

## Blue Ribbon Commission on Health Care Reform

December 13, 2007  
8:00 a.m. – 5:00 p.m.

Englewood Civic Center  
1000 Englewood Parkway, 2<sup>nd</sup> Floor, Community Room,  
Englewood, CO 80110

DRAFT Meeting notes

---

**Present:**

Erik Ammidown- 9:50am-12:15pm

Elisabeth Arenales

Clarke Becker

Carrie Besnette- @ 8:30 AM

Christy Blakely

Steve ErkenBrack

Lisa Esgar

Linda Gorman-thru 12:00

Julia Greene- @ 9:00 am

Allan Jensen- 10:00 am-12:00pm

Bill Lindsay

Pam Nicholson-@10:35 pm

Dave Rivera-thru 12:00pm

Arnold Salazar

Mark Simon

Steven Summer

Mark Wallace -@ noon

Joan Weber

Barbara Yondorf

Donna Marshall - @10:50 pm

Lynn Westberg

**Staff:** Anita Wesley, Sarah Schulte, Tracy Johnson, Edie Sonn, Marta Oko-Riebau, Jana Mathieson

---

### Welcome and Approval of Meeting Summaries

Bill Lindsay welcomed everyone and called the meeting to order at 8:25 am. Revised minutes from Nov. 1<sup>st</sup> and 2<sup>nd</sup> were approved with one commissioner abstaining. Minutes from Nov. 15<sup>th</sup> and 19<sup>th</sup> were reviewed. Requested changes to the Nov. 15<sup>th</sup> minutes include changed wording for Motion 1 to return to original language and for Motions 2 & 3 to change “state” to “legislature” regarding further study of issues.

Written correction from Michele Swenson -should read "Michele Swenson: Urged the Commission not to use the term single payer in relation to the continuous coverage feature of 5th Proposal."

*Motion # 1:* Approve minutes with amended changes. All in favor. Motion passes.

Corrected motion for Nov. 15<sup>th</sup> should be: to adhere to the original recommendation of the Commission on funding for autism treatment in the Medicaid program. The original recommendation of the Commission was to increase the Children with Autism Medicaid Waiver slots from 75 to 760 and from \$25,000 a year each to \$36,000 a year.

### **Meeting Overview**

Bill Lindsay reviewed the meeting agenda and noted that the primary purpose of the meeting is the review and discussion of the draft final report and the draft minority reports. Concepts have been previously approved in prior meetings. The goal is to make sure text accurately reflects those concepts. Corrections can be directed to Sarah Schulte. Modeling questions can be directed to Tracy Johnson. The commission will not vote on the final report until January 10<sup>th</sup>.

After a report by Dr. Johnson on modeling, the draft final report will be reviewed page by page by the commissioners. These are to be substantial issues of direction, focused on recommendations- not rehashing of former decisions. With the minority report, questions and clarifications will be presented, followed by feedback from Ms. Schulte and Dr. Johnson.

### **Modeling Update- Dr. Johnson**

Staff has seen a draft of the 5<sup>th</sup> proposal modeling. Everyone will see drafts of comparative analysis. This will be a stand alone paper with an executive summary and comparison of all 5 proposals. Commissioners have seen the rest of the report. Dr. Johnson will circulate copy edit versions upon Commissioner request.

### **Draft Commission Final Report**

Commissioners were reminded of the discussion and decision process. Substantial comments must be related to what the Commission approved in the report outline and whether the representation of those issues is clear and appropriate. Commissioners were urged to not get into word-smithing unless it leads to change in meaning. Members requested that versions be noted and dated.

### **Executive Summary-**

It was agreed that the staff has done a great job on this initial draft report. Changes to the Executive Summary area were suggested.

Pg. 5

Bullet 2- middle of page, it may stabilize the costs, not necessarily lower the costs. Clarification is needed because some members understood that the goal was that the average costs go down due to a larger pool. Staff noted that this is addressed in greater detail later in the report.

Pg. 6

- bullet 2- add “different communities” as they have different needs.
- Bullet 3- add “or subsidies” after public coverage

There was a philosophical concern around “everyone” and a concern around adoption of recommendations “as a whole”.

Discussion:

- The recommendations are a package and implementation schedule. Does not mean that must do all or none. Rather the recommendations as well as the cost and coverage estimates related to the 5<sup>th</sup> proposal are based on interconnected pieces that build on and are related to each other. Also recognize that while recommendations fit together there are components that might work well alone.
- We should make some attempt to capture the richness of this conversation, how much compromise went in and how delicately crafted, careful choices and balances.
- The executive summary lost some of the richness. Our recommendations are the heart and do not want anyone to miss this as some people will not read more than the Executive Summary. Staff will look at this issue. Staff will email this one section out to everyone for comments.

Pg 7:

- There was a discussion around “slow the rate of growth.” It was agreed that this is correct. A request to cross reference recommendations for later in the report was made.
- #2, technically reducing employee cost, not premium.
- #3) add “and provider” before processes.
- #5) a discussion about whether recommending a comprehensive review of systems not just information?
  - Ms. Schulte noted that it was her understanding that the intent was a review of the studies that have already been done.
  - Some thought it was not just looking at information but how long term care was done. Others felt the Commission did call for another study because it needed to be done.
  - Ms. Schulte referenced the approved recommendation on pg. 81, # 5.
  - Commission is not making a recommendation to look at long term care in Colorado. It has been studied and we are asking the legislature to review.

Pg 8:

- # 19- FPL into annual income seemed new: because it changes, it might not be appropriate. Ms. Schulte will try to make sure there is FPL and household size.
- # 15- Does this track with recommendations? Answer: Specify things the authority should do, including effectiveness.
- #23- after medically needy, add the word “or”

Ms. Arenales brought up that there are overarching issues such as the safety net and vulnerable populations. It was agreed that the 5<sup>th</sup> proposal would not be the lead but we need to reference the 5<sup>th</sup> proposal because it is instructive and needs to be included.

#### Chapter 1:

Pg. 9 – consumer ombudsman needs to be added.

Pg. 11 – Concern over 6.1 % for health care costs because that number looks very low.

- Higher than national average in Colorado. Could we not use that number?
- Ms. Sonn will get the original number from the Lockton study.
- Also noted fluctuation year to year that it creates a problem.

Pg. 12 – Should we cite the actionable items from the recommendations here?

- This is the background nature of the problem, and the items come later in the area of cost savings.

It was recommended that a public participation section be added here.

#### Chapter 2-4: No revisions

#### Chapter 5

Pg. 24 – Need clarification as 31 B includes charity but what about uncompensated care?

- Dr. Johnson will go back and find out from Lewin how uncompensated care is noted.

#### Chapter 6:

Pg. 27 – The footnote needs updating. Additionally, it was not just expanding services, it was also administrative streamlining which was a point throughout all of the proposals.

Pg. 29 –

- Suggested that we explain how the 4 proposals were chosen. These were designed to accomplish a purpose of providing information. This did not capture what we did. We deliberately wanted to model these specific types.
- Opposition to using term “continuum”. Suggested using different wording.
- Have the proposers reviewed these summaries? Yes

- Due to concerns about the appearance of ranking the proposals, it was agreed to go back to the original naming conventions of the proposals.

Pg. 34-

- Suggested that the Commission think carefully about framing.
- 4<sup>th</sup> bullet point implies unhealthy can be turned down.
- 2<sup>nd</sup> bullet points, employers required to offer, playing a role, asked to do this. There isn't anything about the cost control piece of 5<sup>th</sup> proposal.
- Question: on proposal #3, does employer mandate that they must offer a 125 plan? Answer- No.
- Need to figure out a way to frame what happens to those up to 400% FPL. Suggested to break it down here and in body of the report for clarity.

Pg 35- Members questioned the column headers. Ms. Sonn stated these tables are place holders until she and Dr. Johnson can develop charts and graphics more reader friendly.

Pg. 40- A lengthy discussion was held regarding the inclusion of financing suggestions.

- Not sure this is a good idea to include the taxes by proposal, but the listing of options could be informative.
- Should not link to proposals. Discussion about what happened would be helpful. Show results of different financing options.
- We need to absolutely say how much it costs. The charts that say how they were financed should be left out.
- This would still be Lewin report.
- It is not just the costs, these are arbitrary and not liked, but it needs to be in. Should be an appendix.
- Dr. Johnson pointed proposers had mixed feelings about including financing options as was not part of the original proposal solicitation.
- Dr. Gorman pointed out that this gives information on how much a proposal is this going to cost the consumer. It is vital information. Burying it is not good for commission.
- Ms. Arenales feels more useful for funding stream section of report. Some proposals were dependent on funding source, others were not. Should refer readers to the full description in the Lewin report.
- Dr. Johnson noted that John Sheils stated small changes to financing suggestions could dramatically change numbers. If we keep it in, section should be longer and with an explanation.
- Mr. Lindsay suggested pages 37-39 might mislead a reader and maybe they should be taken out. Pg. 40 is an indication of revenue.

**Motion 1 – Remove pages 31-39, and change graphic on page 40 noting that multiple financing sources were identified in proposals, list all sources identified and clearly direct readers to full description in Lewin report.**

**VOTE: Yes – 14, No- 3 Abstain -0 Motion Passes**

## Chapter 7

Pg. 41:

- Bullet 2- big inference. Cut out sentence.
- Regarding cost shift – should it state “we attempt to minimize”?
- Dr. Johnson- this disagrees from modeling. The assumption is cost shift is minimized.
- Dr. Gorman- this is factually incorrect. It is an assumption, but not correct.
- Staff will look at this.

Pg. 42: Does this meet our promise? Do not think it reduce costs.

### **Public Comment:**

What are you going to do with final report at this time?

The Commission is going through the draft for accuracy. The final report will be approved on January 10, then presented to the General Assembly on January 31.

### **Minority Report:**

- Dr. Gorman stated that she and Mr. Jensen agreed to ask the Commission if they had any questions on their report. There were none.
- Mr. Simon stated that Ms. Schulte and Dr. Johnson were great and helpful, especially regarding Cover Colorado. Please email any questions, concerns to Mr. Simon as he wants to be accurate.
- Ms. Weber stated that both reports were very thoughtful but she thought that criticisms of the recommendations were allowed but not the criticisms of the general process. The comments were valuable but not part of the recommendations. Other members echoed her remarks regarding the distinction between criticism of the recommendations and the process.
- Mr. Lindsay stated that the commission wasn't editing minority reports. They are looking for misunderstanding of facts, etc. Commissioners can provide feedback to one of the authors regarding what they feel that it isn't appropriate is fine, but it will not be edited.

### **Staff Factual Review of Minority Report:**

- Dr. Johnson stated that her review focused on whether the modeling data was described accurately in the minority reports and that report authors were using the most recent modeling data. There were some issues identified, but were resolved with the report authors. The minority report authors disagree with the uncompensated care numbers. She will go back to Lewin and give them an opportunity to respond.

- Ms. Schulte thanked the authors for their collaborative spirit in working with staff on the reports. She noted one remaining issue:
  - Section 3.2 in the Gorman-Jensen report refers to the regulation of end-of-life care, evidence-based medicine and pay for performance. The Commission's recommendations do not recommend, however, giving the Value Authority rule-making authority in these areas, so Ms. Schulte believes this section is misleading.
- Dr. Gorman noted she was using draft recommendations from the November 19<sup>th</sup> meeting. The wording changed dramatically from draft to final report. Should we go with final report? Ms. Schulte disagreed that major changes were made and will work with Dr. Gorman.
- Members asked how they could provide comments to the minority report authors regarding their reports. Mr. Lindsay stated that this is not a debate.
- Process question – this was formulated like an appellate court setting. If we are not doing that, then it needs to be clear. These points are made and never answered, then assumed agreement. Mr. Lindsay stated that some issues will not be resolved and it is up to the reader to interpret.
- Regarding the section of Mr. Simon's report that has harsh criticism of process, members wanted clarification that the Commission as a whole does not agree. Mr. Lindsay stated this could be a sidebar but would not take place now.

#### Return to Draft Report

Pg. 43: b-suggest amend working from "will" reduce cost to "may". Increasing access needs to be captured.

Pg. 44: b- discussion

- Should we talk about the 9% here? Need to be on the same page.
- Staff will look at this.
- Doesn't seem like we are clear. Felt there was no distinction between pools.
- Dr. Johnson asked what happens when you buy up? Wasn't sure of original plan? Are they capped?
- Do we treat everyone equally? Dr. Johnson stated that is what was modeled.
- It could be higher in Cover Colorado.
- Ms. Schulte stated that both assumed 100% of current rates.

Pg. 45:

- 3a- need to explain in detail to address potential assertion that it is already being done.
- 3c-add "and providers". Be consistent

Pg 46:

- c-under commission agrees, needs clarification

Pg. 47:

- 5 – Under long term care- explain that Commission had neither the time or expertise to look at these issues. It was noted that only one proposal addressed

LTC. Some members preferred to leave language as written. Staff will look at it again.

Pg. 49:

- 8b-Are we referring to the new Cover Colorado program or the old one? We don't talk about reformation until later in the report. Ms. Schulte stated that we could clarify.

Pg. 50:

- 10a-guidelines should be consistent across the state.
- Having standards is good, but need to require all to use.
- The debate was that you should have guidelines but you also need to give providers leeway for clinical treatment.

Pg. 51:

- 12: 2<sup>nd</sup> paragraph. report card, add Colorado business, etc.

Pg. 52:

13a- Clarification requested.

- Do carriers offer the same?
- Not requiring companies to create a product they don't already offer.
- Where is the transparency piece? How do people shop for these benefits?
  - Through the connector but not in the greater market place.
- Thought anyone could use the connector.
  - Ms. Schulte stated that in an earlier version it was like this. However, we backed off for small group plan. Connector would define additional benefit levels.
- Anyone uninsured can buy? Yes..

Pg 53:

- 14- add examples of community programs
- Change wording to indicate that the Improving Value in Health Care Authority is permanent.

Pg. 54:

- C- add end of life "care"

Pg.55:

- Should not single out proposals. strike 3<sup>rd</sup> sentence in 1<sup>st</sup> paragraph.
- Studies show that mandates don't reduce premiums for all people.
- Show range of proposals

Pg.56:

- b- agree that it is a multi-stakeholder group but is it stated anywhere?
- d- enforcing mandate- insert about why enforceability is so important.

Pg. 57:

- There was a concern around uninsured workers. What about non-workers?
  - Ms. Schulte asked for clarity from Commission regarding intent.
- The business task force expressed some concern that having more people in ESI could drive up costs to employers.

Pg.59: a-There was significant discussion regarding whether individuals eligible for public programs are automatically enrolled or would they have the option to enroll in ESI if offered.

- Ms. Schulte stated this is a gray area. People who have ESI could go to premium subsidy program if wanted to. Ms. Schulte stated we did this because of crowd out issues.
- Lewin modeling assumed that those under 200% FPL who had access to ESI would take it.
- Mr. Lindsay asked if staff can clarify and get back to the commissioners?
- Ms. Arenales felt it was too important could not wait.
- Stated policy is that if they are willing to access to ESI, and don't want to enroll in public program then we won't mandate they enroll in Medicaid.
- The benefit package for ESI subsidy eligible package must be CHP+ equivalent or better.
- Members decided to table the issue to give Commissioners time to think through the issue and to return to the issue later in the meeting.

Pg. 61 –

- c- unique rating concepts. Trying to capture new Cover Colorado would be about 10% of market.
- Need to reflect affordability in the rationale section.

Pg. 64:

- b- Would like to see a little bit of the savings that could be from this fund. Was modeled.
- c- need to reflect autism discussion . Rationale- more discussion about affordability. Ms. Schulte requested assistance from Commissioners regarding additional language for this section.

Pg. 65:

- d- There was a lengthy discussion regarding the asset test. Report needs to reflect that Commission discussed this issue, but did not recommend changes because did not have enough information.
- Commission voted in November to recommend changes to asset test for public program expansion populations but not for DD or LTC disability.
- Dr. Johnson- modeled to expand to adults, for that population, the asset test is consistent. What we did not change for those people using nursing home and HCBS, there is a different asset test that remains unchanged. Ms. Schulte stated there could be huge fiscal consequences.

- Clarification from Dr. Johnson should be in here – of what was modeled, not denying you through this door, etc.
- Suggested stating, “The commission looked at current asset test and chose not to address it now due to inability to fully understand financial impact at this time.”

Pg. 64:

- c- add including DD services or add in foot note.
- e-Thought we weren't limiting this.
  - Medically needy not as financially viable. Different catastrophic care vs. medically needy. Ms. Schulte pointed out it is in the recommendation on pg. 86.
  - There needs to be some trigger.

Pg.65:

- e-Don't remember waiting periods. Under Medicaid not allowed waiting period.
- Ms. Schulte noted that recommendation evolved as waiting period as same as CHP. That would require a waiver. Need to add language to clarify the Commission conversation.
- Dr. Johnson- waiting period was what was modeled. Without it, the Medicaid numbers would be higher.

Pg.67:

- A-suggest “rates, structure, etc.
- Dr. Johnson confused on DSH being at play or not. Taking position or not? No, not taking a stand.
- Clarify that urban populations can also have underserved populations.
- There 5, not 4 strategies for A-E.
- b- volatile issue for physician extenders. Is more restrictive.

Mr. Lindsay noted that after lunch the commission would review the implementation stages.

### **Lunch Break**

#### Implementation schedule phases 1-5.

- Should say “suggested” implementation schedule since has not been vetted. How long is each phase? Variable. Could provide a footnote or caveat about timeline.
- Need to repeat that they integrated and build on each other.
- They are not absolute.
- Maybe just turn this list into a Gant chart and add wording.
- Suggest that it is 1 A, 1 B, instead of 1, 2. They are close in steps.
- On pg. 73; merge guarantee issue and individual mandate. Rating rules, Cover Colorado, lump together in rules?
- Where is group that is meeting to review provider rates.

- Ms. Schulte will add “create group” in 1<sup>st</sup> phase.
- Don’t see how phases are related to funding and waivers. Ms Schulte -page 72-
- Ms. Schulte- no financing in the recommendations. Need to add caveat that assuming adequate financing. Will add funding statement
- In thinking about principles that we were adhering to, would be helpful to say why we approached it this way.
- Please send Ms. Schulte send thoughts, comments.
- Mr. Salazar wanted to know if we are going to have a timeline? Mr. Lindsay said no and Mr. Salazar agreed.
- Mr. Lindsay noted this is very important part of the report. Asked Commissioners to review further and send concerns to Ms. Schulte.

It was suggested to use the phrasing on pg. 70 and to repeat it throughout the document.

**Return to issue regarding auto-enrollment in public programs when eligible or allow or mandate enrollment in ESI when offered:**

- Whether or not people under 200% under FPL have Medicaid or CHP+ program.
- Agreed on principle that we would not have ESI be less than Medicaid or CHP+.
- Is there a Medicaid buy-in now?
  - Yes. Very restrictive and you have to prove that it will be cheaper. Medicaid serves as a wrap to this
- Is the issue whether or not have choice?
- Medicaid dollars to buy private product is the issue. It is destructive to the Medicaid program and Ms. Arenales strongly objects.
- There is access to the same thing which it is good. Shouldn’t members be allowed choice?
- CHP, SCHP, movement in other states shows problems. How do you allow them back in Medicaid? Complicated.
- Don’t think we agreed to this.
- Is issue Medicaid funding?
- Medicaid dollar issue. 2) What kind of trouble will people be in if they get into problems?
- Ms. Schulte- CHP+ or richer must go and get. Everyone under 300%FPL.
- The commission has repeatedly and strongly voted to get as much federal funding as possible. We don’t want to leave federal dollars on the table.
- There has to be practical application of that decision. Concern is once you start agreeing that it can look like less than Medicaid, we go down a problem path of undoing Medicaid.
- Another corollary- we know we have a percentage of people who are eligible and they chose to go uncovered. Those people would then have access to dollars to get into private insurance.
- It is cheaper and move effective to breakdown stigma?
- Agreed clearly one way to do it.

- Ms. Schulte wants to understand the status quo in recommendations.
- Dr. Johnson- this is what Lewin modeled. Lewin looked at Commission recommendations and how they go together.
- Question- Did Lewin assume that people would be required to buy ESI? (Pg. 57, 17b is where this is an issue) and if so for new or current populations?
  - Ms. Schulte assumed it was mandatory for expansion populations.

Members agreed to circle back again on this issue later in the meeting.

### Federal Recommendations

A lengthy discussion was held on what to add under this heading.

- To the extent possible “enable states to do some things.” Opportunity to blend Medicare with state program for experimentation. Ms. Blakely had concerns over ERISA- reform around these limitation. Package is too narrow and not appealing. Flexibility. More state regulations.
- Ms. Marshall only wants general language such as look at ways ERISA can help.
- Mr. ErkenBrack agrees. In congress organized labor and business community doesn't want it touched.
- We need to look at language very carefully. Make sure we don't say what we can't do because of ERISA.
- Can we look at federal programs that limit state's flexibility. Not put ERISA in there at all?
- Generic is meaningless. No teeth to it.
- Ms. Schulte would like these to be concrete.
- The section 125 plan would be one.
- Ms. Blakely stated there is more of the population that will not get benefits. There needs to be some discussion at federal level around ERISA. Issue with benefits of children. This is a significant issue. Very controversial.
- It would be very helpful to have the federal government clarify the ambiguity is “what it the arena in which we could operate?”
- Ms. Marshall feels this is a parameter we could work with. A lot of this healthcare policy driven by tax code. Would like feds to divorce from tax code.
- Should be directly related to our recommendations. We have asked for 25 years for definitions. Okay staying away from ERISA.
- No recommendations are directly ERISA related.
  - Ms. Blakely stated that is because we knew there were issues and worked around them.
- Can we come up with a compromise?
- “not that state regulate ERISA but that feds look at how ERISA is impacting states.”
- Extent that it may impede that it be examined.
- Mr. ErkenBrack suggested that he and Ms. Marshall look at this.
- Ms. Schulte expressed concern about adding issues not discussed with full Commission.

**Motion 2: Commission address ERISA in letter to Congressional delegation with a broad statement regarding the state's ability to regulate benefits.**

**VOTE: Yes – 6, No- 8 Abstain -0 Motion Fails**

Discussion of HIPPA:

- Should HIPPA be broadened to allow surcharges related to behaviors impacting health.
  - Healthy behaviors like not smoking can't do under federal law. Can say we want smoker rate. Different issue of health status vs behaviors.
- There is a lot of reaction about why people who smoke are subsidized. Could use smoking as example.
- Support emphasizing healthy behaviors. Need to be specific.

**Motion 3: Broaden HIPPA to allow for differentiation in insurance premium rates based on the use of tobacco products.**

**VOTE Yes-10 No -4 Abstain -0 Motion passes**

Additional Discussion

- Must add cessation programs. How can do without requiring states to set up programs for stopping?
- They are offered through public health then don't need to worry about.
- We wind up with people who can't get insurance. Have to require programs.
- Smoker's get hit twice- either don't tax more or don't charge more for premiums.
- Have smoker/non-smoker rates but only if there is coverage for classes.

**Motion 4: Add provision to statement above including smoking cessation statement**

○ **VOTE: Yes -14 No -1 Abstain -0 Motion passes**

Ms. Marshall voiced concern with the process for discussion of items for this section of the report given the number of Commissioners present for the discussion and are missing an opportunity for larger voice. This section must reflect that we must say that we didn't do this to the same level. Members suggested that the list not be included in the final report, but have bigger discussion January 10 and add in different page. Ms. Yondorf agreed and suggested that the issues be detailed in a separate letter with concerns for Congressional delegation.

Members discussed additional issues they would like to see on the list of concerns

- Discussion of parity issues between employed and self-employed individuals. There is a deductibility issue. Premiums not included in self employment tax.
- Renewing and expanding CHP+, Current rules for DSH eligibility

- DRA hassles, proving citizenship hassle. States need to increase flexibility on how requirement is met.
- Note that it is our understanding that employers could be required to offer premium only 125 plans.
- Assessments as financing mechanisms. Stop/loss carriers for self insured.
- Medicare issue as relates to underinsured and uninsured. Reference GME, training program reduction for health care workers, training programs for primary care. Safety net issue.
- Medicare recipients flexible to pay up to actual costs.
- Public health hamstrung by federal funding. Recommendation for flexible federal dollars?
- Block grants creates some issues. Service delivery could be improved.
- Ms. Marshall suggested wording around the Feds providing full transparency. Ms. Yondorf and Ms. Marshall can be part of a sub-committee that can help.
- Discussion of action on state vs. federal levels.
- Open up opportunity by those not here? 1) Medically needy program. 2) Medicaid buy in program
- Mr. Lindsay suggested that the Commission the see a revised list in advance of the January 10 Commission meeting

### **Connector**

Pg 58:

- There is a lack of understanding in the public. There is not a lot on clearinghouse, separated into 3 entities. Clearinghouse, Authority, Connector.
- Can we add the goal of the connector here in the report?

### **Legal recommendations:**

- Ms. Arenales and Mr. ErkenBrack distributed a list of legal considerations.
- The Bar association agreed to look at these but are not sure we would get answers in time. Mr. ErkenBrack stated he is not trying to get a group of lawyers to weigh in. Looking at legality not weighing in.
- Add Medicare waivers to the list.
- Ms. Esgar does not feel DSH should be on list. Not clear what the federal government will do. Is not legal issue. Members agreed then take it out.
- List will be finalized on the 10<sup>th</sup>.
- Ms. Yondorf. Don't feel we know ERISA questions unless answered in court. Should make clear if something is related to a specific proposal.

### **Public comment:**

*Arthur Powers:* The current Medicaid benefit package is deficient regarding dental coverage. Also concerned about the prescription drug list issue and mental health. Medicaid package of benefits are relatively good except dental but could be drastically

altered in either direction. Allowing choice is consumer rights and choice protective. Is part of consumer directed care. The school waiver analogy is not accurate.

*Dianne Inscow:*

- Mental health education – vouchers yes, education yes.
- Risky behaviors – system provides for classes,
- If people can afford to pay more then yes, they should pay more.
- Employers vs. Medicaid- good and bad on both sides- paperwork is an issue that you should make mandatory that people get the information.
- God issue- should be part of my decision based upon my view of God, not a specific religion.

*End of public comment*

**Return to issue regarding auto-enrollment in public programs when eligible or allow or mandate enrollment in ESI when offered:**

- Dr. Johnson- What Lewin modeled is that if person has ESI that has CHP equivalent benefits you would be required to take it. However, she asserted that she does not feel that Lewin should make this decision for the Commission.
- Members discussed the issues of consumer choice, the use of public funds and the difference between public and private programs.
- Mr. Simon reiterated his opinion that public funds should not be used for private insurance.
- An alternative is to use state only dollars, provide choice and not call Medicaid?

***Motion 5: Leave language on recommendation 26 as written***

Additional discussion

- Ms. Schulte states that the model does not follow our policy. We want to have choice. In subsidy program you must take ESI if it is available and meets standards.
- What is status quo? Ms. Schulte understands that the status quo is choice.
- Dr. Johnson - is this EPSDT issue? Issue is allowing people to use public funds to buy into non-Medicaid program.  
Ms. Arenales stated if use Medicaid dollars she has issues. If not using Medicaid dollars the issues are not there.
- Ms. Yondorf stated- if they are choosing to give up a rich's benefit program, I assume it is for a good reason. Have to give disclosure but still feel they would have good reasons. If state forces into lesser benefits then have an issue.
- Key issue is privatizing Medicaid.

**VOTE: Yes -12 No -2 Abstain -2 Motion passes**

## Other Issues

Discussion around appendix 9.

- Ms. Schulte- public programs administratively should combine when makes sense is a recommendation. If people want to take it out, we could.
- Is connector public program? Ms. Schulte indicated that is her understanding.
- Take out the word “State”
- Agreed to take out appendix 9

Members requested that the FPL chart be reinserted into the report as well as a graphic showing who is covered by what. Ms. Schulte will add this.

## Adjourn

Mr. Lindsay and the commissioners gave a round of applause for staff for all their hard work. The report was extremely well written. Mr. Lindsay noted that the Commission will discuss the presentation formatting and final report on January 10<sup>th</sup>. All commissioners are encouraged to attend. A final celebration reception is being planned and details will be sent to Commissions. Members suggested that the Commission give a certificate recognizing the effort of each of the proposal authors.

The next meeting will be held Thursday, January 10 from 8:00am-5:00pm at Mountain State Employers Council, 1799 Pennsylvania St., Denver.

The meeting was adjourned at 3:30PM.