

**Preliminary Performance Review**

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**Medical Services Fund  
Advisory Council**

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**The Benefits of the Medical Services Fund  
Advisory Council Outweigh Costs; Council  
Provides Useful Guidance to the Commissioner  
of the Bureau For Medical Services**



**December 2005  
PE 05-22-365**

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John Sylvia  
Director

December 11, 2005

The Honorable Edwin J. Bowman  
State Senate  
129 West Circle Drive  
Weirton, West Virginia 26062

The Honorable J.D. Beane  
House of Delegates  
Building 1, Room E-213  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0470

Dear Chairs:

Pursuant to the West Virginia Sunset Law, we are transmitting a Preliminary Performance Review on the *Medical Services Fund Advisory Council*, which will be presented to the Joint Committee on Government Operations on Sunday, December 11, 2005. The issue covered herein is "The Benefits of the Medical Services Fund Advisory Council Outweigh Costs; Council Provides Useful Guidance to the Commissioner of the Bureau for Medical Services."

We transmitted a draft copy of the report to the Medical Services Fund Advisory Council on November 22, 2005. The Council opted not to have an exit conference. We received the agency response on December 7, 2005.

Let me know if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "John Sylvia".

John Sylvia

JS/wsc



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# Executive Summary

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**Issue 1: The Benefits Of The Medical Services Fund Advisory Council Outweigh Costs; Council Provides Useful Guidance To The Commissioner Of The Bureau For Medical Services.**

The Medical Services Fund Advisory Council is a federally mandated advisory committee for the Bureau for Medical Services (BMS). The Council is required to provide guidance to BMS in three areas, the primary area being health and medical services. The Council presently has 13 members who regularly provide advice on amendments to the State Plan and recommendations regarding policies and procedures. In addition, the Council operates at minimal expense to the State since the staff donated by BMS devote a small percentage of time to the Council. In addition, no Council member seeks travel reimbursement, which further reduces costs. **Therefore, the Legislative Auditor concludes that the benefits provided by the Medical Services Fund Advisory Council exceed the costs and recommends that the Council be continued.**

## **Recommendations**

1. *The Legislative Auditor recommends that the Medical Services Fund Advisory Council be continued.*



# Review Objective, Scope and Methodology

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This Preliminary Performance Review of the Medical Services Fund Advisory Council is required and authorized by the West Virginia Sunset Law, Chapter 4, Article 10 of the West Virginia Code.

## **Objective**

The objective of this report was to determine if the Medical Services Fund Advisory Council effectively serves its mandated function to advise the Commissioner of the Bureau for Medical Services.

## **Scope**

This report used information from Council meetings from calendar years 2004 and 2005. Some historical information is included for background purposes.

## **Methodology**

The Medical Services Fund Advisory Council provided the Legislative Auditor with meeting minutes for calendar years 2003, 2004, and 2005, as well as current membership. The Legislative Auditor then reviewed the meeting minutes to determine if the Council made recommendations to the Commissioner of the Bureau for Medical Services as required by Code. Every aspect of this evaluation complied with Generally Accepted Government Auditing Standards (GAGAS).



# Issue 1

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## **The Benefits of the Medical Services Fund Advisory Council Outweigh Costs; Council Provides Useful Guidance to the Commissioner of the Bureau For Medical Services.**

### **Issue Summary**

The Medical Services Fund Advisory Council is a federally mandated advisory committee for the Bureau for Medical Services (BMS). The Council provides guidance to BMS in three areas, the primary area being health and medical services. The Council presently has 13 members. In addition, the Bureau for Medical Services regularly receives advice from the Council. The advice ranges from support of amendments to the State Plan to recommendations regarding policies and procedures. In addition, the Council operates at minimal expense to the State. The staff donated by BMS devotes a small percentage of time to the Council. Additionally, no member seeks travel reimbursement. **Therefore, the Legislative Auditor concludes that the benefits provided by the Medical Services Fund Advisory Council exceed the costs and recommends that the Council be continued.**

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*The Medical Services Fund Advisory Council is a federally mandated advisory committee for the Bureau for Medical Services.*

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### **Council is Required by Federal Mandate**

The Legislature created the Medical Services Fund Advisory Council in 1953 to provide advice on disbursements from the Medical Services Fund. Then, in 1965, with the Title XIX Amendment (Medicaid) to the Social Security Act, the Legislature chose to use the Council as an advisory body to the state Medicaid agency as required by Title XIX. The governing federal rule is Code of Federal Regulations (CFR) §431.12, which states “*a state plan must provide for a medical care advisory committee...to advise the Medicaid agency director about health and medical services.*”

The Council is organized under West Virginia Code §9-4-3, and may have 9 to 13 members. According to state Code, the heads of the public health and public welfare agencies are ex-officio members. However, the Code of Federal Regulations mandates that only the director of the public welfare department or the public health department be a member, so long as he or she does not head the Medicaid agency. The remaining membership must be medical professionals familiar with the needs of the low-income population, and members of consumer groups. The Council presently has 13 members as shown in Table 1.

<b>Table 1 Current Membership of the Medical Service Fund Advisory Council</b>	
<b>Representative</b>	<b>Number Serving</b>
Primary Care	1
Pharmacist	1
Hospital Administration	1
Nursing Homes	1
Consumer	1
Hospice	1
MH/BH	1
Aging Programs	1
Consumer/Dental	1
Physician	2
Ex-Officio	2

*Source: Data for this table were provided by the Medical Services Fund Advisory Council.*

## **The Council Provides Useful Guidance to the Bureau for Medical Services**

*The Council is mandated to assist the state Medicaid agency in the establishment of rules, standards and bylaws.*

According to state Code, the Council is mandated to assist the state Medicaid agency in the establishment of rules, standards and bylaws. Additionally, the Council also serves as a consultant to the state Medicaid agency by providing guidance on:

- 1) the Medical Services Fund;
- 2) disbursements from the Fund; and
- 3) health and medical services.

The mandates set forth in West Virginia Code §9-4-3 exceed the federal mandates, which require guidance on health and medical services. However, the state Code does not conflict with federal regulations.

The Medical Services Fund Advisory Council meets at the call of the state Medicaid agency, Council Chairperson, or upon written request of any 3 members. In addition, there is evidence that the Commissioner of the Bureau for Medical Services has called at least two emergency meetings in the last two

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years. However, the Council usually meets approximately once every quarter. During quarterly meetings, the Council is updated on the Medicaid budget and recently on the Medicaid Management Information System (Unisys) progress, and is informed of pending State Medicaid Plan Amendments. In addition, the Council routinely makes recommendations to BMS and either supports or withholds support of State Plan Amendments. Recent motions adopted by the Council include:

- A recommendation that the Department of Health and Human Resources consider raising the dental fees up to 50% for doctor of emergency and oral surgery services.
- A three part recommendation during the October 8, 2004 meeting regarding the implementation of Unisys. According to the minutes, the Council recommended that 1) the Bureau for Medical Services have a list of issues with definitive dates and that the agency prioritize the issues based on impact; 2) the agency explore its legal options and cost recovery for both agency and vendors; and 3) decide if delivery is possible with a deadline by the end of December 2004.
- A recommendation during the January 14, 2005 meeting to remove the economic self-sufficiency criteria from the MR/DD Waiver Manual.

In addition to the formal recommendations made by the Council, it also offers useful advice. According to the Commissioner of the Bureau for Medical Services:

*The Council is a valuable resource for myself and my staff as individual members of the Council bring important and unique perspectives to Medicaid policy issues.*

### **Council Operates At Minimal Cost**

The Legislative Auditor requested an estimate of costs incurred by the Bureau for Medical Services staff who provide administrative support to the Medical Services Fund Advisory Council. However, the Department of Health and Human Resources was unable to provide such information. Given that the Council meets approximately 4-5 times per year during normal business hours, and that the Bureau for Medical Services provides staff for administrative support, it is likely that the State spends a few thousand dollars per year on

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salaries. In addition, since membership in the Council is voluntary, members do not seek travel reimbursement. Furthermore, according to the Commissioner of the Bureau for Medical Services:

*The cost to the Bureau for Medical Services (BMS) for providing administrative support to the Council is minimal, especially when compared to the value and necessity of the Council to BMS and the Medicaid community.*

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*The cost to the Bureau for Medical Services (BMS) for providing administrative support to the Council is minimal.*

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## **Conclusion**

The Council is required by federal mandate and is responsible for providing guidance to the Commissioner of the Bureau for Medical Services regarding health and medical services. The Council's advice comes in the form of recommendations regarding the Medicaid State Plan to recommendations regarding the Bureau's policies and procedures. In addition to providing advice, the Council operates at minimal expense to the State. The staff provided by the Bureau for Medical Services spend a small percentage of their time working for the Council and no member of the Council seeks travel reimbursement. **Therefore, the Legislative Auditor concludes that the benefits provided by the Medical Services Fund Advisory Council exceed the costs and recommends that the Council be continued.**

## **Recommendation**

1. *The Legislative Auditor recommends that the Medical Services Fund Advisory Council be continued.*

# Appendix A: Transmittal Letter

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John Sylvia  
Director

November 22, 2005

Martha Yeager Walker, Cabinet Secretary  
Office of the Secretary  
West Virginia Department of Health & Human Resources  
State Capitol Complex, Building 3 Room 206  
Charleston, WV 25305

Dear Secretary Walker:

This is to transmit a draft copy of the Preliminary Performance Review of the Medical Services Fund Advisory Council. This report is scheduled to be presented during the December 11-13, 2005 interim meetings of the Joint Committee on Government Operations. We will inform you of the exact time and location once the information becomes available. It is expected that a representative from your agency be present at the meeting to orally respond to the report and answer any questions the committee may have. There are two sections of the report that require information from the Bureau for Medical Services. We were expecting the information to be delivered on November 22, 2005. We will provide you with a revised draft as soon as the information is available.

If you would like to schedule an exit conference to discuss any concerns you may have with the report, please notify us between November 28, 2005 and November 30, 2005. We need your written response by noon on December 2, 2005, in order for it to be included in the final report. If your agency intends to distribute additional material to committee members at the meeting, please contact the House Government Organization staff at 340-3192 by Thursday, December 8, 2005 to make arrangements. We request that your personnel not disclose the report to anyone not affiliated with your agency. Thank you for your cooperation.

Sincerely,

Handwritten signature of John Sylvia in black ink.  
John Sylvia

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*Joint Committee on Government and Finance*

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# Appendix B: Agency Response

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**STATE OF WEST VIRGINIA  
DEPARTMENT OF HEALTH AND HUMAN RESOURCES**

**Bureau for Medical Services**

**Commissioner's Office**

**350 Capital Street - Room 251**

**Charleston, West Virginia 25301-3706**

**Telephone: (304) 558-1700 Fax: (304) 558-1451**

**Joe Manchin III  
Governor**

**Martha Yeager Walker  
Secretary**

**December 7, 2005**

**Mr. John Sylvia, Director  
Performance Evaluation and Research Division  
Building 1, Room W-314  
1900 Kanawha Boulevard, East  
Charleston, West Virginia 25305-0810**

**R E C E I V E D  
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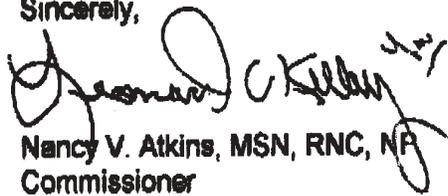
**PERFORMANCE EVALUATION AND  
RESEARCH DIVISION**

**Dear Mr. Sylvia:**

Thank you for providing us with a draft copy of the "Preliminary Performance Review of the Medical Services Fund Advisory Council".

The Council is a requirement by Federal government mandate and does provide beneficial guidance to me and my staff. I therefore agree with your conclusion and recommendation that the Council be continued.

Sincerely,

  
Nancy V. Atkins, MSN, RNC, NP  
Commissioner

**NVA:SR/rkw**

**cc: Martha Yeager Walker**

