

House Legislative Oversight Committee Meeting
Wednesday, March 30, 2022

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AGENDA

South Carolina
House of Representatives



Legislative Oversight Committee

Wednesday, March 30, 2022

Room 110 - Blatt Building

8:45 a.m.

Pursuant to Committee Rule 4.7, S.C. ETV shall be allowed access for internet streaming whenever technologically feasible.

AGENDA

- I. Approval of minutes
- II. Discussion of the Healthcare and Regulatory Subcommittee's Study of the Department of Health and Human Services
 - A. Click [here](#) to view the Study Video/Dashboard
- III. Discussion of the Education and Cultural Subcommittee's Study of the Arts Commission
 - A. Click [here](#) to view the Study Video/Dashboard
- IV. Adjournment

Meeting Minutes

Chair Wm. Weston J. Newton

First Vice-Chair:
Joseph H. Jefferson, Jr.

Legislative Oversight Committee



Kambrell H. Garvin
Rosalynd D. Henderson-Myers
Jeffrey E. "Jeff" Johnson
John R. McCravy, III
Josiah Magnuson
Travis A. Moore
Russell L. Ott
Michael F. Rivers, Sr
Chris Wooten

Gil Gatch
William M. "Bill" Hixon
Kimberly O. Johnson
Timothy A. "Tim" McGinnis
Adam M. Morgan
Melissa Lackey Oremus
Marvin R. Pendarvis
John Taliaferro (Jay) West, IV

South Carolina House of Representatives

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Legal Counsel

Lewis Carter
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Riley E. McCullough
Research Analyst

Legislative Oversight Committee

March 2, 2022
8:45 a.m.
Blatt Room 110

Archived Video Available

- I. Pursuant to House Legislative Oversight Committee Rule 6.8, South Carolina ETV was allowed access for streaming the meeting. You may access an archived video of this meeting by visiting the South Carolina General Assembly's website (<http://www.scstatehouse.gov>) and clicking on *Committee Postings and Reports*, then under *House Standing Committees* click on *Legislative Oversight*. Then, click on *Video Archives* for a listing of archived videos for the Committee.

Attendance

- I. Pursuant to Committee Rule 3.1, the meeting of the House Legislative Oversight Committee was called to order by Chairman Wm. Weston J. Newton. All members of the Committee were present for all or a portion of the meeting, except Vice-Chair Joseph H. Jefferson, Jr., and Representative Marvin R. Pendarvis.

Minutes

- I. Representative Rosalyn D. Henderson-Myers, moved to approve the minutes from the meeting on April 8, 2021. A roll call vote was held, and the motion passed.

Rep. Henderson-Myers's motion to approve the April 8, 2021 meeting minutes.	Yea	Nay	Not Voting
Rep. Garvin	✓		
Rep. Gatch	✓		
Rep. Henderson-Meyers	✓		
Rep. Hixon	✓		
Rep. Jefferson			Not Present
Rep. J. Johnson			Not Present
Rep. K.O. Johnson			Not Present
Rep. Magnuson			Not Present
Rep. McCravy	✓		
Rep. McGinnis	✓		
Rep. Morgan			Not Present
Rep. Moore			Not Present
Rep. Newton	✓		
Rep. Oremus	✓		
Rep. Ott	✓		
Rep. Pendarvis			Not Present
Rep. Rivers			Not Present
Rep. West	✓		
Rep. Wooten	✓		

Discussion of the Study of the Department of Health and Human Services

- I. Subcommittee Chair Jay West presents an overview of the study of the Department of Health and Human Services.
- II. Subcommittee Chair West states that the subcommittee makes 10 findings as to Medicaid beneficiaries, Medicaid Providers, and agency resources. Subcommittee Chair West also states that the subcommittee makes 26 recommendations to the General Assembly, the Department of Health and Human Services, and the Department of Administration addressing the following categories:
 - i. Accountability;
 - ii. Effectiveness;
 - iii. Efficiency;
 - iv. Transparency;

- v. Interagency collaboration; and
- vi. Modernization of laws

- III. Agency Director Robert Kerr responds to questions from Committee members.
- IV. During discussion of Healthcare and Regulatory Subcommittee report, various members (i.e., Subcommittee Chair West, Representative Josiah Magnuson, and Representative Russell L. Ott) expressed desire to make various motions at the appropriate time. Due to time constraints, the meeting adjourned while still discussing the Healthcare and Regulatory Subcommittee report on Department of Health and Human Services.

Adjournment

- I. The House of Representatives convened at 10:00 a.m., which required the Committee to adjourn pursuant to House Rule 4.4.

Executive Summary - Dept. of Health and Human Services



**HOUSE LEGISLATIVE OVERSIGHT COMMITTEE
HEALTHCARE AND REGULATORY SUBCOMMITTEE**

**2021 STUDY OF THE DEPARTMENT OF
HEALTH AND HUMAN SERVICES
EXECUTIVE SUMMARY**

Effects applied to an original photograph courtesy of Sam Holland Photography – Sam Holland, Photographer

Oversight Purpose and Methods

PURPOSE

To determine if agency laws and programs:

- ➡ are being implemented and carried out in accordance with the intent of the General Assembly; and
- ➡ should be continued, curtailed, or eliminated.

METHODS

The Committee and Subcommittee evaluate:

- ➡ the application, administration, execution, and effectiveness of the agency’s laws and programs;
- ➡ the organization and operation of the agency; and
- ➡ any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.

S.C. Code Ann. § 2-2-20(B) and (C)

Study Process



Public Input

- 115** Responses to an online public survey
- 7** Online comments received

Subcommittee Membership

HEALTHCARE AND REGULATORY SUBCOMMITTEE

The Honorable John Taliaferro “Jay” West, IV (chair)
The Honorable Gil Gatch

The Honorable Timothy A. “Tim” McGinnis
The Honorable Rosalyn D. Henderson-Myers

Study Milestones

MEETINGS

Full Committee	12.09.2019 4.08.2021
Subcommittee	7.28.2020 3.08.2021 4.26.2021 5.03.2021 5.24.2021 8.30.2021

AGENCY REPORTS

March 2015	Seven-Year Plan Report
September 2020	FY 2018-19 Accountability Report
June 2020	Program Evaluation Report*
September 2021	FY 2019-20 Accountability Report

Findings

The Subcommittee makes 10 findings pertaining to Medicaid beneficiaries, Medicaid providers, and agency resources. The Subcommittee makes the findings to note information that a member of the public, or General Assembly, may seek to know or on which they may desire to act.

Medicaid Beneficiaries

Utilization Disparities

1. South Carolina has nine counties with a Medicaid population of 40% or more of the total county population (i.e., Dillon [47.07%], Marion [46.69%], Barnwell 42.90%], Marlboro [42.84%], Allendale [42.54%], Williamsburg [41.97%], Lee [41.63%], Colleton [41.04%], and Orangeburg [40.53%]).

Enrollment in Managed Care Organization

2. Over 50% of Medicaid beneficiaries enrolled in a managed care organization (MCO) plan are auto-assigned. Beneficiaries can select their own MCO plan within 60 days from the time they become Medicaid eligible. If a MCO is not selected, agency personnel will auto-assign the beneficiary. Once a beneficiary has been auto-assigned, the beneficiary has another 90 days to opt out of that plan if desired. *See recommendations 4, 12, and 20.*

Waiver Sustainability

3. There are multiple challenges (e.g., wait lists and access to service providers) specific to Medicaid beneficiaries receiving services through waiver programs (i.e., requirements differ from the standard federal program). South Carolina offers multiple waiver programs, and many of these allow Medicaid beneficiaries to remain in home rather than receive institutional care. While DHHS processes Medicaid payments for services provided through waiver programs, some of the waiver programs are operated by other state agencies.

Medicaid Providers

Recruitment and Retention

4. There is only one pediatric medical day care serving Medically Complex Children waiver participants in the state, and it is located in Greenville, South Carolina. *See recommendation 9*
5. Managed care organizations contracted with the state Medicaid program have reported difficulties placing their pediatric beneficiaries, particularly children who have been diagnosed with autism spectrum disorder or who struggle with controlling behavioral issues (e.g., sexually aggressive behavioral health, eating disorders, history of violence, general aggressiveness, etc.), in psychiatric residential treatment facilities in the state.

6. The South Carolina Graduate Medical Education Advisory Group, of which agency personnel was a participant, provided recommendations to the General Assembly, Governor’s Office, and the Department of Health and Human Services regarding how to improve graduate medical education in South Carolina.

Reimbursement

7. After agency personnel increased rates for autism disorder providers, individual provider enrollment increased. Prior to the provider rate increase in 2018, the agency had 151 individual providers. Provider enrollment increased to 213 individual providers (a 41% increase) by June 30, 2019. Another rate increase occurred on July 1, 2019, and 347 individual providers enrolled (a 63% increase) by May 15, 2021. See recommendation 14.
8. From fiscal year 2015-21, the agency’s Program Integrity Unit opened 1,835 cases, of which 186 were on-site provider reviews. According to agency staff, 99% of those reviews resulted in some form of corrective action for providers. See recommendations 20, 21, 22, 23, and 24.
9. Several state agencies receive reimbursement from the state Medicaid program. These agencies include the following: Department of Mental Health; Department of Disabilities and Special Needs; Department of Education; Department of Health and Environmental Control; Medical University of South Carolina; and University of South Carolina.

Agency Resources

10. In fiscal year 2019-20, the Department of Health and Human Services received \$13,875,104 in state funds for projects and services not specifically requested by agency personnel.

Recommendations

The Subcommittee has 24 recommendations to General Assembly, the Department of Health and Human Services; three to General Assembly, and the Department of Administration. The Subcommittee recognizes these recommendations will not satisfy everyone nor address every issue or potential area of improvement at the agency.

Recommendations to the General Assembly

ACCOUNTABILITY

1. Consider updating S.C. Code Section 44-115-80 to require suspended, terminated, or excluded Medicaid providers to give patients a complete copy of their medical record at no cost. Patients should not incur a financial penalty due to the fraud, waste, or abuse of the offending provider.

MODERNIZATION
OF LAWS

2. Consider eliminating an outdated requirement for the establishment of child development services by repealing S.C. Code Sections 44-6-300 through 320 (Child Development Services). This program is no longer operated by DHHS. The agency requested this law change.

Recommendations to the Department of Health and Human Services

ACCOUNTABILITY

3. Amend S.C. Code Reg. Section 126-401 to include financial penalties associated with administrative sanctions imposed on service providers. Imposition of these penalties may offset the administrative cost incurred by the agency.
4. Develop a strategy to reduce the percentage of Medicaid beneficiaries auto-assigned to a managed care organization.^{See finding 2.}
5. Regularly perform (i.e., every 3 - 5 years) a comprehensive compa-ratio study as a means to address employee recruitment and retention. Compa-ratio is a formula used by human resources professionals to assess the competitiveness of an employee's pay level. The DHHS evaluation should include a written report regarding pay equity within the agency (e.g., gender, ethnicity, average salary by ethnicity and gender, etc.).

EFFECTIVENESS

6. Conduct an annual Medicaid provider network survey to evaluate provider satisfaction with the agency and managed care organizations.
7. Develop a strategy for the evaluation and assessment of COVID-19 related service changes.
8. Incorporate an explanation of benefits (EOB) submission metric (e.g., average % of EOBs returned) to encourage agency personnel to implement strategies to improve Medicaid beneficiary EOB return rate. These strategies may include but are not limited to, offering electronic ways (e.g., email, text messaging, online via agency website, etc.) for Medicaid beneficiaries to complete EOBs.
9. Create an interactive map to identify Medicaid providers and their locations across the state. The map should have the capability to illustrate concentrations of providers (i.e., heat map), to inform policymakers of provider need across the state. Interactive map should be assessable via the agency's website.^{See finding 4.}
10. Participate in executive training specific to senior executives, including the agency director, who have overall responsibility for an organization (e.g., leadership, strategic direction, profit & loss, agency culture, etc.)
11. Develop and implement an annual formal process to evaluate the 20 criteria used in determining Medicaid beneficiary placement in the Pharmacy Lock-in program,

which “locks” a Medicaid beneficiary to a specific pharmacy due to an identified pattern of excessive and uncoordinated use of prescription drugs and other Medicaid benefits (e.g., pharmacy shopping for controlled substances). The agency should solicit input from participating Medicaid MCOs, the Department of Alcohol and Other Drug Abuse Services, and the Department of Health and Environmental Control.

12. Conduct a complete user experience audit of the agency’s website and develop a strategic plan to address the following: usefulness of information; accessibility of information; ease of finding information; credibility of information; location of social media links; and attractiveness of website.^{See finding 2.}
13. Conduct an annual survey of Medicaid beneficiaries with chronic diseases (e.g., sickle cell anemia, rheumatoid arthritis, etc.), regarding their health status (e.g., disease management, access to care, pain management, patient satisfaction, etc.).

-
14. Identify, define, develop, and post on the agency website a strategic plan (including metrics) to improve the social determinants of health that most greatly affect the South Carolina Medicaid population.^{See finding 7.}
 15. Conduct an internal study to evaluate remote work options. The study should include the identification of data needed by agency personnel, on an ongoing basis, to verify and substantiate the efficacy of a remote workforce.

EFFICIENCY

16. Incorporate a productivity standard for the 70% of agency positions that complete tasks that can be counted. Evaluate the merits of hiring an industrial engineer (i.e., agency FTE) to create and monitor agency productivity standards and train staff regarding how to use and evaluate productivity standards and metrics.
17. Evaluate the efficacy of implementing an online enrollment packet as an option for Medicaid beneficiaries. Currently, Medicaid beneficiary packets are mailed at a cost of over two hundred thousand for each of the past three fiscal years..
18. Develop and implement an online fraud reporting form as an additional means for receipt of allegations of Medicaid fraud.

INTERAGENCY
COLLABORATION

-
19. Collaborate with the Public Employee Benefit Authority to share and identify best practices regarding health care quality, provider and member satisfaction, social determinants of health, wellness programs, MCO contracting, and other related insurance provider services.
-

TRANSPARENCY

20. Provide to the Subcommittee a written summary of the findings and recommendations identified by the consultant hired to evaluate Program Integrity Unit position titles and descriptions. Include whether the agency has or intends to incorporate the recommendations identified by the paid consultant.^{See findings 2 and 8.}
21. Require suspended, terminated, or excluded Medicaid providers to inform their Medicaid patients that such action is pending or has been levied against them by DHHS.^{See finding 8.}
22. Create and post on the agency website an interactive dashboard, which provides information illustrating metrics tracked by the agency and other notable statistics of interest to the public and policymakers (e.g., percent of providers National Committee for Quality Assurance certified, withhold percentage received by MCOs, explanation of benefit return rate, administrative sanctions by type, allocations of fraud, percent of fraud cases found to be legitimate, fraud conviction rate, etc.).^{See finding 8.}
23. Estimate the South Carolina Medicaid programs annual fraud, waste, and abuse, as a percentage of total Medicaid expenditures, and use it as an internal baseline for the agency's annual recovery goal.^{See finding 8.}

Recommendations to the Department of Administration's Division of State Human Resources

TRANSPARENCY

24. Coordinate employee morale surveys across state government on a regular basis and within three years after administering employee morale surveys, investigate the feasibility of coordinating exit and entrance interviews across state government.^{See finding 8.}

Full report

The full report of the Subcommittee's study of the Department of Health and Human Services is available on the House Legislative Oversight Committee's webpage.



Legislative Oversight Committee

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>
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Executive Summary - Arts Commission



**HOUSE LEGISLATIVE OVERSIGHT COMMITTEE
EDUCATION AND CULTURAL SUBCOMMITTEE**

**2021 STUDY OF THE ARTS COMMISSION
EXECUTIVE SUMMARY**

Effects applied to an original photography courtesy of Sam Holland Photography – Sam Holland, Photographer

Oversight Purpose and Methods

PURPOSE

To determine if agency laws and programs:

- ➡ are being implemented and carried out in accordance with the intent of the General Assembly; and
- ➡ should be continued, curtailed, or eliminated.

METHODS

The Committee and Subcommittee evaluate:

- ➡ the application, administration, execution, and effectiveness of the agency’s laws and programs;
- ➡ the organization and operation of the agency; and
- ➡ any conditions or circumstances that may indicate the necessity or desirability of enacting new or additional legislation pertaining to the agency.

S.C. Code Ann. § 2-2-20(B) and (C)

Study Process



Public Input

- 72** Responses to an online public survey
- 2** Online comments received
- 6** Constituents testify

Subcommittee Membership

EDUCATION AND CULTURAL SUBCOMMITTEE

The Honorable Jeffrey E. “Jeff” Johnson (chair)
The Honorable Kambrell H. Garvin

The Honorable Michael F. Rivers, Sr.
The Honorable Tommy M. Stringer

Study Milestones

MEETINGS

Full Committee	12.09.2019 4.08.2021
Subcommittee	4.15.2021 5.18.2021 6.15.2021 10.01.2021 10.25.2021

AGENCY REPORTS

February 2015	Seven-Year Plan Report
March 2020	Program Evaluation Report
September 2020	FY 2018-19 Accountability Report
September 2021	FY 2019-20 Accountability Report

Finding

During the study of the Arts Commission (agency or commission), the Education and Cultural Subcommittee (Subcommittee) of the House Legislative Oversight Committee (Committee) adopts **one finding pertaining to legislative directives**.

Findings note information a member of the public, or General Assembly, may seek to know or on which they may desire to act.

Legislative Directives

COMMUNITY ENGAGEMENT

1. The Arts Commission encourages community engagement to meet legislative directives to encourage public interest in state's cultural heritage and expand resources; advance the agency's commitment to rural development through the arts; develop local leaders and encourage action to address issues; and increase understanding of using arts and culture as a community development tool.

Recommendations

The Subcommittee adopts **20 recommendations directed to the Arts Commission**.

With any study, the Committee recognizes **these recommendations (e.g., continue, curtail, improve areas potentially, and/or eliminate agency programs, etc.) will not satisfy everyone nor address every issue or potential area of improvement at the agency**. These recommendations are based on the agency's self-analysis requested by the Committee, discussions with agency personnel during multiple meetings, and analysis of the information obtained by the Committee. This information, including, but not limited to, the Program Evaluation Report, Accountability Report, Restructuring Report and videos of meetings with agency personnel, is available on the Committee's website.

Accountability

STATE ART COLLECTION ACQUISITION

1. Include artist demographic attributes as a factor when considering additions to the State Art Collection.

Effectiveness

ARTS ECONOMIC IMPACT

2. Conduct an arts economic impact study, every 3-5 years, to inform stakeholders (e.g., agency board members, elected officials, public, etc.) of the effect of arts activity on the state (e.g., arts generated revenue, labor, investment, etc.).

ARTS CAREER DEVELOPMENT

3. Add a career profiles page (e.g., occupation title, job summary, entry-level education, median pay, etc.) to the agency website to assist students and persons interested in arts careers.
4. Create digital art workshops and webinars to encourage the development of a mature digital arts space in South Carolina.

K-12 ARTS EDUCATION

5. Identify school districts with no designated Arts Basic Curriculum (ABC) Schools and develop a strategy to establish at least one ABC School in these districts by a date set by the board. Within one year after issuance of the study, submit plan to the Committee; post the plan on agency website; and forward a copy of the plan to Department of Education.
6. Develop a marketing and communications strategy encouraging school districts and schools to promote and participate in Poetry Out Loud competitions, which focus on recitation and performance.
7. Develop a strategy to offer Artist U (i.e., intensive training for South Carolina artists in building sustainable arts careers) to high school students through official relationships with schools and school districts.

PHILANTHROPIC SUPPORT

8. Create a development plan and establish an internal process to actively identify, cultivate, and solicit philanthropic support for Arts Commission grants and programs.

EMPLOYEE SURVEYS

9. Conduct an employee satisfaction survey, on a biennial basis, and present the results to the Commission board.

Efficiency

SOCIAL MEDIA COMMUNICATION AND MARKETING

10. Create a formal (i.e., board approved) communication and marketing strategy, which includes social media, to educate, promote, and inform the arts community and public about agency programs and initiatives.

11. Survey the state to identify geographic areas that have a concentration of cultural facilities, activities and assets that may qualify a town or city as a cultural district. Locations, identified as favorable, will be notified by the agency to make local leadership aware of the agency's survey results. Agency staff will provide town and city leaders with information regarding the process for being formally selected as a cultural district.
12. Begin capturing data regarding how participating artists learned of program offerings and other associated agency services.
13. Incorporate question(s) inquiring as to whether arts directory participants experienced a positive return through their listing. Start with the next-recertification cycle. The directory, which is assessable to the public, schools, and other stakeholders, provides information about artists across the state (e.g., location, discipline, contact information, certifications, etc.).

REMOTE WORK OPTIONS

14. Conduct an internal study to evaluate the efficacy of remote work options by utilizing the Department of Administration's Division of Human Resources telecommuting toolkit.

Interagency Collaboration

STATE AGENCIES

15. Collaborate with the Department of Commerce; Department of Parks, Recreation, and Tourism; and Revenue and Fiscal Affairs Office to further their ability to develop and promote established cultural districts.

LOCAL GOVERNMENTS

16. Inform local governments regarding the benefits of cultural district designation and evaluate data reported by established districts.

HIGHER EDUCATION INSTITUTIONS

17. Collaborate with state higher education institutions to supplement the research and evaluation of services and programs pertinent to the agency's mission.
18. Collaborate with state higher education institutions to develop an Artist U elective.

Transparency

STATE OF THE ARTS REPORT

19. Develop an annual "State of the Arts" assessment report to document areas of the state lacking adequate arts infrastructure, investment, and receipt of grants funds due to limited or non-participation in the grants application process.

COMMISSION MEETINGS

20. Post commission meeting minutes and video on the agency's website.

How to access the full report

The full report of the Subcommittee's study of the Arts Commission is available on the House Legislative Oversight Committee's webpage.



Legislative Oversight Committee

<https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>
HCommLegOv@schouse.gov • (803) 212-6810

Committee Contact Information

Legislative Oversight Committee



South Carolina House of Representatives

Committee Mission

Determine if agency laws and programs are being implemented and carried out in accordance with the intent of the General Assembly and whether they should be continued, curtailed or eliminated. Inform the public about state agencies.

Website: <https://www.scstatehouse.gov/CommitteeInfo/HouseLegislativeOversightCommittee.php>

Phone Number: 803-212-6810

Email Address: HCommLegOv@schouse.gov

Location: Blatt Building, Room 228