Description of graphic: RI State Seal an anchor in gold behind a blue wheelchair logo. Just below is a blue banner with the state motto "Hope". All are in the center of a ring of 8 blue stars, in groups of 2 separated by the logos for Braille, hearing aids, low vision and amplified phone.

Governor's Commission on Disabilities
Executive Committee
Monday October 17, 2011 4-5:30 PM

John O. Pastore Center, 41 Cherry Dale Court,
Cranston, RI 02920-3049
(voice) 401-462-0100 (fax) 462-0106 (tty) via RI Relay 711
(e-mail) disabilities@gcd.ri.gov
(website) www.disabilities.ri.gov

meeting graphic

Attendees: Timothy Flynn (Chair); Andrew Argenbright (DBEvc); Rosemary Carmody (EACc); Judi Drew (HBc); Bill Inlow (LCvc); *&* Ronald McMinn (ACvc)
Absent:ees: Kate McCarthy-Barnett (Vice Chair/ACc); Casey Gartland (EACvc); Paul Harden (ECvc); Patricia Ryherd (ECc); Theresa Thoelke (DBEc)& Linda Ward (LCc)

Guests: Jon DuPre, Anthony Robinson

Staff: Bob Cooper

	Agenda Topics	Moderator/Leader	Time
Clock graphic	**Call to Order and Acceptance of the Minutes**	**Timothy Flynn, Chairperson**	**4:00 PM**
	Chair calls the meeting to order at 4:03 Introductions of Commissioners and guests		
MOTION: To accept the minutes of the previous meeting as presented RMcM/RC passed unanimously			

	Action Items:		
Balancing Budget graphic	**Commission Operations and Budget Status Report**	**Bob Cooper, Executive Secretary**	**4:05 PM**
	Purpose/Goal: To monitor the status of Commission operations, FY 12 & 13 Budget Requests, and FY 13 – 17 Capital Budget Request		
	Discussion: Exec. Sec. briefed the committee that the NE ADA Technical Assistance 5 year grant was awarded to the IHCD. Congress has not appropriated funding yet. The Chair & Exec. Sec. reported on the Capital Budget Cmte. hearing on the Commission's $10 million Bond Issue.		
	Members discussed transportation assistance, explore car pooling and using the purchasing some RIPTIKs for RIde as needed one way.		

people graphic	**Commissioner Vacancies**	**Tim Flynn**	**4:15 PM**
	Purpose/Goal: To recruit 2 more Commissioner nominees		
	Discussion: Two members whose term expires next May 1st have resigned.		
	Interviews: Dawn Wardyga, Director Family Voices/Family to Family Health Information Center, RI Parent Information Network; and		

Accessibility of State Owned Facilities Project List as of 10/17/11					
Aency	Agency Priority	Status	Building Number	Description	2011 Estimate
BHDDH	1		28036	MAP Behavioral Health Services, 66 Burnett Street, Providence	
BHDDH	2		35059	Bridgemark Addiction Recovery Services, 2030 Elmwood Avenue, Warwick	
BHDDH	3		07052	BARRY HALL, Accessible Front entrance & disability parking	$121,200
BHDDH				**Behavioral Healthcare, Developmental Disabilities, and Hospitals Total**	**$121,200**
DOA			28105	WILLIAM POWERS BLDG, Front visitor disability parking	$800,000
DOA			28105	WILLIAM POWERS BLDG, elevator upgrade	$400,000
DOA			28001	STATE HOUSE, upgrade lower level entrance; accessible visitors parking; & level hardware.	
DOA			07074	HAZARD BLDG., elevator upgrade	$118,650
DOA			07055	BENJAMIN RUSH, elevator upgrade	
DOA			07056	MATHIAS BLDG, elevator upgrade	
DOA			07048	BERNADETTE GUAY BLDG, elevator upgrade	
DOA			07049	HOSPITAL/VIRKS BLDG, elevator upgrade	$121,200
DOA			07054	SIMPSON HALL, elevator upgrade	$121,200
DOA			07050	ADOLPH MEYER BLDG, elevator upgrade	$121,200
DOA			07039	SCHOFIELD ARMORY, elevator upgrade	$118,650
DOA			07058	HARRINGTON HALL, accessible entrance	
DOA			07081	EASTMAN HOUSE, Bldg 81 5' rise ramp	$24,480
DOA			07087	WELDING & SHEETMETAL SHOPS, Bldg 87 2' ramp	$9,792
DOA			07089	MOTOR POOL & CARPENTER SHOP, Bldg 89 2' ramp	$9,792
DOA			07064B	POWER PLANT/CENTRAL POWER PLANT, Bldg 111 2' ramp	$9,792
DOA				PASTORE CENTER, disability parking thoughout the campus	$60,000
DOA				PASTORE CENTER, lever hardware	$400,000
DOA				PASTORE CENTER rest room upgrades	$500,000
DOA			35173	DATA CENTER, 50 Service Avenue	$116,100
DOA			32200	STEDMAN GOVERNMENT CENTER, elevator upgrade	$118,650
DOA			32200	STEDMAN GOVERNMENT CENTER - handrails, interior ramp edge protection, lift to rest rooms	
DOA				Non Pastore Center rest room upgrades	$350,000
DOA				**Administration Total**	**$3,399,506**
				State Owned Community Residential and Provider Facilities	?
DCYF			07042	ADMIN OFFICE (Juvenile Probation & Parole), 3' ramp entrance & 1st fl restroom	$14,688
DCYF			07043	ADMIN OFFICE (Juvenile Probation & Parole), 3' ramp entrance & 1st fl restroom	$14,688
DCYF				**Children, Youth, and Families Total**	**$29,376**
DOC	1		07053	ADMIN OFFICE/DOC A, elevator	
DOC	2		07051	ADMIN OFFICE/DOC B	
DOC				**Corrections Total**	**$0**
DEM			30288	CHOPMIST HILL TOWER SITE, Forest Management	
DEM			02025	SANITARY FACILITY, Colt State Park rest room # 3, Bristol;	
DEM				Echo Lake boat ramp, Glocester	
DEM			21023	FORT ADAMS	
DEM			32220	GREAT SWAMP HEADQUARTERS	
DEM			23020	Lafayette Fish Hatchery	
DEM				East Transit Boat Ramp	
DEM			39018	WW11 MEMORIAL STATE PARK/BAND STAND STAGE, rest rooms	
DEM				North Kingstown Boat Ramp,	
DEM				Slatersville Reservoir boat ramp, North Smithfield,	
DEM				Shore Fishing Stations	
DEM				**Environmental Management Total**	**$881,250**
DOT				Kingston Train Stations	
DOT				Woonsocket Train Depot	
DOT				Westerly Train Station	
DOT				Glocester Maintenance Facility	
DOT				Scituate Maintenance Facility	
DOT				Smithfield Maintenance Facility	
DOT				Cherry Hill (Johnston) Maintenance Facility	
DOT				Lincoln Maintenance Facility	
DOT				East Providence Maintenance Facility	
DOT				Portsmouth Maintenance Facility	
DOT				Little Compton Maintenance Facility	
DOT				Middletown Maintenance Facility	
DOT				Mid-State (East Greenwich) Maintenance Facility	

Accessibility of State Owned Facilities Project List as of 10/17/11					
Aency	Agency Priority	Status	Building Number	Description	2011 Estimate
DOT				Anthony (Coventry) Maintenance Facility	
DOT				Belleville (North Kingstown) Maintenance Facility	
DOT				Hope Valley (Hopkinton) Maintenance Facility	
DOT				Westerly Maintenance Facility	
DOT				Charlestown Maintenance Facility	
DOT				Maintenance Headquarters (Warwick)	
DOT				Rest Area/Center I-295 Lincoln	
DOT				Welcome Center/Rest Area I-95 Richmond	
DOT				**Transportation**	**$0**
DOH			28007	STATE OFFICE BLDG/CANNON, disability parking	
DOH				**Department of Health Total**	**$0**
RIC				Walkways, sidewalks & lever hardware	$275,000
RIC				**RI College Total**	**$275,000**
URI	1	in design		Kingston Campus walkways and curbcuts	$550,000
URI	2	in design	32067	ROGER WILLIAMS CENTER-KC67 Renovation Wellness Center, elevator	$150,200
URI	3	in design	32015	RANGER HALL-BLDG KC15 New Elevator and entrance	$400,000
URI	4	in design	32348	BLDG 1348/VISITOR CENTER, Automatic Door Openers	$6,000
URI	5	in design	32040	WOODWARD HALL-KC40, Automatic Door Openers	$6,000
URI	6			Interior Access, Door Hardware, continuing	$175,000
URI	7		32010	ROOSEVELT HALL-BLDG KC10, Automatic Door Openers	$10,000
URI	8			Hardware Access All Facilities	$150,000
URI	9		32043	TUCKER HALL-KC43 (residential) New Elevator	$500,000
URI	11		32004	PASTORE HALL-BLDG KC04 Upgrade Elevator	$100,000
URI	14		32040	WOODWARD HALL-KC40, Upgrade Elevator	$100,000
URI	15		32025	HUTCHINSON HALL-KC25 (residential) New Elevator and rooms	$500,000
URI	17			Kingston Campus, powered door openers	$200,000
URI	18		32040	WOODWARD HALL-KC40 Restrooms	$100,000
URI	19			Rope Course Access	$30,000
URI	20			Graduate, Faculty apts:access apartments	$400,000
URI	23	in design	32269	CHAFEE HALL-KC69 SSC Upgrade 2 Elevators	$50,000
URI	24			Improve Access to Public Assembly,	$150,000
URI	25			Improve Access to Public Restrooms,	$200,000
URI	26		32020	CRAWFORD HALL-KC20	$100,000
URI	27		32050	FINE ARTS CENTER-KC50 New elevator	$210,000
URI	28		32039	KELLEY HALL-BLDG KC 39 Annex, Elevator Upgrade	$200,000
URI	29		32047	MEMORIAL LIBRARY Upgrade Elevators	$180,000
URI	30		32349	WHITE HALL-KC49A Upgrade Elevators	$180,000
URI	31		32010	ROOSEVELT HALL-BLDG KC10 Upgrade Elevator	$25,000
URI	32		32006	QUINN HALL-BLDG KC06 Upgrade Elevator	$25,000
URI	33		32051	MORRILL HALL-KC51 Upgrade Elevator	$25,000
URI	34	in design	32005	MEMORIAL UNION-KC05 Upgrade Elevator	$25,000
URI	35		32020	CRAWFORD HALL-KC20 Elevator Upgrade	$25,000
URI	36			Alton Jones Exterior	$50,000
URI	37	in design		Kingston Campus signage, four campuses	$300,000
URI	38			Narr Bay Campus Exterior and Interior Access	$572,000
URI	39			Narr Bay Campus parking, curbcuts, access	$50,000
URI	40		20088, 20119, 20394	HELEN MOSBY CTR, CJ FISH BLDG, MARINE RESOURCE BLDG, & Wave Tank	$400,000
URI	41			Marine Research, New Elevator	$200,000
URI	42		32269	CHAFEE HALL-KC69 Ramped Access SE entrance	$60,000
URI	43		32136	BLDG 1136 WOMEN'S CENTER-KC100 Access to 2nd and 3rd floor	$60,000
URI	44			Environmental Education Center WAJ Campus, Lift	$10,000
URI	45		37172	WHISPERING PINES LODGE Bathrooms Conference Centerin	$40,000
URI	46		37171	NETTLES LODGE, Bathrooms	$40,000
URI	47			Kingston Additonal curb cuts and sidewalks	$300,000
URI	48		32050	FINE ARTS CENTER-KC50, Robert E. Will Theatre, Assisted Listening System	$40,000
URI				**University of Rhode Island Total**	**$6,894,200**
				Grand Total	**$11,571,156**

	Agenda Topics	Moderator/Leader	Time
	Jonathan Dupre, Trainer, Rhode Island Council of Community Mental Health Organizations Inc. and Consumer Instructor, The Providence Center		

Dawn Wardyga

EDUCATION

Community College of RI – 1988
Warren High School - 1974

PRESENT OCCUPATION

Director, Family Voices/Rhode Island Family to Family Health Information Center, Parent Information Network – 1998 to present

- Provides management and program oversight for RIPIN's Family Voices/Family-to-Family Health Information Center, providing information, education, advocacy and peer support to families of children and youth with special health care needs, including chronic illnesses and/or disabilities.
- Supervises the Family Support Coordinator, Family Resource Specialist and other staff and volunteers assigned to program related projects.
- Actively participates in statewide, regional and national public policy initiatives regarding the health and well-being of infants, toddlers, children and youth, with a special emphasis on those with disabilities and/or chronic illnesses, and the families and professionals caring for them.

PRIOR EXPERIENCE

Parent Consultant at the Office for Children with Special Health Care Needs, Rhode Island Department of Health, Division of Family Health – 1988 to 1998

- Provided support to families of children with chronic illness, disability, and/or other special needs.
- Provided the family/caregiver perspective regarding policy development, implementation, monitoring and evaluation.
- Assisted with training and mentoring of new Parent Consultants at the Department of Health.

PROFESSIONAL ACTIVITIES

- 1993 to present: RI Medicaid Consumer Advisory Committee
- 1994 to 1998: Chairperson, Family Advisory Council, Hasbro Children's Hospital
- 1997 to 2002: RI State Children's Health Insurance Program (SCHIP/Title XXI)
- 1998 to 2004: National Family Voices National Board of Directors
- 1998 to 2009: RI Children's Leadership Roundtable on Children with Special Health Care Needs
- 1998 to present: National Family Voices Public Policy Committee
- 1999: Co-Chair, RI Governor's Commission to Study Early Intervention
- 1999 to 2003: New England SERVE Regional Policy Leadership Team
- 2001 to 2009: Chair, RI Interagency Coordinating Council on Early Intervention
- 2005 to 2007: Member, Health Insurance Advisory Council
- 2006 to present: RI Oral Health Commission
- 2006 to present: HealthRIght Executive Committee
- 2008 to present: RI Global Waiver Implementation Task Force
- 2008 to 2010: RI Global Waiver Implementation Task Force, Chair, Children with Special Health Care Needs workgroup
- 2009 to present: RI Lieutenant Governor's Long Term Care Coordinating Council
- 2010 to present: RI Global Waiver Implementation Task Force, Co-Chair, Disability Policy workgroup
- 2011 to present: RI Healthcare Reform Commission
- 2011 to present: Maternal & Child Health – Public Health Leadership Institute Fellow, University of North Carolina, Chapel Hill, UNC Gillings School of Global Public Health

Jonathan C. Dupre

Trainer, Rhode Island Council of Community Mental Health Organizations
Consumer Instructor, The Providence Center
Peer Advocate at the Alive Program in Woonsocket
Former Chairperson for the Mental Health Consumer Advocates of Rhode Island and a Volunteer for the National Alliance on Mental Illness of Rhode Island.
Former Chair of the Consumer Advocacy Council at The Providence Center
Recipient of the 2007 National Council for Community Behavioral Healthcare Awards of Excellence Honoree - Excellence in Consumer and Family Advocacy

The Excellence in Consumer and Family Advocacy Award honors those who have used their own experiences with mental illness and/or addictions to educate the public and to help others along their journeys to recovery.

"Jonathan Dupre is more than just a mental health advocate; he's a crusader. After overcoming incredible odds in his personal journey to recovery, Mr. Dupre now invests his time in working tirelessly to ensure that consumers and their families are treated with respect and dignity. A true role model, he has used his own experiences to help educate and advocate for others with mental illness. Mr. Dupre fights for the rights of the consumer in the mental health system. At The Providence Center, he educates consumers about their ability to recover through the study of self-esteem and motivation. He has testified at the Rhode Island State House on several mental health bills, organized consumer rallies, moderated the Governor's Forum on Mental Illness and shared his personal stories with both local and national media. 'I'm giving back,' says Mr. Dupre. 'I'm part of the process... I want to lead the cause, and lead by example.'"

☑ voting check off graphic	MOTION: To recommend the Governor appoint the following to the Commission for the unexpired terms (ending 5/1/12) of Laura Jones vs. Jonathan Dupre RC/JD passed unanimously MOTION: To recommend the Governor appoint the following to the Commission for the unexpired terms (ending 5/1/12) of Julie DeRosa vs. Dawn Wardyga, if she agrees to have her name submitted. RMcM/RC passed unanimously

Please request graphic	**Respond to requests from Committees** ➢ **Human Service Cuts**	**Bob Cooper**	**4:45 PM**
	Purpose/Goal: To decide the Commission's position on state funding of human services		
	Discussion: The Legislation Committee's Housing Working Group has requested the Commission send a letter to the Governor regarding the Assistive Living funding cuts.		
☑ voting check off graphic	MOTION: To send a letter to the Governor supporting restoration of the funding cuts to assistive living (with public forum testimony) BI/JD passed unanimously		

employer graphic	**Respond to Proposed Medicaid Buy-In Regulations**	**Bob Cooper**	**5:00 PM**
	Purpose/Goal: To decide the Commission's position regarding the proposed Medicaid Buy-In regulations.		
	Discussion: In September, Rhodes to Independence convened a group of representatives from: advocacy organizations, state agencies, and providers to develop recommendations for the Department of Human Services regarding the Sherlock Plan regulations. Some of those recommendations were incorporated into the proposed regulations. Following the		

	issuance of the proposed regulations, that group met, reviewed the proposal and made additional recommendations.

Sherlock Working Group's Medicaid Buy-In 9/22/11 Policy Statement:

The group focused our discussion on two issues: (1) eligibility determination and (2) services available under the law.

(1) Eligibility: Although the eligibility for Sherlock has not changed it has been a challenge for people to become eligible for Medicaid under this eligibility category. The group's consensus after much discussion was that each element of the eligibility criteria is of need of specific expertise that is not found in any one area of Medicaid or for that matter within Medicaid at all.

a. **Where should Sherlock eligibility be determined?** Specific criteria in the law.

i. A person must have a disability pursuant to the Social Security Administration (SSA) BUT without regard to the ability to engage in substantial gainful employment. The criterion requires knowledge of the SSA determination process –which can be found at ORS and/or within the Medicaid Medical Assistance Review Team (MART) disability determination system.

ii. A person must be employed. This criterion is familiar to Medicaid eligibility workers as well as ORS.

iii. Income determination—although must be 250% of FPL or less—must also consider the disregard of impairment related work expenses. This criterion is most familiar with ORS and/or rehab counselors in agencies.

iv. Resource determination. This criterion is familiar to Medicaid eligibility workers as well as ORS.

v. A person can either be a current Medicaid recipient (in another category that does not allow for as much income) or someone new to Medicaid who is working. There has been an issue with regard to people with disabilities who have been removed from Medicaid because of being over income without being informed of the Sherlock Plan. The group is concerned that in accordance with the first part of this criteria that this issue has been corrected. i.e. The letter provided to the Medicaid beneficiary upon possible removal indicates that they could be eligible for the Sherlock Plan.

b. Sherlock eligibility versus long-term care eligibility.

i. Due to the specific changes in the law regarding both the definition of employment support services and the specific authorization for the Medicaid agency to amend the State Plan, by using the Affordable Care Act (ACA) Community Choice First provisions for personal care services either through an agency or self-directed AND the full scope of services authorized under 1915(i) of the Soc Sec Act for Sherlock participants who are eligible upon clinical assessment, the group recommends that individuals looking to become eligible for Medicaid through Sherlock NOT go through the long-term care determination door because it is expected that all services—Home and Community Based Services (HCBS) and employment supports-- will now be available through the State Plan and it will not be necessary to obtain these services through the long term care waiver methodology.

ii. Because of the different types of expertise necessary for eligibility determination the consensus of the group was that a new office be piloted that would be an integrated team of individuals across the various OHHS and DHS agencies and possibly DLT. This office would be called ***TEAM SHERLOCK***. Team membership would come from, as needed, MART, ORS, DHS Eligibility, BHDDH, DLT, independent living specialist, employment specialist, and an HCBS specialist.

c. Selection of a managed care plan.

i. Once determined eligible for Sherlock the participant now selects from which managed care plan (Rhody Health or Connect Care) he/she would like to receive their categorical benefits available through Medicaid.

(2) Where are the services determined? How? (what assessment(s) are most appropriate and efficient)

a. It is recommended that ***TEAM SHERLOCK*** contract out to a Medicaid agency vendor the requirement that each Sherlock eligible person receive a *Sherlock Service Individual Needs Review (SSINR).* This review will evaluate the types of employment support services that a person needs beyond the categorical services any Medicaid beneficiary receives. These are the services defined in 40-8.7-4 (3) Employment Support Services and further authorized in 40-8.7-5 including PCS, transportation, benefits counseling, etc.

i. A subcommittee of RTI had previously developed a Needs Review based on the review completed for people on the Personal Choice waiver including employment questions used by ORS. This was sent to the Director of Medicaid and as of this date we have not received any feedback on its usefulness. This Needs Review was discussed by the group which recommended some changes be made to make to increase its value for use as the Sherlock Service Individual Needs Review (SSINR). Leo Canuel, a member of the subcommittee who worked on this Needs Review has agreed to make our recommended modifications to this document.

ii. Employment Supports Determination. It is recommended that the SSINER be submitted to ***TEAM SHERLOCK*** to determine the actual amount of each service needed for the individual. We further recommend that a single assessment, similar to what is used in MN be used. The assessment is comprised of individual modules that can be performed concurrently. The determination of appropriate services should be completed and be available to access within 30 days of the Sherlock Plan participant's eligibility determination. As Employment Supports will vary for each Sherlock Plan participant and currently are provided by multiple agencies we believe that this approach will be the most efficient. Modules should include but not be limited to:

1. Case management,
2. Independent living supports,
3. Benefits counseling,
4. Job development, customized employment, job training,
5. Tools, equipment & technology.

Medicaid Director's 9/30/11 Email and the Working Group's response.

From: Elena Nicolella

Date: 9/30/2011 3:35 PM

Subject: Re: Fwd: Sherlock Plan Regulations Subcommittee Meeting Reminder

First, let me thank all of you for your hard work on this effort.

I apologize that I have been unable to attend the workgroup sessions.

The Medicaid Program has reviewed the revisions that we have received to date.

1. Under the legislation, we are mandated to promulgate rules by September 30. We are in the process of reviewing what has been submitted by your subcommittee and will incorporate what we can within our deadline. The rules are going up today. We will have a public hearing on the rules.

Sherlock Working Group Agrees

2. In general, we are trying to ensure our rules are focused on providing a Medicaid beneficiary with relevant information. Therefore, to the extent the original rules included language that is more procedural in nature, we are removing or revising.

Sherlock Working Group's Comments:

a. **The examples were removed from the proposed regulations, which were helpful to consumers, staff and community advocates.**
b. **We believe that the regulations should be procedural in nature so that the process will work for eligibility and benefits determination.**

3. 0373.10.20 refers to an independent living specialist, employment specialist, and a home and community based services specialist. Please clarify if the subcommittee envisions these people to be State employees.

Sherlock Working Group's Comments:

a. **Because of the different types of expertise necessary for eligibility determination the consensus was that a new office be piloted that would be an integrated team of individuals across the various OHHS and DHS agencies. This office would be called Team Sherlock.**
b. **Team Sherlock's composition shall include a representative from: the Medicaid Medical Assistance Review Team (MART), Office of Rehabilitation Services (ORS), and Department of Human Services Eligibility.**
c. **Team Sherlock will be existing state employees who could bring in others from the community as required based on applicant's need, such as a representative from: the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH); independent living specialist; employment specialist; and/or a Home and Community Based Services(HCBS) specialist.**
d. **Team Sherlock would submit their eligibility recommendations to the Medicaid Office.**
e. **A time table for eligibility review and the identification of services must be set out in the regulations.**

4. Initial eligibility can only be determined by the Medicaid Program. Eligibility for the Sherlock Plan will be determined by Department of Human Services employees under an Inter-agency Services Agreement with EOHHS/Medicaid.

Sherlock Working Group's Comment:

a. **The proposed regulations do not describe the procedure for determining eligibility.**
b. **Since Sherlock Plan eligibility criteria in the law crosses over many: units within Medicaid, the Department of Human Services, and other departments/ within the Executive Office of Health, & Human Services, the Working Group believes Medicaid should draw on those agencies' existing knowledge and resources for the determination of eligibility, application and enrollment in the Sherlock Plan.**

5. We intend to include in the 9/30 promulgation the provision regarding the requirement that an individual enroll in available employer -based health insurance as a condition of participation. We will also require that the available employer-sponsored insurance is cost-effective and its benefits are comparable to the benefits in Medicaid. When a person enrolls in the employer-sponsored insurance, the Medicaid program will pay the person's premium for that coverage, in the same way that we implement RIte Share.

The provisions addressing the ability of an employer to buy in to Medicaid will not be included in the 9/30 promulgation.

Sherlock Working Group's Comments:

a. It is premature to address the employer-based health insurance condition without employer input, as provided in RIGL 40-8.7-7(c).
b. It is unclear what benefits the employer benefit package will be compared to, since Medicaid benefits could include both acute and employment support services.
c. We believe that employers need an opportunity to provide input into the regulations so that there won't be impediments for small employers to participate in the program.

6. 0373.20 The legislation directs the State to no longer calculate a premium based on all unearned income over the MNIL. We intend to promulgate rules that determine a premium based on an individual or couple's earned income.

We intend to include actual premium amounts in the section. Effective January 1, 2012, the premium amounts will be the same as the premium amounts now charged.

Sherlock Working Group Agrees

7. We propose language stating that non-payment of premium will result in termination from the program. We will follow the procedures established in RIte Care.

Sherlock Working Group Agrees

8. We intend to remove the language in 0373.30 - Refunds of premiums when paid claims are less than the collected premium amount.

Sherlock Working Group Agrees

9. 0373.35 We will remove the language referring to the MNIL. We do not intend to change 4 months to 6 months.

Sherlock Working Group Agrees

10. 0373.40 Scope of Services We do not believe the reference to 1915(i) is helpful to beneficiaries. The scope of services available to Sherlock Plan participants will be:

· Primary and acute care services;

· Long-term services and supports – these are the core services described in 0399, including a self-directed option. Access to long-term services and supports will be based on the existing functional needs assessment.

We will revise the Core Services available under the Global Waiver to address guidance provided in the 9/16/2011 CMCS Bulletin; we will revise Section 0399 and include a reference in the 0373 section.

We will include language on how a person will be assessed for employment supports, but we will not include reference to a specific form.

I want to assure you that even though the rules as promulgated will not reflect all the amendments drafted, we are pursuing the goals as articulated in the draft amendments.

Sherlock Working Group's Comments:

a. It is critical that a "Team" approach with specialists be used to ensure that individuals receive the appropriate supports needed to be successful in the work place and for long term employment.
b. The bigger concern is that this section doesn't list the employment support services.
c. The law references 1915 (i) and 1915(k) state plan mechanisms which are different from the Long Term Care waiver mechanism because they provide guidance to the Medicaid staff on appropriate community employment support services to working individuals with disabilities and since they are state plan amendments are inherently community based versus having to go through the long-term care door.
d. The existing (long term care) functional needs assessments, does not assess those supports needed for an individual's employment support services and therefore is inadequate for this program.
e. Looking at the CMSCS Bulletin guidance is good, but incorporation of the statutory definition of employment supports also needs to be included in the regulation.
f. The regulations should give notice to the CMSCS Bulletin 9/15/11's statement "Consistent with the *Olmstead* decision and with person centered planning principles, an individual's plan of care regarding employment services should be constructed in a manner that reflects individual choice and goals relating to employment and ensures provision of services in the most integrated setting appropriate."
g. We envision the service determination to be a separate process from the eligibility determination. This is to ensure that an Individual Employment Support Plan (IEP) is developed so that it is based on the individual's needs.

h. Scope of services available: This provision is confusing because the statutory definition of employment support services {RIGL 40-8.74(3)} is not referenced or included in the proposed regulation.

Sherlock Working Group's Recommended Revisions to EOHHS Proposed Rules

Addition in blue underlined font and ~~deletions struck through in red,~~

Rhode Island Executive Office of Health and Human Services

The Sherlock Plan: Medicaid Working People with Disabilities Program

Section One OVERVIEW

I. PROGRAM DESCRIPTION

The Working People with Disabilities Program is an SSI-related categorical eligibility group comprised of working adults with disabilities pursuant to the Balanced Budget Act of 1997 (42 USC section 1396a(a)(10)(ii)(XIII)). Those eligible under this category will be entitled to the full scope of Categorical Medical Assistance benefits, Home and Community Based services, and services needed to facilitate and/or maintain employment, but will be required to pay a premium in order to remain active on the program.

II. PROGRAM ELIGIBILITY

To be found eligible within the program of Working People with Disabilities, a person must:

- Be at least eighteen (18) years of age; and
- Currently meet the Medical Assistance requirement for disability. Those individuals meeting the disability requirement are not required to meet the provision that a person be unable to engage in substantial, gainful employment; and
- Have proof of active, paid employment such as a pay stub or current quarterly IRS tax statement (for those who are self-employed).

III. INCOME LIMITS

Financial eligibility is defined as countable net income equal to or less than two hundred fifty percent (250%) of the Federal Poverty Level (FPL). Countable income for purposes of establishing program eligibility excludes any unearned income and is defined as the total earned income remaining after all SSI-related disregards are applied.

The SSI-related disregards listed in DHS Code of Code of Rules, Section 0364 are applied, including impairment related work expenses as defined in the Code of Federal Regulations, 20 CFR, Section 416.976.

Participants in this program will be defined as a family size of one (1) for financial eligibility purposes.

Only the individual's income will be reviewed and counted in income calculations.

Examples **{Need to be Updated – current examples are reasonable accommodation the ADA requires the employer to provided and should not be paid for with Medicaid funding or the employee}**:

Ms. Garcia, who is blind uses a reader to assist her at work. She uses the reader both during regular working hours at her place of work and outside her regular working hours away from her place of work. The reader's services are only for her work and she pays for them herself. Her expenses for the reader would be deducted before calculating her income to determine if she is eligible for this program.

Mr. Bahi', who is hard of hearing, uses real-time captioning when he attends staff meetings and trainings for work. The captioner's services are only used for work and he pays for them himself. His expenses for the captioner would be deducted before calculating his income to determine if he is eligible for this program.

IV. RESOURCES LIMITS

The following resource limits apply to applicants and recipients of the Working People with Disabilities Program:

RESOURCE LIMITS	
Individual	$10,000
Couple	$20,000

When calculating available resource amounts for a married couple, the resources of both the individual accepted into the program and their spouse must be determined available as a resource and applied to the resource limit of $20,000.

The following resources are not countable for this program:

1. IRS recognized medical savings accounts or retirement accounts.
2. Items necessary for an individual to remain employed and/or independent (such as a specially adapted vehicle).

V ELIGIBILITY DETERMINATION - TEAM SHERLOCK RESPONSIBILITIES

A. Team Sherlock's composition shall include a representative from: the Medicaid Medical Assistance Review Team (MART), Office of Rehabilitation Services (ORS), and Department of Human Services Eligibility and as required based on applicant's need, a representative from: the Department of Behavioral Healthcare, Developmental

Disabilities, and Hospitals (BHDDH), independent living specialist, employment specialist, and a Home and Community Based Services(HCBS) specialist.

B. Team Sherlock will submit its recommendation of Initial eligibility to Medicaid, within 20 days of application.

C. Medicaid shall make the final eligibility within 10 days after receiving the recommendation of Team Sherlock.

D. Notices of agency action to applicants for Sherlock Plan benefits parallel the notices sent regarding actions on Medical Assistance applications. Applicants for Sherlock Plan benefits must receive adequate notice of agency action to accept or reject an application for such coverage.

1. The agency must send timely and adequate notice of benefit termination. The notice must be mailed at least ten (10) working days prior to the effective date of the action.

2. Applicants/recipients requesting or receiving Sherlock Plan benefits are entitled to the same due process protection afforded other Medical Assistance applicants and recipients.

3. Adequate notice of benefit termination shall include the formal grievance and appeal process

VI. FORMAL GRIEVANCES AND APPEALS

A. Sherlock Plan applicants and/or participants may submit a written request for a fair hearing before the DHS Hearing Officer within thirty (30) days of the mailing of the notice of adverse action.

Regulations governing the appeals process are found in Section 0110 of the General Provisions of the DHS Rules.

Section Two RETROACTIVE COVERAGE

As an SSI-related coverage group, participants in the Working People with Disabilities Program are eligible for retroactive coverage.

Eligibility for retroactive coverage will be determined in accordance with the rules established in DHS Code of Rules Section 0310 with the following exception particular to this coverage group:

- Premiums must be paid in full before retroactive eligibility can be instituted.

Individuals may deduct premium amounts from the total amount of any unpaid medical bills in the retroactive eligibility period.

(LANGUAGE on admin error terminating

EXAMPLE: Mr. Jones has an unpaid medical bill in his retroactive eligibility period that totals $1,500. His premium is $100. He may assume responsibility for the first $100 of the $1,500 unpaid medical bill thereby leaving $1,400 to be considered for Medical Assistance coverage.

EXAMPLE: Ms. Smith is on Medicaid through SSI. She began employment a couple of years ago and now has been promoted. Her income is now above her current Medicaid eligibility category. Ms. Smith needs to be notified that she could be eligible for the Sherlock Plan by phone and in the letter of Medicaid termination that she will receive.

Section Three ACCESS TO EMPLOYER-BASED HEALTH INSURANCE

Reserved until the Employer Buy-In provisions are promulgated by March 31st.

~~Individuals with disabilities who have access to employer-based health insurance are required to enroll in the plan as a condition of participation in the Medicaid buy-in program, provided that enrollment in the employer-based health insurance plan is cost-effective and its benefits are comparable to the benefits provided by the Medicaid program. If coverage meets Medicaid requirements, Medicaid will pay the employee's share of the monthly premium. Enrollment of the individual in the employer-based health insurance plan is without regard to any enrollment season restrictions.~~

Section Four PREMIUM RATE SETTING

I. PREMIUM CALCULATION

Once a person has been found eligible as a working person with a disability, a premium will be calculated using the following methodology. For the purposes of premium calculation the individual's and spouse's earned income will be counted.

The total earned income will be income remaining after all SSI-related disregards are applied:

Countable earned income will be assigned premiums in the following amounts:

Total Countable Income:	Premium:
Between 100% and 149% FPL	$ 54.00
Between 150% and 184% FPL	$ 91.00
Between 185% and 199% FPL	$ 113.00
Between 200% FPL and ~~250% FPL~~ above	$ 122.00

{Need Updating} Example 1: Joe has unearned income that equals 150% of the FPL and countable earned income of 50% of the FPL. His premium (based on 2004 rates) is calculated at $1,163 minus the MNIL of $667 for a premium of $496.00. Because his countable earned income is below 100% of the FPL, he does not pay a portion of earned income toward his premium.

{Need Updating} Example 2: Jane has unearned income equaling 50% of FPL and countable earned income equaling 150% of the FPL. Because her unearned income is below the MNIL, none of her unearned income is

applied toward her premium. However, she will owe a monthly premium of $62.00 based on her countable earned income.

II PREMIUM COLLECTION METHODS

A. Electronic Funds Transfer (EFT)

The eligible individual requests that their bank allow the state to withdraw the monthly premium directly from the family's savings or checking account by an electronic transfer to Medicaid. The person is given an EFT form to fill out. The funds will be withdrawn by the state on the third (3rd) day of the month prior to the month of coverage. The person will be notified by letter if the EFT premium payment was not successful.

B. Wage withholding

The recipient may request that their employer withhold the monthly premium. The employer will then pay the monthly premium to Medicaid ~~through an EFT~~. The employed person is given a special form requesting wage withholding and deposit or transfer to take to his or her employer to be completed and mailed. *{Bob suggests "Reserving" this entire subsection}*

C. Direct Pay

The individual pays the premium to Medicaid by check or money order every month. A premium payment coupon and pre-addressed envelope will be provided to the family before the premium is due. The check or money order and the premium payment coupon are mailed or delivered to the Medicaid fiscal agent.

III. NON-PAYMENT OF PREMIUMS

Non-payment of premiums is treated in the same manner as for RIte Care and RIte Share participants as detailed in the DHS Code of Rules, Section 0349.10.20.15.05.

Section Five LOSS OF EMPLOYMENT OR ELIGIBILITY

A person who loses employment may retain eligibility, under this group, for up to four (4) months by paying a premium. If the person is still unemployed at the end of the four (4) month period, he/she will no longer qualify as a working adult with a disability.

A person no longer eligible as a working adult with a disability may retain approved medical savings accounts and retirement account assets in the amount held on the last full day of eligibility as a working adult with a disability. These medical savings account and/or retirement account assets will be considered non-countable assets for purposes of Medicaid eligibility under any other coverage group. The individual is responsible for providing verification of these account balances as of the last date of eligibility as a working adult with a disability if it is to be disregarded for future Medicaid eligibility.

Section Six AVAILABLE SERVICES

Services to maintain and support employment shall be determined and approved through an assessment of need utilizing a state approved employment support assessment instrument. Authorized personal care services may be provided in the home, workplace or other necessary setting (i.e. physician office).

The Individual Employment Supports Plan (IESP) will include the employment support services needed to sustain paid work. The IESP may include: benefits counseling; supervision; job coaching; vocational evaluation; case management; job development; customized employment; job training; transportation; training; tools; equipment; and technology.

Individual Employment Support Services would not include–

1. Special education and related services (as such terms are defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401)) which otherwise are available to the individual through a local educational agency;
2. Vocational rehabilitation services which otherwise are available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973 (29 U.S.C. 730)[1]; and
3. Job training service which otherwise are available to the individual through a program funded under Workforce Investment Act of 1998, as amended (29 U.S.C. § 2801, et seq.).

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[1] **Social Security Act Section 1915(c)(5)(C)**

(5) For purposes of paragraph (4)(B), the term "habilitation services"–

(A) means services designed to assist individuals in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community based settings; and

(B) includes (except as provided in subparagraph (C)) prevocational, educational, and supported employment services; but

(C) does not include–

(i) special education and related services (as such terms are defined in section 602 of the Individuals with Disabilities Education Act[340] (20 U.S.C. 1401)) which otherwise are available to the individual through a local educational agency; and

(ii) vocational rehabilitation services which otherwise are available to the individual through a program funded under section 110 of the Rehabilitation Act of 1973[341] (29 U.S.C. 730).

Services include the full scope of Categorical Medical Assistance benefits, Home and Community Based services including personal care services authorized under sections 1915(i) [2] and/or 1915(k)[3] of the social security act, provided through an agency or through a self-directed program, and services needed to facilitate and/or maintain employment. ~~Long-term care services and supports are listed in DHS Code of Rules Section 0399.~~

SECTION Seven: DEFINITIONS

As used in this section:

1. "Case management" means a broad coordinating function which authorizes, arranges, and monitors employment support and/or home-based services[4].
2. "Customized employment" means individualizing the employment relationship between employees and employers in ways that meet the needs of both. It is based on an individualized determination of the strengths, needs, and interests of the person with a disability, and is also designed to meet the specific needs of the employer. It may include employment developed through job carving, self-employment or entrepreneurial initiatives, or other job development or restructuring strategies that result in job responsibilities being customized and individually negotiated to fit the needs of individuals with a disability. Customized employment assumes the provision of reasonable accommodations and supports necessary for the individual to perform the functions of a job that is individually negotiated and developed[5];
3. "Employment Support Services" means activities needed to sustain paid work including: benefits counseling; supervision; job coaching; vocational evaluation; case management; job development; customized employment; job training; transportation; training; tools; equipment; and technology[6].
4. "Personal care services" means direct support, in the home or community, to individuals in performing tasks that due to disability they are functionally unable to complete independently, based on the Sherlock Services Individual Needs Review. These services may include personal assistances with the activities of daily living, such as grooming, personal hygiene, toileting bathing and dressing; and assistance with monitoring health status and physical condition, needed to sustain paid work[7].
5. "Transportation" mean:
    a. transportation between the participant's place of residence and the day habilitation site, or other community settings in which the service is delivered, that is provided as a component part of day habilitation services[8];
    b. transportation between the participant's place of residence and the prevocational service site/s that is provided as a component part of prevocational services[9];

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[2] **Social Security Act Section 1915(i) State Plan Amendment Option To Provide Home and Community-Based Services for Elderly and Disabled Individuals.–**

(1) In general.–Subject to the succeeding provisions of this subsection, a State may provide through a State plan amendment for the provision of medical assistance for home and community-based services (within the scope of services described in paragraph (4)(B) of subsection (c) for which the Secretary has the authority to approve a waiver and not including room and board[347]) for individuals eligible for medical assistance under the State plan whose income does not exceed 150 percent of the poverty line (as defined in section 2110(c)(5)), without determining that but for the provision of such services the individuals would require the level of care provided in a hospital or a nursing facility or intermediate care facility for the mentally retarded…

[3] **Social Security Act Section 1915(k) Community First Choice Option**

Section 2401 of the Affordable Care Act The Patient Protection and Affordable Care Act of 2010 (Pub. L. 111–148, enacted on March 23, 2010), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111–152, enacted March 30, 2010) (collectively referred to as the Affordable Care Act) established a new State plan option to provide home and community-based attendant services and supports. Section 2401 of the Affordable Care Act, entitled ''Community First Choice Option,'' adds a new section 1915(k) of the Social Security Act (the Act) that allows States, at their option, to provide home and community-based attendant services and supports under their State plan. This option, available October 1, 2011, allows States to receive a 6 percentage point increase in Federal matching payments for expenditures related to this option.

[4] **0398.05.05 Waiver Services**

The additional MA services provided under the Waiver are:

o Case MANAGEMENT SERVICES - a broad coordinating function which authorizes, arranges, and monitors home-based services. Case management services are provided by LTC Social Service staff.

[5] Federal Register, June 26, 2002, Vol. 67. No. 123 pp 43154 -43149.

[6] RIGL 40-8.7-4(3).

[7] **0398.40.20 Services**

Waiver services recipients receive the normal scope of Medical Assistance services. In addition to the normal Medical Assistance services, eight (8) special services are provided under the Waiver.

In some cases, the individual may be responsible for a portion of the cost of the Waiver services.

Waiver services are:

o PERSONAL CARE ASSISTANCE

Personal Care Assistance services provide direct support, in the home or community, to individuals in performing tasks that due to disability they are functionally unable to complete independently, based on the Individual Service and Spending Plan.

[8] CMCS Informational Bulletin, September 16, 2011 Updates to the §1915 (c) Waiver Instructions and Technical Guide regarding employment and employment related services, Day Habilitation Core Service Definition page 6.

c. transportation between the participant's place of residence and the employment site that is a component part of supported employment individual employment supports services[10];
d. transportation between the participant's place of residence and the employment site is a component part of supported employment services small group employment support[11]; or
e. transportation between the participant's place of residence and the site where career planning is delivered that is provided as a component part of career planning services.

Executive Secretary's Draft Testimony for presentation at the October 18th Public Hearing

The Commission's intent in drafting the legislation that was enacted into law, with mutually agreed upon amendments was to make revisions to the Sherlock Plan statute to address the barriers to increased utilization of the Medicaid Buy-In by eligible employees.

The regulations must remove those barriers to increased utilization of the Sherlock Plan's employment support services. The regulations must focus on keeping employees with disabilities working longer and encouraging current Medicaid beneficiaries with disabilities to return to and/or join the workforce.

1. The present use of Medicaid's Long-Term Care Eligibility process has been a barrier. Most employees with disabilities don't think of themselves as needing "long-term care".
    a. The long-term care eligibility process requires applicants to prove they are UNABLE TO work.
    b. The existing long-term care functional needs assessment does not determine the applicant's employment support needs.
    c. A different entry point for Sherlock Plan Eligibility is needed. One that is focused on people working.
2. Another barrier is the premature Medicaid termination of low wage employees with disabilities who become more productive employees (earning more than the Medicaid earning level) instead of being referred to the Sherlock Plan for coverage.
3. The expertise of the Office of Rehabilitation Services would add the work focus to a Sherlock Eligibility team.
    a. The Commission supports the **Team Sherlock** concept, a single statewide process for Sherlock Plan eligibility determination.
    b. The team's composition should include a representative from: the Medicaid Medical Assistance Review Team (MART), Office of Rehabilitation Services (ORS), and Department of Human Services Eligibility.
    c. Team Sherlock could bring in others from the community as required based on applicant's need, such as a representative from: the Department of Behavioral Healthcare, Developmental Disabilities, and Hospitals (BHDDH); independent living specialist; employment specialist; and/or a Home and Community Based Services (HCBS) specialist.
4. The service determination needs to be separate from eligibility determination. The Commission supports:
    a. An Employment Supports Functional Assessment undertaken by Team Sherlock with assistance from Medicaid approved evaluation entities, as needed;
    b. That assessment should lead to an Individual Employment Support Plan (IESP) based on what services are needed to facilitate and/or maintain employment for that individual; and
    c. Non-employment support Medicaid services could be determined by the current assessment procedures.
5. The Employer components of the Sherlock Plan should be developed in consultation with the health insurance commissioner, employer and disability advocacy organizations, as provided for in RIGL 40-8.7-7(c).

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[9] CMCS Informational Bulletin, September 16, 2011 Updates to the §1915 (c) Waiver Instructions and Technical Guide regarding employment and employment related services, Prevocational Services Core Service Definition page 8.

[10] CMCS Informational Bulletin, September 16, 2011 Updates to the §1915 (c) Waiver Instructions and Technical Guide regarding employment and employment related services, Supported Employment -Individual Employment Support Core Service Definition page 10.

[11] CMCS Informational Bulletin, September 16, 2011 Updates to the §1915 (c) Waiver Instructions and Technical Guide regarding employment and employment related services, Supported Employment - Small Group Employment Support Core Service Definition page 12.

a. The law requires consultation with the Health Insurance Commissioner, employers and disability advocates prior to issuing regulations:
   i. Requiring enrollment in an employer-based health insurance plan {40-8.7-7(c)(1)}; and
   ii. The opportunity for employers to buy-into the Medicaid Buy-In {40-8.7-7(c)(2)}.
b. The proposal that "The recipient may request that their employer withhold the monthly premium. The employer will then pay the monthly premium to Medicaid through an EFT." This could be unduly burdensome on very small businesses. This provision should be delayed until after consultation with employer organizations. Initial contact with a business regarding the Sherlock Plan must be as positive and barrier free as possible, rather than starting off on the "wrong foot".
c. The proposed regulations should be amended to "Reserved" until the issuance of the employer related regulations next spring. The Commission supports reserving:
   i. Section Three Access To Employer-Based Health Insurance (including the criteria for determining cost-effectiveness and benefits comparison of the employer based health insurance plan) ; and
   ii. Section Four Premium Rate Setting II Premium Collection Methods – B. Wage withholding (of premiums).
d. We believe that employers need an opportunity to provide input into these regulations so that there won't be impediments for small employers to participate in the program.

6. The regulations should use clearly defined terms, to avoid confusion of what is an "employment support" and what is not. The Commission supports adding a definition section to the regulations that includes descriptions of the employment support services.

☑ voting check off graphic	MOTION: To authorize the Executive Secretary present the Commission's comments at the October 18, 2011 public hearing on the proposed **MEDICAID WORKING PEOPLE WITH DISABILITIES PROGRAM** regulations, as presented above. RMcM/JD passed unanimously		
Announcer graphic	**Announcements**	**Tim Flynn**	**5:20 PM**
calendar graphic	**Agenda and Scheduling the Next Meeting**	**Tim Flynn**	**5:25 PM**
	Items to be placed on the next meeting's agenda: 1. Fellowship Interviews 2. Status of Commission's Budget Requests		
	Next meeting will be on: Monday December 5th		
alarm clock graphic	**Adjournment**	**Tim Flynn**	**5:30 PM**
☑ voting check off graphic	MOTION: To adjourn at 5:20 PM RMcM/JD passed unanimously		