South Dakota Health Care Solutions Coalition
Meeting Notes 3/9/2017

Attendees: Kim Malsam-Rysdon, Jerilyn Church, Lynne Valenti, Brenda Tidball-Zeltinger, Kelsey Smith, Lydia Bear Killer (OST), Sara DeCoteau, Sarah Aker, Mark Deak, Mike Diedrich, Scott Duke, Debra Owen, Deb Fischer-Clemens, Shelly Ten Napel, Dr. Mary Carpenter, Nick Kotzea, Jennifer Stalley, Kathy Bad Moccasin

Welcome and Introductions

Kim Malsam-Rysdon welcomed the group.

Review Last Meeting Minutes

The group reviewed the minutes from the last meeting and the goals of the Coalition. Kim Malsam-Rysdon encouraged the group to review materials from the last meeting.

Update on Federal Developments

Last week, Governor Daugaard was in Washington D.C. for the annual NGA meeting. He had several meetings related to healthcare reform. The governors had a governor only meeting with Secretary Price. Secretary Price explained that he wants to work with states and provide states with flexibility; however, any bills moving forward need to address the cost growth in the Medicaid program. The governor also had several meetings with the Republican Governors Association. The RGA governors met privately with Secretary Price and Vice-President Pence. Governors in that group advocated that expansion and non-expansion states should be treated equally. They also emphasized the need for state flexibility in terms of how to manage the program moving forward, and that shifting costs to the state without the ability to make other changes would be problematic.

Governor Daugaard, Kim Malsam-Rysdon and Senator Blake Curd also met privately with Secretary Price and Brian Neale, the nominee for Center for Medicaid and CHIP Services (CMCS) director. Senator Thune's office also facilitated other meetings with Congressional staff members. Governor Daugaard had private meetings with staff from the Senate Finance Committee, Senator Mitch McConnell's office, Senator John Cornyn's office, and the House Energy and Commerce Committee. The House Energy and Commerce Committee is tasked with the Medicaid provisions in the reconciliation bill. The Governor expressed that the number one issue for South Dakota is to correct Medicaid funding for individuals eligible for IHS and the fiscal impact on our state. Individuals were receptive to the position of South Dakota and saw the opportunity for addressing issues at the federal level; however, staff felt the reconciliation bill will not have a robust amendment process on the House side.

Jerilyn Church asked how the IHS reimbursement issue might be addressed. The Governor is advocating for the most direct approach to change the 100% FMAP language in the Social Security Act. However, the Governor is flexible and is open to other mechanisms for fixing the IHS reimbursement issue. The Governor would like to

hear from tribes about other options to fix the IHS reimbursement issue if tribes cannot support the direct approach to change the language in the Social Security Act.

From the Governor's perspective, the discussion was framed in a way that legislation should not take anything away from states.

A draft of legislation for the ACA repeal and replace was released on Thursday, March 2. A couple items of note:

- The preliminary bill is titled the American Health Care Act (AHCA). This bill is associated with the budget reconciliation process which limits the topics that can be addressed via that process. The current bill is limited to addressing items related to taxes and spending. The budget reconciliation bill will only require a simple majority to pass.
    - It has passed the Ways and Means Committee which reviewed the tax policy changes and the Energy and Commerce Committee which reviewed the Medicaid changes. The bill will go to the House Budget Committee, but it is expected to have CBO scoring before that committee takes action.
        - CBO scoring will include the fiscal impact to the federal government and states and will provide estimates about insurance and Medicaid coverage under the proposed changes in the AHCA. The CBO estimate will be important as we evaluate the impact to SD.
    - The bill will also be heard by the House Rules Committee, followed by a vote on the House floor before moving to the Senate. Any revisions to the bill are expected to come from the Senate.
        - There is a tighter vote count in the Senate. Republicans can only lose two supporters before the bill cannot be passed in the Senate. Currently, four Republican Senators (AK, OR, ME, CO) are on the record with concerns about the bill due to the impact to people in their states.
- HHS will be making administrative changes related to the themes addressed in the bill. It is expected that there will be sizable changes relative to the regulation of insurance. Nothing has been released regarding HHS changes to Medicaid.
- A second bill is intended to replace and reform any aspects in the current law that cannot be addressed through the budget reconciliation process. That bill will need more than a simple majority and will need some sort-of bi-partisan support.

Kelsey Smith gave an update from the National Governor's Association call regarding AHCA. The NGA walked through the same process. It's expected that the House Budget Committee will take this legislation up next week. Coalition members agreed that this is consistent with what they have been hearing from other groups.

Shelly asked about the Medicaid per capita spending. Based on previous spending, South Dakota is already lower than the national average. What affects are we anticipating as a result of AHCA? Kim reviewed the anticipated impacts of the AHCA.

1. **Elimination of the Prevention and Public Health Fund:** Estimated $3.7 million impact to GPTCHB, the South Dakota Department of Health, and some tribes.
    - For DOH, this will cut funding in disease, immunization and intervention programs and some funding for the state public health lab. Diabetes prevention and other chronic diseases will experience the most cuts.
    - Jerilyn weighed in that GPTCHB is emphasizing that SD tribes already have some of the highest disparity rates in terms of chronic disease, and that work is already underfunded. The cuts would be devastating to the work GBTCHB is already doing and have a huge impact on population health.
    - No one has heard any information about restoring this funding in future versions of the bill.
2. **Funding Increase to FQHCs.** The AHCA will defund Planned Parenthood and shift those resources to FQHCs. Shelly noted that the funding will not repair or address existing funding shortfalls for FQHCs.
3. **Medicaid Provisions:**
    - **Individual Resources:** The AHCA makes some changes to what is counted as income and resources for purposes of determining eligibility. South Dakota already counts lottery winnings and would not be substantially impacted.
    - **Retro-active Eligibility:** The AHCA will remove the option for states to grant 3 months of retro-active eligibility for Medicaid. Retro-active eligibility is beneficial now to support individuals who have a large health event that qualifies them for Medicaid coverage. There would have to be some adaptation to help individuals apply earlier.
    - **Restoration of Disproportionate Share Hospital Cuts:** This does not impact South Dakota based on current DSH spending.
    - **Safety Net Funding:** This is a pool of funding to address the equity issue for non-expansion states. We will be watching this provision closely. Deb Fischer-Clemens asked how this piece will work – will states have to apply for the funding? We do not know yet. This is also a temporary provision for 5 years until Expansion is ratcheted back.
    - Per Capita Caps: Brenda gave and overview of the per capita caps.
        - The caps will be established by eligibility group. Aged, Blind & Disabled, Children, Low Income Families.
        - CPIU-Medical is the benchmark for growing the cap.
        - FFY 2016 is the baseline for the cap. Expenditures will be inflated going forward.
        - Some categories are excluded, and it's unclear how these will be treated or set outside the cap: Disproportionate Share Payments (DSH), cost sharing for dual eligibles (IE QMB, SLMB coverage), CHIP, premium assistance, 100% FMAP expenditures for American Indians. The provision for American Indians still seems to rely on the received through definition.
            - Deb asked if SD's CHIP program operating as an extension of Medicaid have a positive or negative impact in regard to

CHIP. These expenditures are treated separately in the cap calculation. Any expenditure for CHIP is excluded.

- There are questions about how HCBS waivers are contemplated within the caps.
- The state FMAP would still be used to determine the state matching rate and the state's share of expenditures.

4. Market Stability: The AHCA creates a Patient and State Stability Fund. This is a fund states can apply for to fund risk pools and help individuals access insurance. There is a carve out for South Dakota to qualify due to an increase in the number of uninsured individuals below the FPL. Will be watching this provision closely.
    - Deb asked if this has to be applied for. Yes, it does. If a state chooses not to apply then other entities may apply after a certain point in time.

Jerilyn met last week with the Tribal Technical Assistance group for CMS. The discussion was on the recent guidance for tribes to be designated as an FQHC. There were a lot of questions about that process, mostly around implementation. CMS did not share much new information with tribes. Jerilyn said tribes also met with Secretary Price. She indicated there was a genuine interest in issues facing the Great Plains. Willy Bear Shield was the tribal health representative for South Dakota. There was discussion about the IHS Purchased and Referred Care issues and the impact to providers in South Dakota. Secretary Price was open to creative and new ideas to address those issues. They explained the position of South Dakota and the need to find a solution to alleviate the impact to the state and providers. They were encouraged by the language exempting tribes and IHS from the cap. They have a lot of education to do for new staff at CMS and HHS. A lot of the new staff do not have a working knowledge of tribes and the IHS system. They are trying to provide background and education and share the challenges facing the tribes, while safeguarding the protections already in place for tribes.

Mark East shared that the American Medical Association is opposed to the AHCA due to the number of covered lives that would lose coverage under the bill. Scott Duke indicated that the AHA sent a letter to House Members joining the AMA and other associations with opposing the bill due to the coverage issue. Shelly indicated that FQHCs have not come out one way or another on the bill but they are watching the effects on low-income individuals. Dr. Carpenter reiterated that the AMA is opposing due to the tax credits and the restrictions on choice due to the defunding of Planned Parenthood and the changes to the Prevention and Public Health Fund. Deb Fischer-Clemens indicated that the Catholic Health Care Association is opposed due to the increase in uncompensated care costs, the disruption to the insurance market, and the increase in the uninsured. Avera currently covers 20,000 individuals with subsidies; without the subsidies these20,000 individuals are expected to leave their health plan.

Subcommittee Reports

The 100% FMAP subcommittee met two weeks ago. Nick Kotzea asked at that meeting about if there was flexibility to change the care coordination agreements to be more flexible. IHS needs to be at the table and in partnership with this effort. The coalition would like to see IHS representation on the subcommittee. The committee also overviewed the 638 options for tribes. Jerilyn is creating a survey to assess where tribes are at, what's being delivered and what might change in the future. Kathy Bad Moccasin asked if a good starting point would be the summary reports of the information gathering DSS staff have done in meeting with every tribe the last year. Sarah Aker gave an update about Medicaid's tribal health care delivery visits. DSS reports from the tribal visits and the results of the survey from GPTCHB will be shared at the next meeting.

The work requirements sub-committee is scheduled to meet March 21.

Next Steps

Kim Malsam-Rysdon proposed meeting the week of April 10. Subcommittees will meet before the next meeting. Email updates will be distributed on the progress of the AHCA.

Next Meeting

April 13, 2017, 3:00 – 5:00 PM CT
Governor's Large Conference Room
Conference Call: 1.866.410.8397
Passcode: 605 773 4836