Blue Ribbon Commission Meeting 8

Meeting minutes

• Date & time: Friday, February 21, 2020
• Time: 9:00 a.m. – 3:00 p.m.
• Location: Orville L Freeman Building, 625 Robert Street North, St. Paul

Participation

Participating members: Commissioner Jan Malcolm (MDH), Deputy Commissioner Doug Annett (DHS), Jennifer DeCubellis, Jennifer DuPuis, Nona Ferguson, Julia Freeman, Representative Tina Liebling, Sida Ly-Xiong, Sheila Kiscaden, Debra Krause, Gayle Kvenvold, Sue Schettle (by telephone), Representative Joe Schomacker, Lisa Weed

Welcome and agenda review

Commissioner Malcolm welcomed Commission members and members of the public. Commissioner Malcolm introduced DHS Deputy Assistant Commissioner Doug Annett, representing Commissioner Jodi Harpstead who was unable to attend the meeting. Commissioner Malcolm provided an overview of the agenda, and noted that the Commission previously elected to retain all nine strategies discussed at prior Commission meetings for further consideration and possible adoption.

Follow up topics from prior meetings

• Michael Bailit said that as state staff complete responses to Commission members’ requests from previous meetings, he will share those responses at future Commission meetings.
• Michael Bailit said that a Commission member asked previously about the value-based purchasing for prescription drugs strategy and why it had not been selected as a priority strategy for consideration by the Commission. In response to the Commission member’s query, he noted challenges with value-based purchasing arrangements for prescription drugs, particularly in identifying appropriate performance metrics. He also noted value-based purchasing for drugs is part of another strategy that the Commission is considering, the establishment of a prescription drug purchasing council.

Community engagement plan update

• The Improve Group’s Kylie Nicholas reported that she and her colleagues had prepared a revised community engagement plan based on feedback from the February 6th Commission meeting, and that the revised plan included information on the Commission’s work to engage stakeholders and details of the community engagement events.
• Kylie Nicholas stated that there will be a community engagement event following the May 21st Commission meeting, with the goal of gathering input from this event for sharing at the June 4th Commission meeting.
• Kylie Nicholas said that The Improve Group will focus engagement activities on communities most impacted by the Commission’s cost savings strategies, particularly individuals with disabilities receiving services from the State, older adults receiving services from the State, and individuals receiving assistance through Medicaid. The revised plan includes questions that will guide discussion at community events.
• Kylie Nicholas said that she would provide information on invitation criteria for the community events at a future Commission meeting.
• Gayle Kvenvold asked how The Improve Group will identify community liaisons. Kylie Nicholas stated that The Improve Group will rely on its established relationships with community groups that serve the three populations most impacted by the Commission’s cost savings strategies.
Sheila Kiscaden asked how The Improve Group will gather feedback from counties and tribes. Kylie Nicholas responded that The Improve Group is focused on collecting feedback from communities and that state staff are working to ensure counties are aware of the work of the Blue Ribbon Commission. Commissioner Malcolm said that it will be incumbent on state staff to collect the perspectives of counties and tribes.

Lisa Weed asked for sufficient notice of community engagement events. Kylie Nicholas said she will share the dates of community engagement events with Commission members once those dates are finalized, and said that one of the community events will be a virtual meeting. She said that The Improve Group will make arrangements for individuals who lack mobility and who need transportation to events.

Sida Ly-Xiong asked if there are any incentives for individuals to participate in the community events. Kylie Nicholas stated that The Improve Group has a sizeable budget for incentives and will be working with community liaisons to determine the appropriate level of incentive for each community.

Gayle Kvenvold asked how input from stakeholders will be factored into the Commission’s decision making, and how much weight should be given to this input. For example, if stakeholders are overwhelmingly opposed to a strategy, how should the Commission members weigh this feedback? Commissioner Malcolm responded that the Commission’s task is to describe for the legislature the pros, cons, and rationale of each recommended strategy, and also to communicate the input the Commission received from both the public and from stakeholders. Commissioner Malcolm added that the Commission will need to assess the input it receives, and determine how best to incorporate this input into its deliberations; she said that the Commission may need to be flexible and consider an additional community event.

Sida Ly-Xiong noted that the toolkit provided by The Improve Group lacks background information on each focus area and asked if there is a way to share this information as part of the community engagement effort. Commissioner Malcolm promised that state staff would review this request.

Representative Liebling agreed that the Commission has benefited from the background presentations, and noted that it is the responsibility of the legislature to understand the context for each strategy. She added that by collecting comments from communities, the Commission is communicating that it cares about their input. She noted that while the Commission will not be able to address everyone’s needs, community input will enable the Commission to filter out unacceptable approaches.

Julia Freeman stated that it will be important for community members to understand how their voices and input will be factored into the Commission’s deliberations.

Michael Bailit noted that the Commission is waiting to finalize strategies until the end of its process in part so that it can consider input from the public and feedback received from the community events.

Sheila Kiscaden said that the Commission’s charge is to make recommendations, and it will be up to the legislature to make decisions and translate selected strategies into legislative proposals. She urged the Commission to incorporate pros, cons and implementation issues into its final recommendations.

Nona Ferguson said the process by which the Commission is considering strategies seems rushed, and that stakeholders will wish to influence the Commission’s decision making.

Assistant Commissioner Doug Annett commented that the Commission needs to be open to input from the community, even when it is negative.

Julia Freeman stated that she supports moving forward with the revised community engagement plan, as long as the input provided by Commission members at the February 21 meeting is incorporated.

Decision: The Commission voiced its support for The Improve Group to move forward with the revised community engagement plan.

**Background presentation**

Natasha Merz, Director, DHS Disability Services Division, provided a background presentation on Minnesota’s disability services programs, including the history and evolution of disability services at the national level and how individuals experience the system in Minnesota. She also provided a high-level overview of the rate setting system for disability services and future direction for these services.

Natasha Merz noted that in the 1950s, most people with disabilities who used long-term services and supports (LTSS) received them in an institutional setting. She provided a timeline of milestones in the
movement in Minnesota to deinstitutionalize services for people with disabilities, and noted that since the 1980s, attitudes and expectations have continued to shift.

- Natasha Merz explained that the 1999 Supreme Court Olmstead decision interpreted the 1990 Americans with Disabilities Act (ADA), and affirmed that states had to create systems that met the needs of individuals with disabilities. Minnesota’s Olmstead plan was approved in 2015, and envisions a Minnesota where people with disabilities have the opportunity to live near families and friends, to live as independently as possible, and to participate in community life.

- Natasha Merz said that another key federal driver that has influenced how Minnesota delivers services to the disabled is the 2014 regulation for disability and other waiver services published by The Centers for Medicare & Medicaid Services (CMS), which requires person-centered service planning, conflict-free case management, and settings that are home and community based.

- Natasha Merz defined LTSS as services available to support people with disabilities and older adults. She said that home-and-community-based-services (HCBS) are a subset of LTSS and are cost-effective alternatives to institutional care that enable people with disabilities to participate in community life.

- Natasha Merz stated that DHS offers programs to support people with a variety of disabilities: developmental disabilities, chronic medical conditions, acquired traumatic brain injuries, mental illnesses, and physical disabilities. She said that more than 94 percent of people receive DHS LTSS services in their homes and communities, rather than in institutions. Minnesota has experienced increased demand for HCBS, and the system is serving people with higher intensity needs. She noted that the population using HCBS is more racially and culturally diverse than the overall Minnesota population, and that the average monthly cost of people served in HCBS is dramatically lower than for people served in institutions.

- Elyse Bailey noted that DHS has to continually prove to CMS that the State’s total costs under waiver are less than total cost had the population been institutionalized.

- Natasha Merz explained that to access HCBS, a person must have an assessment that identifies their needs, determines their eligibility and identifies their preferred services. Individuals who use HCBS must also go thru a separate Medical Assistance (MA) eligibility determination. She noted that DHS is exploring how to align MA and HCBS eligibility determination processes.

- Representative Liebling asked for clarification as to how the assessment process varies (if at all) between that administered by county versus by the State. Natasha Merz said that the assessment process is complicated and variable based on skills of person administering the assessment, leading to service variation across counties.

- Natasha Merz explained that prior to MnCHOICES, there were three separate paper-based assessments, adding that one goal of MnCHOICES is to use technology to create more consistency and to lessen reliance on administrators’ judgement.

- Deb Krause asked for risk-adjusted data on HCBS.

- Representative Liebling noted that these are state and federally-funded services, so it is unclear why there would be variability in services provided by counties. Natasha Merz replied that the State gives a set budget to counties, and those counties have to develop services but maintain spending within their budget.

- Sheila Kiscaden said that some of the variation across counties is because all services may not be available within a given county. In addition, some counties may supplement services offered to individuals with disabilities because those counties have a broader tax base to support funding of additional services.

- Colin Stemper, a DHS fiscal policy supervisor, noted that the State is exploring approaches to reduce variability across counties in the provision of HCBS.

- Assistant Commissioner Doug Annett said that an individual’s needs fluctuate over a year, and some assessors are better than others in capturing that variation.

- Natasha Merz stated that DHS is evaluating proposals to build the next MnCHOICES platform, and a more streamlined assessment process. She acknowledged that no single tool will address the inconsistencies in services across counties, but that MnCHOICES will help eliminate disparities in access to services.
Natasha Merz reviewed the Waiver Reimagine effort, noting that it is intended to improve the disability HCBS waiver system so that it is more person-centered, easier to understand, and simpler to navigate.

Natasha Merz described Disability HUB MN, a free statewide resource for people with disabilities.

Natasha Merz described the rate setting methodologies for HCBS waivers. Beginning in January 2020, all rates are set by the Disability Waiver Rate System (DWRS) framework authorized in statute. Prior to implementation of the competitive workforce factor, DHS projected a statewide average rate increase of 14.1 percent, with 65 percent of providers experiencing a net rate increase. She noted that DHS will begin receiving cost-reporting data from providers in 2020, and that these data will inform the legislature and DHS about when DWRS framework modifications are needed to provider costs.

Disability services strategy presentation

Michael Bailit reminded the Commission that one of its charges is to identify strategies to reduce health and human services expenditures with net savings of $100 million in the next biennium.

Michael Bailit noted that the strategies already retained for further consideration by the Commission, as well as those presented at February 21 and March 6 meetings, sum to approximately $100 million in estimated savings. If not all strategies advance across the February 21 and March 6 meetings, the Commission will need to identify additional cost savings strategies.

Commissioner Malcolm acknowledged that the Commission may fall short in reaching the savings goal.

Julia Freeman asked whether the Commission is free to recommend strategies that the legislature is unlikely to pursue. Commissioner Malcolm acknowledged that the legislature may not support all the strategies recommended by the Commission.

Michael Bailit stated that final selection of strategies will take place after community engagement activities have concluded.

Michael Bailit reviewed the Discontinue Grant Programs strategy. He explained that DHS currently has two grants that no longer serve the purpose under which the legislature authorized them. Under the first grant, transitional payments are made to providers for whom a change in rate methodology reduced revenue by 10 percent or more; the legislation provided for continuation of these grant payments on an open-ended basis beyond the transition period. The strategy is to eliminate these transitional payments.

Michael Bailit said that the second grant provides payment to a single provider of HCBS services for people with HIV because this provider thought it would not be able to comply with a federal rule regarding home and community settings; a state appropriation ensured continued funding at the federal match level. The provider is now compliant with the federal rule, and the state grant is therefore no longer needed.

Sue Schettle said that state staff had received a letter from a provider who expressed strong concern about this strategy. Elyse Bailey of DHS explained that the letter referenced a separate grant, which helps transition providers who would receive a reduced payment for transferring patients from one waiver to another; she said that the Discontinue Grants Programs strategy does not include the grant referenced by the letter.

Sida Ly-Xiong asked if the concerns expressed by the letter writer were applicable to the two grants under discussion. Elyse Bailey said that the two grant programs under this strategy had introduced inequities in provider payments, and that the federal government urged a standardized approach.

Michael Bailit noted that there are no significant administrative or implementation costs associated with this strategy, and reviewed questions that were raised during the equity review. Elyse Bailey added that the two grants are not tied to individual services.

Decision: Commission members agreed to retain this strategy for continued consideration.

Michael Bailit reviewed the Absence Factor in Day Services strategy. Day services have rates determined by DWRS, a methodology that establishes rates through a formula comprised of cost components. The absence factor is intended to cover the costs incurred by the provider when a person has an unplanned absence and the provider cannot bill for services.

Michael Bailit explained that this strategy would reduce the absence factor for day services from 9.4 percent to 4.5 percent. This decrease would align with CMS’ expectation that the State’s rate method is...
Disability services strategy presentation (Cont’d)

based on data and research related to provider costs. He shared supporting evidence that suggests an absence factor ranging from 3.1 percent to 4.5 percent.

- Michael Bailit said that new rates would be calculated during annual reassessments, so there are no implementation costs associated with this strategy. An anticipated challenge is that this strategy would reduce payment rates for day services, which could result in providers deciding to provide fewer services. However, this strategy would set the rate at the average cost incurred by providers, and this factor was previously set at 3.9 percent prior to January 2019.

- Debra Krause asked why the 9.4 percent rate increase was enacted. Michael Bailit noted that he understood that effective lobbying produced this rate increase.

- Lisa Weed asked why the Commission should consider this strategy when it was the legislature itself that enacted the increase.

- Elyse Bailey noted that at the time the legislature considered this issue, it also passed a provision asking DHS to study what an appropriate rate increase should be; DHS has completed this analysis, but the legislature has not yet made an adjustment based on the analysis.

- Representative Liebling stated that there is lobbying in this area, and rate setting is complex. She acknowledged that the legislature could accomplish this strategy on its own, and the legislature may not wish to wait for the Commission’s Action Plan to pursue this or other strategies.

- Sue Schettle referenced a comment letter from day service providers, who expressed concern at a possible rate reduction resulting from this strategy. Elyse Bailey said that the concerns expressed in the letter were not voiced at the time DHS conducted its analysis, and added that DHS’ calculation was conservative. DHS estimated that 80 percent of providers’ costs would still be incurred even if an individual did not show up.

- Gayle Kvenvold disclosed a conflict, as her organization has day service providers as members. She said that she has heard anecdotally that day service providers are struggling financially, and said that these providers play a unique role in bringing relief to families.

- In response to a request from the Commission, Elyse Bailey stated that she would examine changes in the number of adult service providers over time.

- Gayle Kvenvold asked that state staff provide additional information so that the Commission may be better informed on the potential impact of this strategy on day service providers.

- Elyse Bailey noted that day services are the only services that receive an absence factor; for example, home care providers do not receive an absence factor adjustment to their rates.

- Julia Freeman supported Gayle Kvenvold’s request for more information on the impact of this strategy on day service providers. Gayle Kvenvold also expressed concern that the State’s sample size of six months seemed small, and asked how state holidays were factored into the analysis. Elyse Bailey said that she believed the analysis addresses holidays, but she would double check.

- Lisa Weed asked if day service providers experience attendance variations over the course of a year. Elyse Bailey explained that DHS examined January thru June because there are fewer holidays.

- Jennifer DuPuis asked if providers shared information on why they needed the increase. Elyse Bailey responded that DHS did not receive such information and did not know the basis for 9.4 percent.

- Gayle Kvenvold noted that there are three types of services in this category, and asked state staff to identify differences in absence factor across three components of day services.

- Sue Schettle expressed concern, noting that with the workforce crisis, this strategy would be viewed as another “takeaway.” Providers are challenged and this strategy would be tough on them, she said.

- Representative Liebling agreed that providers are challenged, however the absence factor is one small component of the rate calculation and the State must strike a balance in order to afford these services.

- Sida Ly-Xiong asked staff to prepare an analysis that examines whether there are populations that would be disproportionately impacted by the strategies under consideration by the Commission.

- Gayle Kvenvold expressed reservations about the strategy and said she would like additional information – including the potential impact on providers, and the basis for the 9.4 percent rate increase – so as to inform
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further consideration of this strategy by the Commission. She asked that the community events include a focus on this strategy.

- Sue Schettle also expressed reservations, and said that the Commission needs the input of organizations that submitted public comment letters. She clarified that her organization represents residential care providers, not day care providers.

- Joe Schomacker expressed ambivalence, noting that the data supports an adjustment, but that the rate may be helping to cover wages for staff, or it may be supporting a livable wage increase.

- Lisa Weed said that she shares concerns expressed by other Commission members.

- Commissioner Malcolm said that the policy merits of an individual strategy can coexist with the need for the Commission to take into account concerns from providers. She said that the Commission does not need to reach agreement and that the state staff have information requests that it can address.

- Jennifer DeCubellis submitted written comments related to day services, noting the concerns heard from the public and that the Commission should determine how to mitigate risks.

- **Decision:** The Commission will retain this strategy for continued consideration, and state staff will respond to the information requests made by Commission members.

**Public comment**

- Kevin Goodno introduced himself as representing a trade association for day service providers for adult foster services, adult day services, and day training and rehabilitation.

- Kevin Goodno said that while a 9.4 percent absence factor may not be accurate, it was based on the best available data from a provider survey. He stated that if the absence factor is reduced as proposed by the strategy, adult day service providers will experience a 5 percent revenue reduction. He noted that this is a tenuous time for the adult day service industry, and such a reduction would be significant and may disproportionately impact some providers.

- Kevin Goodno remarked that the 2018 six-month data sample was inadequate, and that a 2019 sample would have been better because 2019 had more winter storms than in 2018. He added that applying a 20 percent variable factor across all industries was also an incorrect assumption. He stated that the 3.9 percent factor that was in place before January 2019 was before banding took effect, and that the 9.4 percent absence factor had already been approved by CMS.

- Representative Liebling asked Kevin Goodno to supply information to DHS on how his organization conducted its analysis and the underlying methodology. Kevin Goodno agreed to do so and acknowledged that using claims data would have been better than the survey method used by the trade association.

- Debra Krause asked to see data that CMS has on this rate. Kevin Goodno said that he did not have access to CMS’ supporting data. Debra Krause clarified that she would like to see evidence of CMS’ approval. Kevin Goodno replied that the fact that the rate is in the system is such evidence.

- Joe Schomacker asked Kevin Goodno to explain his estimate that a revised absence factor would result in a 5 percent cut to day service providers. Kevin Goodno replied that his estimate was specific to day service providers, and that this would be the impact on average, i.e., 5 percent would be taken out of the revenue stream for day service providers. He noted that these programs are also experiencing a large turnover rate.

- Marcia Vandenberg encouraged the Commission to proceed carefully. She has two children whom she adopted out of the foster care program, and who are now adults. She shared her experience in waiting for services and noted that some service providers are extremely slow and difficult to work with. She said that it is a complicated, difficult system, and she did not want cuts to be made on the backs of disabled. She shared with the Commission her support of frugal and appropriate use of government funds.

**Disability services strategy presentation (cont’d)**

- Sheila Kiscaden said that once the Commission has identified the strategies that it will advance, it will need to seek county input. She asked that the Commission’s action plan discuss the pros and cons of each strategy as well as implementation issues.

- In reviewing the **Family Foster Care Rate Reform Strategy**, Michael Bailit explained that for foster care services, DWRS establishes rates through a cost-based shift staff method reflecting corporate residential
Disability services strategy presentation (cont’d)

settings. The formula applies provider costs to number of staff hours to calculate a daily rate. Beginning
January 2020, the new methodology is estimated to result in an average rate increase of 20.4 percent.

- Michael Bailit explained that there are challenges to using a traditional cost-based approach because
individuals are living within a family setting and care for that individual is part of the life of the family
providing services. The recommended strategy is to replace the current rate methodology with a new
tiered rate structure based on six tiers that reflect a person’s level of need. The estimated weighted
average rate across all tiers would be $175.82 per day, or $64,174 per year per person supported (if all 365
days are billed). He said that the proposed strategy would also support implementation of a new “Life
Sharing” model that would shift administrative tasks from the family to the administrative entity.

- Michael Bailit noted that estimated savings from this strategy would be between $10 and $20 million with a
“best guess” estimate of $16 million. The strategy would simplify the rate system and rates would be more
reflective of the services provided to a person. He said that the rate reform may increase access because
the new model of contracting may be attractive to families put off by current administrative requirements.

- In terms of supporting evidence, Michael Bailit noted that several other states have a flat or tiered rate
structure.

- Michael Bailit stated that CMS would need to approve the new method, and some systems work would
need to occur. Because new rates would be calculated as annual reassessments occur, no additional
administrative work would be needed. However, he noted one possible challenge, which is that family
foster care providers could possibly choose to provide fewer services.

- Jennifer DuPuis disclosed a potential conflict in that her organization owns two foster care licensing
entities. She then expressed concern with this proposed strategy, and described the challenge of finding
family foster care homes, noting that decreased rates could further exacerbate this challenge.

- Elyse Bailey of DHS clarified that this strategy would only impact individuals on the family foster care
waiver.

- Jennifer DuPuis requested that state staff determine the basis for the January 2020 rate increase.

- Elyse Bailey stated that this strategy addresses just one out of 15 services under the foster care waiver. She
noted that counties spend a lot of time with families trying to determine the number of hours involved,
which is difficult because the service is embedded into family life.

- Sheila Kiscaden asked state staff to provide information regarding the licensure of family foster care
services, as there are multiple licensures required.

- Elyse Bailey noted that there is a limit of four individuals placed in a foster care home, and that a home
serving four individuals would receive four times the amount of revenue. She said there are 1,700
individuals across the state receiving family foster care services.

- Debra Krause asked how the State calculated the components of the rate. Elyse Bailey explained the
process by which the State proposes to determine the average rate for each tier.

- Deputy Commissioner Doug Annett commented that a one-size-fits-all solution is problematic, and
emphasized the importance of a tiered rate structure as recommended by this strategy.

- Julia Freeman agreed that a tiered approach was important, and was encouraged that clients’ needs would
be met on an individual basis. She asked if there were protections for special needs that are higher than
normal.

- Elyse Bailey said that this strategy would not include an exceptions process, and that the strategy would not
inhibit individuals from seeking supplemental services in addition to family foster care.

- Sheila Kiscaden noted that the work of the Commission is difficult because the highest costs are for
individuals with disabilities and older adults. However, the legislature and county boards will proceed with
making difficult choices regardless, she said.

- Lisa Weed commented that the work of foster families is undervalued, and that this service involves many
unbillable hours. She questioned DHS’ method for calculating the tiered rates. Michael Bailit stated that he
believed DHS made a mistake by including family foster care services in DWRS, and that this strategy would
fix that mistake, which resulted in overpayment and a non-person centric rate.
Elyse Bailey clarified that the assessment of hours results in a daily rate, and that the majority of families have stated that they provide services 24 hours a day, so the issue of unbillable hours is not as relevant for this program. Elyse Bailey explained that this program lacks a data-driven method for determining rates as exists for most other programs.

Julia Freeman acknowledged that the Commission’s recommendation is important because the state budget is typically balanced on the backs of indigenous and low-income populations.

Gayle Kvenvold noted the gravity of decisions that the Commission is making within a short timeframe. Given the interest in a tiered approach, but concern that such an approach would result in lower rates, she asked if DHS had considered a transition period or hold harmless to buffer a significant change. Elyse Bailey said that DHS could consider such options and noted they would reduce savings in biennium.

Sida Xy-Liong asked how the impact of this strategy might vary by community, i.e., are we going to see increased access in certain communities? She expressed interest in an intermediate step as the strategy seems to be very cost-focused as opposed to contextually based.

Natasha Merz commented on the shortage of options for people who cannot or do not want to live in their parents’ home. DHS conducted an analysis of the impact of this strategy on people of color and did not find that there was a disproportionate impact; she said she would provide a summary of this analysis to the Commission.

Natasha Merz said that state staff hope that if they implement a tiered structure, such a structure could support piloting of additional innovative services. This strategy has the potential to promote alternatives to the family foster care program, and could bring in new service providers.

Representative Liebling asked state staff for a better understanding of the providers offering these services. If there is a risk of losing providers, it would be helpful for Commission to understand the potential impact of such a loss. For example, if individuals lacked this option, what other options would they have?

Commissioner Malcolm acknowledged that this strategy entails a rate reduction from a previous rate increase that is unsupportable.

Elyse Bailey estimated that the impact in terms of reduction on rates will be slightly more than 20 percent on average.

Sheila Kiscaden noted the transformational nature of this strategy and that the Department would like to offer new and innovative options.

Debra Krause agreed it made sense to keep this option on the table.

**Decision:** The Commission will retain this strategy for continued consideration.

**Disability services strategy presentation (cont’d)**

Michael Bailit reviewed the strategy **Curb the Growth and Use of Residential Services**, which has four component sub-strategies to reduce use and curb the growth of residential services in the disability waiver programs. Cost savings estimates were available only for the first two sub-strategies.

Michael Bailit noted that spending on the Developmental Disability (DD), Community Access for Disability Inclusion (CADI), Community Alternative Care (CAC), and Brain Injury (BI) Waivers (collectively referred to as the “disability waivers programs”) had increased significantly in recent years and was anticipated to continue increasing. A primary cost driver in these programs has been spending on residential services. He noted that many in the disability community feel there is a need to transition away from the use of corporate foster care and customized living settings, also referred to as “group homes” or “assisted living,” and that there is strong interest in options in lieu of residential services.

**Sub-strategy: align corporate residential billing with rate framework.** When providers bill for these services, the rate methodology includes an absence factor that increases the daily rate to account for absences; the factor amounts to about 14 days out of the home each year. This sub-strategy would place limits on the number of billable days for Corporate Foster Care and Supportive Living Services to align with absence factor, and would generate estimated savings of about $20 million.
Elyse Bailey noted that there is an exceptions process, for example, if a high needs individual is out of home frequently for services.

Sue Schettle asked about the State’s method for estimating savings. Elyse Bailey explained that DHS pulled claims for the last 12 months, determined what proportion of the population had absences that fell under this category, and then calculated what would happen if DHS did not pay those claims.

Lisa Weed asked if DHS would limit the number of non-emergency leave days for the provider. Elyse Bailey explained that the absence factor limits the number of billable absent days to 14.

Julia Freeman asked if this could lead to providers turning away individuals with high needs. Elyse Bailey said that providers can apply for an exception for an individual with high needs.

Sue Schettle said that applying for an exception is an administrative burden for providers.

Representative Liebling asked why DHS has an absence factor at all for these services. She noted that the absence factor yields a lower rate. Is DHS doing this because it is considered more simplified administratively? Why not have the providers simply bill one rate for when an individual is present and another for when individual is not present? Elyse Bailey responded that CMS does not allow for such a billing approach, and said that some states do not have an absence factor.

Lisa Weed asked DHS staff to identify which states do not have an absence factor.

Doug Annett clarified that this would not impact individuals in the home less than 351 days.

Commission members asked state staff to identify the number of individuals in the home between 351 and 362 days per year.

Sue Schettle expressed her opposition to further consideration of this strategy, and said she would share a letter that makes further requests.

**Decision:** The Commission will retain this strategy for continued consideration.

**Sub-strategy: curb customized living services rate growth.** Customized living services – available on the CADI and BI waivers – have rates that are determined using a “customized living tool” where the cost of discrete units of services are added together to determine a daily rate. There are no rules or limits regarding the number of appropriate units. Michael Bailit explained that this sub-strategy would place limits on how many discrete units would be allowed when determining rate for customized living services. This sub-strategy would generate estimated savings of between $1 and $10 million.

Sida Ly-Xiong asked for a definition of “units.” Elyse Bailey replied that the customized living services rate involves unique units, such as customized travel, behavior supports and these units compose the daily rate. This service is frequently described as “assisted living.” Elyse Bailey replied that savings for this strategy would be dependent on the types of limits the State would pursue.

Sue Schettle asked about growth of this service. Colin Stemper of DHS replied that it was difficult to ascertain overall trends because the units are variable; however, the latest data show an exponential growth in customized living services. He said that the State has experienced double digit percentage increases both for people receiving this service and for rates provided for these services. Hennepin County submitted a letter that expressed concern for growth in this service within its region. Sue Schettle said this strategy runs counter to the Commission’s charge to not curtail services. Lisa Weed echoed concern that this strategy could limit services.

Sheila Kiscaden commented the Commission needs to examine areas of rapid growth and to consider a reasonable range of services that can be provided for the budget available.

Debra Krause asked DHS if it could break out trends in the number of services and rates. Colin Stemper replied that growth over the past two years had been 10 percent, and that it was accelerating. He agreed to share the underlying data.

Gayle Kvenvold declared a conflict because her organization has a subset of members providing customized living services. She asked what happens to an individual whose needs exceed the ceiling.
Disability services strategy presentation (cont’d)

- Nona Ferguson disclosed a conflict because her organization provides customized living services. She raised the issue of homelessness, which was also flagged during the equity review. To what extent might this sub-strategy result in homelessness?
- Sue Schettle relayed that her providers expressed concern with current rates of reimbursement.
- Julia Freeman noted the challenge of determining the true costs associated with these services. Elyse Bailey replied that the rates for customized living services are the only services under the disability waiver that are not set based on cost.
- Gayle Kvenvold suggested a root cause analysis to determine the reasons for growth of these services. Sheila Kiscaden agreed that a root cause analysis would be helpful, and described this strategy as a high priority.
- Commissioner Malcolm agreed that further exploration would be helpful.
- Gayle Kvenvold said it would be difficult to advance this strategy in the cost savings strategy as presently defined. Elyse felt DHS could come up with cost savings.
- Tina Liebling noted that there may be a resource constraint for DHS to generate the additional information for this strategy, but that the strategy should stay on the table.
- Sida Xy-Liong suggested that the community engagement work should help to uncover who is using these services.

**Decision:** The Commission will retain this strategy for further consideration, and will review it again later this spring when DHS has had time to conduct follow-up work to respond to Commission member requests.

- **Support planning for people who want to move.**
  - Michael Bailit explained this strategy, which would provide additional support planning assistance to people receiving disability waiver services who prefer to move out of foster care and customized living settings.
  - Elyse Bailey said this strategy could really support people and impact their lives. She said that while the strategy may not result in savings by 2023, it would move the State in a good direction. DHS has not yet conducted savings analysis because demonstrating savings would be challenging.
  - Julia Freeman expressed concern about DHS resources to develop the savings estimate.
  - Lisa Weed agreed with Julia Freeman, stating that since DHS cannot identify cost savings at this time, she would prefer for DHS to focus on the other strategies.

**Decision:** The Commission will retain this strategy for further consideration. Commission member are supportive of DHS continuing to develop this strategy as a second tier priority, if it has the resources to do so.

- **Bed closure targets and rate reform for corporate foster care.** Under current law, the rate methodology for corporate foster care considers the number of people in the home when determining the rate. Cost savings from reducing beds may only be achieved when an entire foster care home closes. Michael Bailit explained that this strategy would update the statute to derive cost savings from individual bed closures.
  - Sue Schettle, having disclosed a conflict of interest, said that her association members have expressed concern about this strategy and noted that many individuals like living in a group home. She said that consolidation could result in unsettling shifts in homes for individuals. In addition, many smaller providers are challenged and this would serve as a major disincentive for them.
  - Sheila Kiscaden said she would like to understand how this sub-strategy fits with workforce issues. She was not sure the four-bed group home model provides sustainable, high quality services. She acknowledged the cost savings of reducing beds, but was unsure how to assess this strategy.
  - Michael Bailit acknowledged that the Commission’s savings target imperative has driven this specific, narrow strategy. Sheila Kiscaden said she would prefer it if this strategy constituted a step toward transformation.
  - Elyse Bailey said that under Waiver Reimagine, DHS tackles some of the broader transformative questions.
Deputy Commissioner Doug Annett commented on the bed closure strategy, noting that it is more expensive to close a four-bed home than it is to let the home operate at a loss. He noted that strategies that dismantle a four-bed approach may result in a short-term spike in cost.

Commissioner Malcolm stated that DHS had not yet calculated savings for this strategy and asked if Commission members would prefer additional exploration of this strategy.

Sue Schettle said that this strategy was indicative of a bigger problem, and wanted it removed from consideration. Lisa Weed and Julie Freedman also stated that they would prefer that this strategy be removed from consideration.

Representative Liebling said that she was not sure if resources were available for further investigation by DHS staff of this strategy. Elyse Bailey said she believed she could identify savings for this strategy, but that it would take time to do so.

Commissioner Malcolm said she would like the Commission to illuminate broader themes by identifying unanswered questions that need careful stakeholder engagement.

Julia Freedman suggested that the Commission place this strategy in an “honorable mention” category.

Decision: The Commission will no longer consider this sub-strategy.

- Michael Bailit noted that one of the primary benefits of the four sub-strategies was a potential increase in access to alternative services. He said that in terms of the administrative implications, the required resources varied by sub-strategy. The first two sub-strategies required few administrative resources other than systems changes. The latter two sub-strategies would necessitate increased state technical assistance to lead agencies and providers, and associated administrative support.

- Michael Bailit stated that the sub-strategies entail several possible challenges, including a reduction in revenue for residential service providers which could lead to concerns about provider sustainability and maintaining existing capacity.

Public comment

- Gene Martinez, representing ARC Greater Twin Cities, expressed his strong support for the sub-strategy that provides support planning for people who want to move. He noted that ARC Greater Twin Cities has helped over 2,400 individuals – including individuals with disabilities – locate affordable housing and move into communities.

- Gene Martinez added that another reason for the Commission to advance the sub-strategy that provides support planning for people who want to move is that there have been few housing options under the Olmstead Plan other than group homes. He believed that offering support planning for people who want to move will likely yield savings.

Meeting wrap-up

- Commissioner Malcolm thanked state staff and adjourned the meeting.

- Representative Tina Liebling said that both she and Representative Schomacker would be unable to attend the March 6th Commission meeting due to a conflict with the House Health and Human Services Policy Committee meeting.

- Sheila Kiscaden and other Commission members thanked staff for sharing meeting materials in advance.

Next meeting

- Date: Friday, March 6, 2020
- Time: 9:00 a.m. – 3:00 p.m.
- Location: Elmer L. Andersen Building, 540 Cedar Street, St. Paul
- Focus: Cost saving strategies related to services for older adults