

# Virginia Disability Commission

Tuesday, June 20, 2017 - 10:00 a.m.

Capitol - House Room 3

## Meeting Notes

### I. Call to Order and Opening Remarks

Chairwoman Brenda Pogge called the meeting to order, and the Virginia Disability Commission (Commission) members introduced themselves.<sup>1</sup>

### II. Presentation: Overview of Non-Emergency Medical Transportation Services: Department of Medical Assistance Services (DMAS) – Cheryl Roberts, Deputy Director for Programs, and Ivory Banks, Division Director for Program Operations

After receiving complaints from constituents regarding non-emergency medical transportation services provided by DMAS, the Commission requested that DMAS provide information on this issue. Ms. Banks began the presentation by explaining that when a member seeks transportation services, he will typically contact a broker. The broker then contacts the transportation provider and schedules the trip. Ms. Banks stated that DMAS enters into competitive agreements with brokers to participate in this process.

Ms. Banks explained that while DMAS strives to provide timely, efficient, and reliable transportation services, the agency commonly receives complaints from members. Such complaints include providers arriving late or not at all, as well as the drivers for many members changing from day to day. Ms. Ivory said that DMAS is assessing options to remedy these problems and has established a quality assurance committee to monitor the quality of transportation services on a regional basis. DMAS has also issued a request for proposals (RFP) to solicit, through a bidding process, new companies interested in providing transportation services to members throughout the Commonwealth. DMAS hopes to secure a new provider by April 2018.

In response to an inquiry by Senator David Marsden, Ms. Banks stated that DMAS expects to receive approximately six or seven responses to its RFP. Delegate Robert Orrock asked whether DMAS is billed in the instances in which a transportation provider does not show up for a scheduled trip, and Ms. Ivory explained that it is not. Joseph Murray asked for additional information regarding the reasons providers are citing for their failures to arrive for scheduled services, such as traffic, overbooking, and weather conditions. Ms. Ivory agreed to gather statistics from its current provider, Logisticare, on this issue for future review.

Gayl Brunk stated that there is a significant difference regarding the window of time providers are given to pick up and drop off members in comparison with the windows that are given to members to schedule such trips. Ms. Brunk further stated that DMAS is taking too long to remedy this issue as well as those noted above.

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<sup>1</sup> The following Commission members were present: Delegate Brenda Pogge (Chairwoman), Senator David Marsden, Delegate Robert Orrock, Sr., Gayl Brunk, Michael Lewis, Frank Lombardi, Jr., Joseph Murray, and Ed Turner. Delegates David Toscano and Ronald Villanueva were absent.

Following this discussion, Robin Fieureburg, a resident of Centreville and constituent of Senator Marsden, testified that her adult daughter is autistic and receives Medicaid-funded transportation services through DMAS. Ms. Fieureburg stated that her experience with Logisticare has been chaotic, noting that its drivers often arrive late or fail to arrive at all and consistently send different drivers each day to pick her daughter up for work. Moreover, Logisticare often transports her daughter to various locations to consolidate trips with other passengers, adding approximately 50 miles to her journey round trip. Despite voicing concerns to Logisticare representatives on many occasions, she has not seen any improvements. Ms. Fieureburg explained that these transportation problems are particularly difficult for someone with autism, and she further commented that Logisticare's performance is simply unacceptable.

Ed Turner stated that in assessing the Commonwealth's transportation services, DMAS should consider the model used in Fort Lauderdale, Florida. He explained that, under this structure, providers call members the night before a scheduled trip and provide them with a pickup window, and then call again 15 minutes before arrival. Mr. Turner believes this system would likely decrease the Commonwealth's rate of no-shows or late arrivals and make the transportation system more efficient overall.

**III. Presentation:** Communicating All of the Options for Children Who Are Deaf or Hard-of-Hearing; SB 983 and HB 1873 (2017) – Lori Bobsin, Coordinator, Aural Habilitation Program; Lee Hartman; Mitchell Harry

Lori Bobsin testified before the Commission regarding Senate Bill 983 and House Bill 1873, which were introduced during the 2017 Session of the General Assembly.<sup>2</sup> This legislation, which was promoted by Language Equality & Acquisition for Deaf Kids (LEAD-K), would have required the Division of Special Education and Student Services of the Department of Education to (i) select, with input from an advisory committee that it establishes, language development milestones and include such milestones in a resource for use by parents of a child from birth to age five who is identified as deaf, deaf-blind, or hard-of-hearing to monitor and track their child's expressive and receptive language acquisition and developmental stages toward English literacy; (ii) disseminate such resource to such parents; (iii) select existing tools or assessments for educators for use in assessing the language and literacy development of children from birth to age five who are deaf, deaf-blind, or hard-of-hearing; (iv) disseminate such tools or assessments to local educational agencies and provide materials and training on their use; and (v) annually produce a report, using existing data reported in compliance with the federally required state performance plan on students with disabilities, that compares the language and literacy development of children from birth to age five who are deaf, deaf-blind, or hard-of-hearing with the language and literacy development of their peers who are not deaf, deaf-blind, or hard-of-hearing and make such report available to the public on its website.

Ms. Bobsin stated that, with modern technology and advanced practices, children with hearing problems can learn to communicate through spoken language. She further stated that early intervention strategies, which were one of the goals of the aforementioned legislation, are already in place within the Commonwealth to identify hearing problems in children at an early age and provide them with the support they need to acquire adequate communication skills.

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<sup>2</sup> The full text of SB 983 and HB 1873 can be found at: <http://lis.virginia.gov/cgi-bin/legp604.exe?ses=171&typ=bil&val=sb983> and <http://lis.virginia.gov/cgi-bin/legp604.exe?ses=171&typ=bil&val=hb1873>.

Referencing Senate Bill 983 and House Bill 1873, Ms. Bobsin stated that LEAD-K supporters have spoken out against various practices used to teach children to listen and speak. Ms. Bobsin said that LEAD-K instead emphasizes deaf children learning a visual language as their birthright. Specifically, LEAD-K promotes sign language first and speaking second.

Ms. Bobsin disagrees with this practice, stating that children should be taught auditory skills first, followed by sign language, because children older than age three have a harder time learning to speak and sign language skills are not nearly as age dependent. Ms. Bobsin stated that, with the right tools in place and newly available technology, children can develop communication skills equal to their peers very early. Upon inquiry by Chairwoman Pogge regarding the accessibility and cost of cochlear implants, Ms. Bobsin explained that Medicaid covers the cost for anyone eligible under the program and that private insurance normally covers the cost of the surgery but not secondary costs such as necessary batteries. Ms. Brunk noted that in addition to cost concerns, another issue regarding cochlear implants is that many parents are not aware of them. Ms. Bobsin agreed, commenting that awareness of cochlear implants needs to be spread across the Commonwealth and better access to experts in this area secured throughout the rural portions of the state.

Ms. Bobsin further opined that the LEAD-K bills do not promote children's choice to decide whether they want to pursue auditory or sign communication avenues. Ms. Bobsin further noted that children who are taught only sign language are limited to using a much smaller set of words than those with auditory skills. Michael Lewis pointed out that children who are taught sign language, as opposed to auditory communication, will not be able to attend school in a regular classroom unless they have an interpreter. Ms. Bobsin agreed, noting that interpreters are great but not always attainable.

Lee Hartman testified that parents should have the choice to decide what is best for their children, noting that many believe it is better to teach them auditory skills first. Mr. Hartman explained that he went through this process with his son, Charlie. After Charlie was diagnosed with severe hearing deficiency and the family sought significant help, it appeared he would never be able to hear or speak. But later, Mr. Hartman took Charlie to the University of Virginia (UVA), where he ultimately received cochlear implants. Charlie is now able to hear and speak. Mr. Hartman voiced sincere appreciation for UVA's assistance and stated that all parents should be given the choice to provide a similar opportunity to their children.

Mitchell Harry testified that he is a deaf adult. Mr. Harry explained that although he could not hear when he was born, he received cochlear implants and hearing aids when he was two and one-half years old that enabled him to hear and begin learning to speak. Mr. Harry testified that these implants, coupled with hard work, helped him to gain independence, earn an undergraduate degree from UVA, secure a job, and acquire the tools he needs to succeed in the future.

#### **IV. Discussion: 2016 Update**

Sarah Stanton, Senior Attorney, Division of Legislative Services, provided the following update regarding the Commission's 2016 recommendations:<sup>3</sup>

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<sup>3</sup> The full text of the Commission's 2016 recommendations can be found at: <http://dls.virginia.gov/commissions/vdc/files/2016interimreport.pdf>.

1. The proposed budget amendment to create an exception to the prohibition of overtime pay for Medicaid-reimbursed consumer-directed personal assistance services, respite, and companion services was not included in the final budget.
2. The proposed budget amendment to establish an Interagency Implementation Team to implement a statewide program for delivering comprehensive brain injury services in the Commonwealth was not included in the final budget.
3. Senate Bill 983 and House Bill 1873 (LEAD-K legislation) did not pass.
4. A letter was sent to the Department of Aging and Rehabilitative Services (DARS) requesting that it begin the process of shifting funding for long-term employment support services from segregated, sheltered employment settings to integrated community-based employment opportunities. DARS will provide the Commission with an update on this issue at a later meeting during the 2017 interim.
5. A letter was sent to the Department of Behavioral Health and Developmental Services (DBHDS) requesting that it develop a method to efficiently gather data that will better identify all individuals receiving employment support services, the specific type and amount of services being provided to each individual, the duration of such services, and the employment outcomes of individuals receiving such services. DBHDS will provide the Commission with an update on this issue at a later meeting during the 2017 interim.
6. The Commission will, as part of its 2017 work plan, attempt to identify and analyze methods that can be used to increase the Commonwealth's employment opportunities for individuals with disabilities.

## **V. Public Comment**

Patricia Harris, a supporter of LEAD-K, stated that she has a deaf son and, when he was young, had a very difficult time getting him the services he needed. She said that her family reached out to the Commonwealth's early intervention program for assistance but was given little help. Ms. Harris asked that the Commission support the LEAD-K legislation to help children like hers.

Lauren Good, a social worker and supporter of LEAD-K, testified that many deaf children develop a host of negative issues from their lack of communication abilities, such as behavioral issues. She further opined that the cochlear implant industry is concerned more with their profit margin and that the practices used in coordination with the implants are geared more toward teaching children about sound than about how to communicate. It was her opinion that the LEAD-K legislation would help parents by providing them with guidance and options regarding their deaf children.

Star Bryzer, another LEAD-K supporter, testified that LEAD-K's goal is to provide deaf children with communication skills, regardless of the type of communication. She stated that LEAD-K continues to see children who cannot communicate. She said that in light of the advancements that have been made in this field, all deaf children should be able to communicate in some fashion and that LEAD-K wants to help solve this problem in Virginia. Another gentleman commented that when he sought help for his deaf child, his doctor tried to persuade him to use cochlear implants and never mentioned anything about sign language as an alternative. He further stated that the Commonwealth lacks information resources for parents regarding sign language.

Adam Jones, another parent of a child with hearing problems, testified that North Carolina uses a program known as "Beginnings" that provides information to parents regarding resources and unbiased options for their deaf children. He stated that this program has been very helpful to his family and recommended that the Commonwealth implement something similar. Chairwoman Pogge recognized that the Commonwealth has room for improvement in this area and explained that the Commission will continue to assess options in this regard, including a focus on better screening procedures.

Finally, Dawn Brantley testified on behalf of an individual with a disability who has been subpoenaed to testify at a criminal trial in Virginia. She explained that the gentleman is a quadriplegic and lives out of state. When subpoenaed to testify, he requested a disability exemption that would allow him to testify telephonically or by video because traveling out of state would be detrimental to his health. The judge denied his request on the basis that Virginia law does not provide for telephonic or video testimony in criminal cases. Ms. Brantley recommended that the Commission address this issue during the 2018 Session of the General Assembly.

## **VI. Adjourn**

There being no further business before the Commission, the meeting was adjourned by Chairwoman Pogge.