions by examining consumer outcomes that may not be achieved without budget restorations.

b. Technology Partnerships

The work of Delegate Robert Bloxom and Commissioner William Howell in 2001-02 led to the HJR-218: Encouraging the renewal of partnerships among the Center for Innovative Technology (CIT), the Department of Information Technology (DIT), and rehabilitation agencies, including the Department of Rehabilitative Services, the Department for the Blind and Vision Impaired, the Department for the Deaf and Hard-of-Hearing and the Woodrow Wilson Rehabilitation Center, to strengthen cooperation in advancing research and new technologies to respond to the talents and needs of persons with disabilities. James A. Rothrock, DRS Commission reported that participating entities have conducted regular meetings and are preparing a final report which will require no legislative action this year. He reported that meetings have greatly enhanced communications and planning for joint projects. Delegate Mayer requested that the Chairman send a letter of thanks to the participating entities upon receipt of the final report.

- Letter for Chairman's signature will be prepared thanking the Center for Innovative Technology (CIT), the Department of Information Technology (DIT) and rehabilitation agencies for their collaborative work and encouraging on-going efforts.

c. Accessibility Renovations: General Assembly and Capitol Buildings

The Commission made progress this year in initiating accessibility renovations to the first floor restrooms in the General Assembly Building and in encouraging that other accessibility recommendations in described in the Capital Access Study are completed in a timely manner. The Lt. Governor agreed to continued follow up through the following action:

- Upon completion of GAB renovations, a letter for Chairman's signature will be prepared to the Department of General Services and the Clerk's office praising the completion of these renovations and encouraging that other priority accessibility recommendations in Capital Access Study are also completed in a timely manner.

d. Personnel Development in Autism

In 2001, the Commission learned of the striking rises in autism incidence rates and the lack of Medicaid Waiver providers with expertise in autism throughout the Commonwealth. The Commission encouraged advocates to form a statewide council to develop a consensus plan to address these needs. A statewide autism planning council was formed including autism experts from major colleges and universities and exemplary autism providers throughout the Commonwealth. In the spring of 2002, the Commission arranged for representatives of related state agencies to be added to the Council. The Council has worked together for over a year with the goal developing consistent higher education and training competencies and curricula for professionals and paraprofessionals serving individuals with autism in Virginia and encouraging statewide, multi-college/university collaboration and infrastructure development to advance personnel preparation in autism. The Council has been awarded a small start up grant from the Department of Education (DOE) and related training resources from the Department of Medical Assistance Services (DMAS). The Commission was impressed with these efforts and agreed to the following support action.

- Letter for Chairman's signature will be prepared to encourage the State Council of Higher Education of Virginia (SCHEV) to recognize the work of the Disability Commission's State Autism Planning Group to develop Higher Education and Training Competencies and Curricula for Professionals and Paraprofessionals Serving Individuals with Autism in Virginia and to encourage wider multi-cultural college/university collaboration and infrastructure development to advance personnel preparation in autism for Virginia.

e. Brain Injury Waiver

On October 30, 2002, the Commission asked the Department of Medical Assistance Services (DMAS) to provide cost-estimates for a small, 25-person waiver to avert nursing home placements and to advance community services for persons with brain injury. The cost estimates for a 25-person Home and Community Based Waiver were reported between \$1.5 million (waiver with no congregate living options) and \$2.0 million (waiver

with congregate, group home living options), plus costs for developing a licensing function for these services. These figures represent both state general funds and the federal financial participation required. The Commission considered sponsoring a budget amendment; however, with the previous prioritization of the Medicaid Buy-In program for this year, the effort was deferred until next year. Delegate Broman thanked the Lt. Governor, the Commission and the stakeholders for their work on this important planning effort for people with brain injuries. The Commission agreed to the following action:

- Letter for Chairman's signature will be prepared to direct DMAS, with collaborative stakeholder input, to prepare a brain injury Medicaid waiver program plan, including licensing management plans, to be submitted contingent upon future funding.

2) Housing- Commission priority for the 2002-2003 interim session

The Disability Commission Housing Work Group expanded this year to better address the mandates of the HJR 251/236, which encouraged the Commission to facilitate collaboration among stakeholders to develop recommendations for strengthening intergovernmental and interagency coordination of housing programs for people with disabilities. Carey Friedman, Director of Policy, Office of the Lieutenant Governor, was appointed to chairman and facilitate consensus on an initial action plan for the Work Group. The first order of business was to coordinate the efforts of the group with the Olmstead Task Force and the HB 813 state strategy development. The Group also made significant progress this year in disseminating information to bring about optimal statewide attention to the housing needs of people with disabilities through an address by the Disability Commission Chairman and the participation of national disability speakers at the Governor's annual housing conference.

At the request of advocates on the Commission's Housing Work Group, Virginia Housing Development Authority (VHDA) staff prepared a recommended change to the 2003 Low Income Housing Tax Credit (LIHTC), Qualified Allocation Plan (QAP) to promote the development of affordable, accessible rental housing units. This proposed change was designed to ensure that the competitive LIHTC scoring system provides every developer of LIHTC housing with a strong incentive to include accessible units in their development plan. The Work Group agreed this approach could significantly increase the availability of accessible housing for Virginians with disabilities, and submitted comments in support of the change to VHDA during the public hearing process. The VHDA Board approved this recommendation in November 2002. An additional change to the LIHTC QAP that will create a special pool of credits for developments providing supportive housing was also approved by VHDA's Board in November 2002 but was deferred until 2004 to give housing sponsors time to adjust their development planning to fit the newly framed priorities. The 2003 plan will go into effect after the Governor's review and approval in December 2002.

Next year, the Housing Work Group will work closely with a national disability and aging housing consultant team (provided by Department of Housing and Community

Development (DHCD) and VHDA, key agencies represented on the Housing Work Group) to identify resources and best practices that can be used to improve housing opportunities for persons with disabilities throughout the Commonwealth. The Work Group has also gained consensus that interagency/intergovernmental planning is needed for joint training to improve understanding and communication between the housing and the disability communities and to facilitate the development of effective state and local partnerships of housing and service providers. Delegate Bloxom asked if the Housing Study Commission was included in all work. Carey Friedman assured him that the Study Commission is represented on the Work Group and he will continue to invite the Housing Study Commission's involvement. The following actions were defined:

- Letter for Chairman's signature will be prepared to the Secretaries of Trade and Commerce and Health and Human Resources to continue the Disability Commission's Housing Work Group and Housing Action Plan development, in partnership with the Olmstead Task Force and HB 813 state strategy development. The Work Group will continue to be charged with strengthening intergovernmental and interagency coordination of housing programs for people with disabilities among state, federal and local agencies and other stakeholders.
- Letter for Chairman's signature will be prepared congratulating the VHDA Board on the approved and pending changes to the 2003 Low Income Housing Tax Credit, Qualified Allocation Plan (QAP) developed in concert with the Disability Commission's Housing Work Group and outlining next steps in increasing accessible housing construction incentives.

3) Employment: Medicaid Buy-In Program Development

The Lt. Governor with the assistance of agency staff briefed the Commission on the following Medicaid Buy-In actions that occurred since the October 30th Commission Meeting:

a. Status of HJR-251/SB 128 Report

The Chairman reported that Patrick Finnerty, Director, Department of Medical Assistance Services, has forwarded the final report for HJR-251/SB-128, which requested that *the Department of Medical Assistance Services, in collaboration with the Department of Rehabilitative Services and the Department for Rights of Virginians with Disabilities, or its successor in interest, proceed with the development of a Medicaid Buy-In opportunity for working Virginians with disabilities.* An Executive Summary of the final report was distributed to each member. The Chairman accepted the report for Commission review and thanked Kathryn Kotula and Jack Quigley, lead DMAS staff who prepared the report. He also thanked the staff of the collaborating state agencies, especially DRS and Virginia Office of Protection and Advocacy, and all stakeholders participating in the Medicaid Infrastructure Grant (MIG) Advisory Council.

b. Proposal for Small Pilot Project for FY 2002

At the October 30, 2002 meeting, the Commission learned of the various Medicaid Buy-In design options used in other states and requested more cost estimates on best practice models recommended by Virginia stakeholders. With the Commission's consent, the Lt. Governor met with Medicaid Infrastructure Grant Staff on November 9th to review costs and determine the Commission's Buy-In actions during this difficult budget year. The Lt. Governor decided that based on preliminary estimates, the recommended models were cost prohibitive for this year (*if the program was opened up to all eligible persons in the State as required in a regular Medicaid Buy-In Program*). He agreed to bring cost estimates forward to the Commission in the 2003 interim. To continue the progress made this year, the Lieutenant Governor made the determination to advance an affordable, pilot Medicaid Buy-In program despite the current budget limitations (through a special Buy-In waiver for a small sample of 200 persons for FY 2004).

At the December 6th Commission Meeting, the Chairman distributed a letter he forwarded on behalf of the Commission to Governor Warner requesting his support for an 1115 Research Waiver Plan with a budget request for \$430,000 to support a pilot Buy-In program. The plan recommends that the Commonwealth apply to Centers of Medicare and Medicaid Services (CMS) for a Research Waiver pilot program for 200 people effective the second half of FY 2004 to begin live implementation and better study/predict costs for the future. The Chairman also stated that although CMS has not yet approved Buy-In waivers in any other states, he would personally pursue the request with Claude Allen, Deputy Secretary of the U.S. Department of Health and Human Services behalf of the Commission. Follow-up actions were determined as follows:

- If pilot funds were made available within the Governor's budget, the Commission would follow the Lt. Governor's plan to direct DMAS to develop and submit the 1115 Research Waiver proposal to CMS to begin January 2004. If the funds are not included in the Governor's Budget, the Chairman stated that several legislative members had informed him of their interests in submitting a budget amendment for this purpose during the upcoming the General Assembly Session to fund this pilot plan.

c. Remaining Consumer Buy-In Concerns

Ray Bridge, an advocate member of the MIG Technical Design Subcommittee, asked to address the Commission to clarify that the pilot model being proposed was necessarily constructed to restrict participation due to lack of resources this year and should be considered only a starting point for Virginia's Buy-In. Other consumer concerns were articulated including the need to extend Personal Assistance Services (PAS) and Home and Community Based Waiver Service eligibility to persons participating in the Medicaid Buy-In in the future. The Lt. Governor agreed and gave assurances that the future Buy-In model will draw on the expectations articulated in the Technical Design Subcommittee Report and that it is the Commonwealth's intention to address those concerns through research and planning in the future.

- Letter for Chairman's signature will be prepared requesting that DMAS, in full collaboration with DRS and VOPA, work with stakeholders to examine options and submit an update for the future provision of employment-related Personal Assistance Services (PAS) for Buy-In participants by November 30, 2003; and to explore feasibility of extending the Medicaid Buy-In option to Home and Community-Based Waiver participants by November 30, 2004.
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