

Virginia Disability Commission - 2010 Summary

Tuesday, July 20, 2010

The first meeting of the Virginia Disability Commission for the 2010 interim was held Tuesday, July 20, 2010, at 10:00 a.m. in House Room C of the General Assembly Building in Richmond.

Introductions, Election of New Chairman and Vice-Chairman

Following introduction of the members present, Senator Linda Puller opened the floor for nominations for the new chairman of the Disability Commission for the 2010-2011 biennium. Senator Miller nominated Delegate Robert D. Orrock, Sr., and Delegate Orrock was unanimously elected to serve as the chairman for the 2010-2011 biennium. Senator Puller then nominated Senator Miller to serve as the vice-chairwoman, and Senator Miller was unanimously elected to serve as the vice-chairwoman for the 2010-2011 biennium.

Following election of the chairman and vice-chairman, staff provided an overview of the purpose and scope of the Disability Commission. Staff also provided a very brief overview of budget actions adopted during the 2010 Session of the General Assembly which affect services for persons with disabilities, budget actions that were recommended by Governor McDonnell that were not adopted, and information on legislation considered by the General Assembly during the 2010 Session that may affect or be of interest to persons with disabilities.

Presentation - Health Reform: Issues for State Medicaid Agencies and People with Disabilities

Mr. Damon Terzaghi, Senior Policy Associate with the National Association of State Medicaid Directors/American Public Human Services Association, presented information on the Patient Protection and Affordable Care Act of 2010, including a summary of the major provisions of the legislation, potential impacts on services for persons with disabilities, and potential opportunities for states to maximize services for persons with disabilities included in the legislation. He discussed the impact of expansion of Medicaid to new eligibility groups, and the potential impact that such expansion may have on the ability of states to provide services for persons with disabilities. He also mentioned that changes in income calculations may affect who is eligible for Medicaid and the composition of the population served by state Medicaid programs.

Mr. Terzaghi also noted that Medicaid expansion is oriented more toward provision of acute care services and that states will have to plan carefully to ensure that long-term services are provided for those who require ongoing assistance.

Finally, Mr. Terzaghi identified several issues for states, including aligning state eligibility systems with required health insurance exchanges, establishing benchmark packages of services that meet the needs of enrolled persons, prioritizing nonmandated activities, and succession planning for the future.

In closing, Mr. Terzaghi stressed that eligibility is not necessarily the same as access and that states will need to pay close attention to ensuring that services are available and accessible to persons who are or become eligible for Medicaid and other types of assistance.

Several members of the Disability Commission posed questions following Mr. Terzaghi's presentation. Delegate Orrock asked if any states reported concerns about a "balloon effect" that

might result in reduced funding for some services as funds were shifted to pay for services mandated by the new federal legislation. Mr. Terzaghi noted that some additional federal funding is available to help states, and that some states are actually experiencing an increase in available funds as federal dollars are substituted for state dollars, but that other states are or may be required to shift funds as their budgets require.

Mr. Van Valkenburgh asked if the terms "rehabilitation, habilitation, and mental health services" used in defining the required package of services under Medicaid have been defined. Mr. Terzaghi stated that these terms have not been defined at this time, that definitions are being developed by the Secretary of Health and Human Services, and that the specific definitions of these terms may significantly affect the types of services that states are required to provide.

Dr. Orelove asked if any information about costs imposed by the new requirements, and the differences in cost of systems based on institutions versus community-based services, had been collected. Mr. Terzaghi stated that while some estimates had been prepared, they were generally regarded as not sufficiently exact, and that the impacts are expected to differ widely between states.

Finally, Senator Miller requested information on prenatal services and services for children included in the legislation. Mr. Terzaghi stated that he did not have detailed information on this topic with him at the time, but that he would provide information on these services to members of the Commission at a later time.

Presentation - Division of Rehabilitative Services: Overview of Commission Initiatives

Commissioner Jim Rothrock provided an overview of activities of the Department of Rehabilitative Services related to past Disability Commission initiatives. Commissioner Rothrock described the Department's community-based programs including brain injury services, community rehabilitation case management services, independent living services, and personal assistance services. He stated that funding for brain injury services had been reduced by the General Assembly in 2010, but that additional sources of funding may have been secured to make up the difference. He also reported that funding for independent living services had also been reduced, but that the 16 Centers for Independent Living and the four satellite centers continued to provide services. He said an infusion of federal funds in 2009 provided some assistance in meeting current needs. Commissioner Rothrock reported that funding for personal assistance services has remained essentially level over the years but that increased demand has resulted in a waiting list of 94 persons.

Commissioner Rothrock also described changes at the federal level that will likely affect the Medicaid Works program. He noted that statutory changes may allow individuals enrolled in the program to earn more in wages while continuing to receive medical assistance. This change is expected to increase the number of persons who are interested in participating in the program.

In closing, Commissioner Rothrock provided some information on AbilityOne employment programs and the impact these programs have in the Commonwealth. He highlighted several programs that provide services for the federal government and employment for a number of persons with disabilities. He encouraged the Commission to become aware of how these programs benefit people with disabilities and to look at ways to increase jobs for persons with disabilities through similar programs in Virginia.

Presentation - Virginia Housing Expansion Task Force: Update on Activities and Emerging Issues

The Virginia Housing Expansion Task Force presented an update on past activities and indentified issues that the Task Force continued to track including the development of Easy Living Homes, efforts to secure additional HUD Non-Elderly Disability Housing Vouchers, activities of the Money Follows the Person project, implementation of the THA Toolkit Project that assists localities in planning housing and transportation services, expansion of sponsored residential services, development of VirginiaHousingSearch.com, and the impacts of the Southeastern Virginia Training Center rebuild and development of community housing for residents. The Task Force also identified several emerging issues that it will continue to follow, including development of accessibility standards and standardized nomenclature for housing developers, and the impacts of the loss of certain housing options for persons receiving services through the state Individual and Family Developmental Disabilities Support Waiver.

The Task Force noted that a shortage of accessible, affordable housing continues to be a problem for persons with disabilities, that lack of capacity to develop accessible affordable housing and serious financial limitations of many people who need accessible housing contribute to the problem, and that lack of community alternatives often lead to institutionalization even when individuals could remain in the community if sufficient housing were available.

In closing, the Task Force identified several strategies for meeting these challenges, including expanding the Livable Homes Tax Credit to allow developers to take advantage of the credit and increasing the amount of the credit; facilitating collaboration between agencies and stakeholders to capture data on housing needs and choices of persons with disabilities; continuing to promote aggressive pursuit of Housing Choice Vouchers for persons with disabilities; supporting efforts of the Department of Medical Assistance Services and the Department of Behavioral Health and Developmental Services to increase community living options and decrease the institutional census; and participating in a work group to identify and enumerate housing accessibility standards and standard nomenclature.

Discussion of 2010 Work Plan

Following the presentations, members of the Disability Commission discussed a work plan for the 2010 interim. Chairman Delegate Orrock established three work groups to study specific issues in greater detail. These include:

- Work Group #1: (Delegate Orrock, Senator Puller, Mr. Burmester, Mr. Van Valkenburgh) to review the name and purpose of the Virginia Disability Commission, including the option of expanding the scope of the Disability Commission to include policies affecting persons with disabilities of all types, and to determine, with input from stakeholders and citizens, if the name or the scope and purpose of the Disability Commission should be revised.
- Work Group #2: (Senator Miller, Delegate Pogge, Ms. Cook) to evaluate funding for current services; determine the projected cost of needed services and identify potential sources of funding for such services; and perform cost-benefit analysis of various program options.
- Work Group #3: (Delegate Toscano, Delegate Villanueva, Mr. Fleming, Dr. Orelove) to work with stakeholders and citizens to determine needs related to housing and transportation for persons with physical and sensory disabilities and develop recommendations for change.

Work groups will meet as needed to carry out their assigned work. The full Disability Commission will meet once in September and once in October to receive reports from the work groups, receive additional information and presentations as requested, and develop recommendations for the 2011 Session. A fourth meeting of the Commission will be held during the first week of the 2011 General Assembly Session to receive information about the Governor's proposed budget and its impact on services for persons with disabilities, and to develop recommendations related to the proposed budget. A fifth meeting of the Disability Commission may be held in November if necessary to finalize the work of the commission.

Wednesday, September 8, 2010

The second meeting of the Virginia Disability Commission for the 2010 interim was held Wednesday, September 8, 2010, at 2:00 p.m. in House Room C of the General Assembly Building in Richmond.

Report of the Work Groups

The three work groups established by the Disability Commission at the July 2010 meeting met for one hour before the convening of the full Disability Commission. Following opening remarks, each work group presented information on its activities and recommendations.

Work Group #1 was charged with reviewing the purpose and scope of the Virginia Disability Commission. Delegate Orrock, speaking on behalf of the work group, stated that the work group had received public comment and discussed the issue and concluded:

1. The name of the Virginia Disability Commission should not be changed; and
2. The Virginia Disability Commission's enabling legislation should be amended to:
 - (i) require the Commission to report its findings and recommendations to the Senate Finance Committee, House Appropriations Committee, Secretary of Health and Human Resources, and the Governor by October 1 of each year;
 - (ii) clarify that the Commission shall serve as the primary forum in the Commonwealth where the needs and issues of people with physical and sensory disabilities are addressed;
 - (iii) ensure that relevant state agencies and other stakeholders are included as collaborators in carrying out the work of the Commission; and
 - (iv) provide that the Disability Commission shall collect information on and coordinate efforts related to statutory and policy actions affecting persons with physical, sensory, and other disabilities, in order to avoid overlap and duplication of effort.

These recommendations were unanimously approved by the Disability Commission. Draft legislation making these changes will be prepared for the next Commission meeting.

Work Group #2 was charged with (i) evaluating the current system of services for persons with physical and sensory disabilities, including the cost of and funding sources for existing services; (ii) identifying gaps in services and services needs; (iii) determining the projected cost of meeting those service needs; (iv) identifying potential sources of funding to meet service needs; and (v) performing cost-benefit analysis of various program options. Work Group # 2 reported that it had received information on existing services, service costs, and service needs, and that a second meeting was planned to review additional information on these

topics and develop recommendations. Work Group #2 provided some preliminary recommendations, including:

1. That funding previously allocated to meet the needs of persons with physical and sensory disabilities through the Consumer Services Fund and the Rehabilitative Services Incentive Fund be restored; and
2. That all necessary steps be taken to ensure that the Commonwealth continues to meet state match requirements for federal programs in order to ensure full access to and leveraging of available resources.

Work Group #3 was charged with (i) identifying needs of persons with disabilities in the area of housing and developing recommendations for meeting those needs and (ii) identifying needs of persons with disabilities in the area of transportation and developing recommendations for meeting those needs. Dr. Orelove reported that Work Group #3 had met, received information on housing needs, and discussed some preliminary recommendations. However, because only two work group members were present, Work Group #3 did not adopt any recommendations to be presented to the full Disability Commission. Dr. Orelove announced that Work Group #3 would meet a second time to receive information on transportation issues and to develop recommendations for the full Disability Commission on the topics of housing and transportation.

Wednesday, November 3, 2010

The third meeting of the Virginia Disability Commission for the 2010 interim was held on Wednesday, November 3, 2010, at the General Assembly Building in Richmond.

Work Group #1 (Purpose and Scope) Recommendations

The Commission reviewed a draft of legislation incorporating changes recommended by Work Group #1 (Purpose and Scope) at the September Commission meeting. Commission members will provide feedback and comments to staff, and a final draft of the legislation will be discussed at the next Commission meeting.

Virginia's Olmstead Initiative

Mr. Carter Harrison, Chairman of the Virginia Community Integration Advisory Commission, provided an update on the status of Virginia's Olmstead Initiative. Mr. Harrison identified legislative priorities from the 2010 General Assembly Session, including SB 194 (Northam), clarifying that nothing in Title 54.1 of the *Code of Virginia* shall prevent any person from performing state or federally funded health care tasks directed by a consumer, which are typically self-performed, for an individual consumer who lives in a private residence and who, by reason of disability, is unable to perform such tasks but who is capable of directing the appropriate performance of such tasks, and SB 148 (Puller), which extended the sunset of the Community Integration Advisory Commission through July 1, 2014, and changed the responsibility for staff support from the Virginia Board for People with Disabilities to the Virginia Department of Rehabilitative Services.

Mr. Harrison then identified several recommendations made by the Community Integration Advisory Commission to the Governor for consideration during the 2011 General Assembly Session, including recommendations that the Commonwealth:

- Phase out the Mental Retardation/Intellectual Disabilities (MR/ID) and Individuals and Families Developmental Disabilities Support (DD) Medicaid Waivers waiting lists;
- Restore budget cuts to respite services under the Home and Community-Based Medicaid Waivers scheduled for FY 2012, up to a maximum of 720 hours annually in FY 2010;
- Restore the 5% budget cuts to provider rates in the Home and Community-Based Medicaid Waivers scheduled for FY 2010; and
- Support an increase in the Livable Home Tax Credit from \$2,000 to \$5,000 and allow builders to access the tax credit.

In closing, Mr. Harrison identified topics of future work for the Community Integration Advisory Commission, including guardianship, housing, auxiliary grants, family members as caregivers, and the Money Follows the Person Initiative.

Following Mr. Harrison's presentation, the Disability Commission voted to support these recommendations, with a particular emphasis on reducing waiting lists for Medicaid Waiver services. The Commission will draft a letter to the Governor stating its support.

Brain Injury Services

Ms. Ann McDonnell, Executive Director of the Brain Injury Association of Virginia, discussed brain injury services in the Commonwealth, noting that not all individuals who need services are able to access services. She particularly highlighted the lack of in-state, publicly funded neurobehavioral therapy treatment services.

Ms. Ruth Anne Walker, Department of Behavioral Health and Developmental Services, stated that she would take Ms. McDonnell's comments to the Commissioner of the Department of Behavioral Health and Developmental Services. Commissioner Jim Rothrock, Department of Rehabilitative Services, described activities around improving brain injury services.

Work Group #2 and #3 Recommendations

The Commission received and discussed recommendations developed by Work Groups #2 (Service Needs, Costs, and Funding) and #3 (Housing and Transportation).

Work Group #3 (Housing and Transportation) met on October 28, 2010, to discuss issues related to housing and transportation needs of people with physical and sensory disabilities. The work group reported the following recommendations:

- Legislation to (i) increase the cap of the Livable Home Tax Credit from \$2,000 to \$5,000 per credit, (ii) make the credit available to home builders, and (iii) reserve one-half of the \$1 million available annually for new construction and one-half for retrofits, except that if one category of funding is not exhausted at the end of a tax year, that money can be used to fund additional credits in the other category.

The work group noted that the Governor's Housing Policy Work Group is also considering this recommendation, as is the Community Integration Advisory Commission.

- A letter from the Disability Commission to the U.S. Department of Housing and Urban Development supporting recommended changes to the Housing Choice Voucher process that will be submitted by the Virginia Housing Development Authority.

- Legislation directing the Joint Legislative Audit and Review Commission or other state agency to study housing needs of persons with physical and sensory disabilities in the Commonwealth, including the nature and scope of housing needs, the costs involved in meeting those needs, and any potential savings to the Commonwealth resulting from satisfaction of housing needs.

Following discussion of this recommendation, the Commission voted to request that the Office of Community Integration carry out this task and report to the Disability Commission no later than December 1, 2011.

Work Group #3 also reported that it had discussed various options for establishing a group to evaluate existing accessibility standards and develop a standardized set of terms and a model standard for the Commonwealth and concluded that the Disability Commission should wait to act on this issue until after the Governor's Housing Policy Work Group reports its findings and conclusions in late November, as the Governor's Work Group may have a recommendation on this issue. If the Governor's Work Group does not have a recommendation on this issue, the Disability Commission may want to consider establishing a work group to pursue development of uniform accessibility standards for the Commonwealth.

Finally, the work group recommended that the Commission receive information about changes to local housing policy resulting from enactment of the amendment to the Constitution of Virginia authorizing localities to provide tax relief for disabled homeowners.

Work Group #2 (Services) met immediately prior to the full Commission meeting on November 3 and reported the following recommendations:

- A budget amendment to provide \$2 million to the Department of Rehabilitative Services to provide personal assistance services to all individuals on the waiting list, eliminating the waiting list;
- A budget amendment to restore funding for independent living services through the Department of Rehabilitative Services to the previous funding level for FY 2011 (\$427,000);
- Legislation to increase the maximum amount of allowable earnings under the Medicaid Works program to the federally allowed maximum, \$60,000 per year;
- A budget amendment to restore funding for brain injury services through the Department of Rehabilitative Services to the previous funding level for FY 2011 (\$200,000);
- A budget amendment to provide \$500,000 to the Department of Medical Assistance Services to support in-state, publicly funded neurobehavioral therapy services to persons with brain injuries;
- A budget amendment reestablishing the Consumer Services Fund and allocating \$500,000 for the Consumer Services Fund program.

The members of the Commission voted to support these recommendations and to draft a letter to the Governor describing their recommendations for the 2011 General Assembly Session.

Friday, December 17, 2010

The fourth meeting of the Virginia Disability Commission for the 2010 interim was held on Friday, December 17, 2010, at the Capitol Building in Richmond. At this meeting, the Commission discussed legislative recommendations for the 2011 Session of the General Assembly, including legislation that would:

1. Amend enabling legislation for the Virginia Disability Commission to clarify the Commission's powers and duties and require the Commission to report its recommendations to the General Assembly and the Governor by October 1 of each year.
2. Amend enabling legislation for the Livable Home Tax Credit to (i) increase the maximum allowable amount per credit from \$2,000 to \$5,000, (ii) make the credit available to home builders, and (iii) reserve one-half of the \$1 million available annually for new construction.
3. Require the Office of Community Integration to conduct a study of housing needs of persons with physical and sensory disabilities in the Commonwealth.
4. Increase the maximum amount of allowable earnings under the Medicaid Works program to the federally allowed maximum of \$60,000 per year.

Tuesday, January 12, 2011

The fifth and final meeting of the Disability Commission for the 2010 interim was held on Tuesday, January 12, 2011 at the General Assembly Building in Richmond. At this meeting the Commission received information on the Governor's proposed budget and assigned patrons for the Commission's legislative proposals to be introduced during the 2011 Session of the General Assembly.