

# 2004 Annual Report on the Missouri Foundation for Health (MFH) from The Community Advisory Committee (CAC)

This report is issued in fulfillment of the Bylaw of the MFH, Section 5.1.7: *The Community Advisory Committee shall be responsible for advising the Board on no less than an annual basis as to the efficacy of the Foundation's programs from the communities' perspectives as well as the communities' priorities for future efforts of the foundation.*

## SUMMARY

2004 had a shaky start due to: disagreements between the Board and CAC over nominations; a threatened lawsuit by the Attorney General; and adverse media coverage about the dispute. However, the storm passed due to appropriate action and good will exhibited by foundation leaders. The foundation played a constructive role in the preservation of Medicaid funding in the 2004 legislative session. The year ended calmly with regular business conducted amicably among foundation leaders, the community well-served by more grants than in 2003, and the future more hopeful for expanded foundation services because of increased assets.

1. In 2004 MFH increased health services to its target area in the form of grants, research, and public policy advocacy;
2. Addressed, positively, conflict between the Board and the Community Advisory Committee;
3. Completed a long delayed election of board members in March thus mooting a potential lawsuit by the Attorney General;
4. Completed the 2004 election of Board members, as appropriate, at its end-of-year Board meeting;
5. The Board withdrew and resubmitted revised bylaws to the Attorney General that had previously been sources of internal conflict between the Board and CAC.
6. The foundation's asset base increased in response to improved market conditions, careful management of its assets, and competent oversight by its Investment Committee and staff.
7. The foundation along with other community institutions was an important player in the preservation of Medicaid funding during the 2004 legislative session through research and grants;
8. The Board established a Health Policy Committee and regularized the foundation's process for dealing with health policy issues;
9. A policy change on grantmaking is recommended to take into account how adequately and fairly a grant or contract-seeking nonprofit is treating MFH's target population before a grant is awarded;
10. The Community Advisory Committee
  - Was fully appointed in 2004;
  - Negotiated agreements about nominations, elections and Bylaws with the Board;

- Held ten public forums throughout the target area;
- Organized a successful, national meeting with 8 other CAC's
- Completed its recruitment, screening, and nomination of Board members for 2004
- Undertook its first self-evaluation to determine strengths and weaknesses of its performance
- Is engaged in redirecting its public forums into a more focused format in order to elicit more direct information from the target population.
- CAC's 2003 annual report was acknowledged in writing by the Board, but many of its points or recommendations were not responded to nor rebutted. The report was not posted on the MFH website. Later in the year the CEO recommended a course of action to change the annual report that would regularize its format, contain more specific community health data, and make it potentially more useful to the Board. CAC has appointed a subcommittee to consider changes in format and content.

## DESCRIPTION/RECOMMENDATIONS

1. **Increased service to target area:** MFH awarded 169 grants in 2004 valued at \$47.6 million, 61 more than 2003 and valued at about \$7 million more. Since the inception of grantmaking, the foundation has awarded 430 grants valued at \$94 million. These totals demonstrate the foundation faithfully fulfilling its legal obligation to distribute a percentage of assets to health services in the 84 county service area.

Beyond its legal obligation to distribute a percentage of assets is its efforts to do so wisely by carefully processing hundreds of applications, through staff and volunteer work and by establishing standards, procedures, and priorities that guide the selection.

The ultimate test of all this effort and good intention will, of course, be whether health indicators of the target community improve because of this work. While early evaluations are positive for patients served by grantees, the health system is far too complex for an easy answer. As an example, potential loss of Medicaid funding could negate any additional good that the foundation is capable of providing.

2. **Disagreements between the Board and CAC:** Two major disagreements strained relations at the beginning of 2004 between the Board and CAC: nominations and proposed Bylaw changes. Because of the nominations dispute the final election to the Board was not completed until March, under threat of a lawsuit by the Attorney General. The dispute spilled into the public through several unfavorable newspaper articles.

Reasonable steps were taken to stanch the disagreement. The Board stepped back from challenging the Attorney General and completed its election. The Board and CAC established a Joint Committee to examine the issues and propose solutions. Both bodies approved the report in July and impacted the 2004 nominations and elections. An assessment of strengths and weaknesses of the Board by the Board itself and CAC were initiated to help guide future nominations. A system of "priority needs" displaced the disagreement over slotting vs. pooling of nominees.

Overall resolution of the dispute and ongoing discussions about lingering differences showed a maturing leadership able to deal reasonably with difficult issues and the inevitable disputes that arise among reasonable people.

The 2004 nominations and elections process were carried out competently, timely, and harmoniously.

The second major disagreement was the Board's submission of Bylaw changes to the Attorney General in 2003 some of which the CAC opposed. As a result of negotiations mentioned above, the 2003 Bylaws changes were withdrawn, compromise Bylaws drafted and submitted, with a substantial number of them finally approved by the Attorney General. The Bylaws resolution was another sign of maturing foundation leadership.

3. **The foundation's assets increased:** Despite distributing \$47.6 million in grants, the foundation's assets increased by \$93 million in 2004. The combination of intelligent management and an improving stock market paved the way for this improvement. Presuming that the foundation can continue its intelligent management of funds and weather storms in the market, it promises even greater service to the target community in the future.

At its inception the Investment Committee of the Board had divided the assets between two management companies, Smith Barney and Summit Investments. This appears to have encouraged healthy competition between the two, a striving for optimal performance, and a certain amount of checks-and-balances. The investment Committee deserves respect for its management of the foundation's assets.

4. **Conflict of Interest:** An anonymous accusation of conflict of interest was received against a member of the Board who is also chair of the Program and Grants Committee. The charge was taken seriously and assigned to the Audit, Oversight, and Ethics Committee which carefully considered the charge and found that it was groundless. Even though the accusation was unusual and might have been discounted because it was anonymous, it is an example of a Board sensitive to its ethical duty.

There is continuing disagreement among leaders about whether the conflict of interest Bylaw should include the "appearance" of a conflict as well as a conflict itself. An argument against including "appearance" is that an incident either is or isn't a conflict of interest, and its language in the Bylaws could be a temptation to harass or sue. On the other hand, the "appearance" language is included in well-known entities, such as the Bar Association. A proposed Bylaw eliminating the "appearance" concept was rejected by the Attorney General.

5. **Medicaid Preservation:** The State's low tax base, several years of poor economic conditions, and the adverse impact of federal tax cuts on State revenues have all contributed to chronic underfunding of state programs, including health. Poor revenues have tempted the Legislature to transfer funding out of the Medicaid program, one of the State's most expensive programs, toward more favored programs. There was strong support in the 2004 Legislature to cut 70,000 patients from the Medicaid program. However a broad opposition of health care providers, religious entities, labor, advocates for the poor, and the media overwhelmed Legislative hostility to Medicaid, and its funding was preserved with only minor cuts.

The foundation was properly involved in this substantial coalition through research, encouraging collaboration among advocates for the poor, and grants for public education to selected nonprofits. Credit for the victory to preserve Medicaid belongs to all who worked for it, and the foundation deserves its share.

While it is impossible to say what strategy turned the tide or which group was most effective, it is possible to credit the foundation for finding its voice and role in a critical public policy issue which would have otherwise adversely impacted

the health of its target population. A cut of Medicaid in the proportion proposed would have swamped whatever positive impact foundation grants could have achieved.

6. **Health Policy Committee:** . The public education effort on Medicaid preceded and laid an experiential groundwork for establishment of a Health Policy Committee in July which will henceforth plan, recommend, routinize, and oversee health policy activities and approve grants for public education on policy issues. This constituted a major, positive organizational advance for the foundation in 2004.

7. **Charity Care and Foundation Grantees:** A recent series of articles and editorials in the St. Louis Post-Dispatch criticized area nonprofit hospitals for their failure to provide a reasonable amount of charitable care, charging lower income, uninsured patients more than they charge insured patients, using predatory collection methods to financially ruin patients unable to pay the inflated charges, and failing to distinguish bad debt from charity care. The Missouri Hospital Association and BJC responded to the articles and gave a vigorous defense of their positions, but failed to address the details of the charges.

This situation is an ethical challenge to the foundation in its grantmaking to nonprofits. Should it have a value that defines what is fair and adequate treatment? Should it award grants where treatment of the foundation's target population is inadequate or unfair? Or might it award grants only if certain conditions are met? To date it does not appear that there is a single policy guiding such decision making, but in our opinion, there should be. (We are aware of individual cases of grants being rejected when reviewers had special awareness of questionable treatment of the target population.)

8. **The 2003 Annual Report of the CAC :** In 2004 the Board of Directors acknowledged receipt of CAC's 2003 Annual Report, indicated a desire to work on the frayed relations between the Board and CAC and indicated that other parts of the report would be assigned for response to the appropriate foundation committee. This was the first time in three years that the report had been acknowledged in writing.

Subsequently the Board and CAC did make substantial progress in working out differences (see above), but other issues and recommendations raised in the 2003 report have gone unremarked. The following is our understanding of outcomes:

a) **Evaluation of grant projects:** There have been regular self-evaluation reports submitted by grantees and reviewed by staff. Plans are in the works for an external evaluation of the tobacco prevention initiative. In CAC's opinion more external evaluations are called for based on whether or not the maturing early grants have indeed advanced the health status of the target population.

b) **Board evaluation of contracts:** In addition to grants there have been many contracts for various services, research, supplies etc. awarded. While contract awarding and monitoring is normally a staff function, the Board should audit one or more contracts per year.

It recently authorized the Health Policy Committee to have more oversight of policy contracts. The committee will review RFP's before they are awarded.

c) **More direct input from target population:** This is a foundation-wide responsibility, but it is a major responsibility of the Community Advisory Committee. It is currently in the process of refocusing its public forums toward more target population input. The wider foundation staff and leadership also bear responsibility for insuring that they have systems and practices

that are open to target population input. It appears that no members of the Board or CAC are from the target population. However, some likely have important contacts and relationships in that community.

d) *Public policy activities:* This activity has indeed advanced significantly (see above). A 2003 recommendation was for the foundation to establish a representative presence in Jefferson City. The foundation has sent staff from St. Louis to Jefferson City for certain activities and contracted out the monitoring of legislation, but it has not yet established an office there.

e) *Supplanting of lost public funds:* The foundation did good work in supporting the preservation of the Medicaid program in 2004 through public education and grants. While policy work is an important tool in offsetting the pressure to supplant government funds, it isn't always successful. An example is the State Legislature eliminating state family planning funding. The challenge in adhering to the core value of not supplanting lost government funds is determining when government funding becomes a lost cause vs. a community health need that should be addressed.

f) *Public image:* The foundation had a significant test of public confidence in the controversies over elections and potential lawsuits in early 2004 (see above). It appears that it handled these controversies well by both being forthcoming about the problems and by the leadership acting forthrightly to solve them.

g) *Staff:* CAC continues to feel very positive about staff credentials, energy, diversity, and accomplishments. Its 2003 report noted that program officer positions requiring a master's degree appeared to be so rigid that would disqualify some grantees, and members of the Board or CAC from serving on staff. It suggested experience as an alternative qualification. No comment was received on this point of view.

h) The 2003 report mentioned a single comment on a strategic planning survey about "racial tension on both Board and staff level". The report urged that such comments, even if rare, be taken seriously. No comment was received.

### **Recommendations Concerning CAC Annual Report:**

The Board should both acknowledge receipt of the annual report and comment positively or negatively in a timely fashion about recommendations or criticisms contained in the report.

- The report should be posted on the web site.
- The CAC has agreed to consider the format and content of future annual reports and seek agreement with the Board about the decisions.

### **Conclusion:**

The CAC is overwhelmingly positive about the foundation's work, accomplishments, openness and future. Any criticisms and recommendations are offered in that positive spirit. CAC members have found the foundation an effort worth the investment of its volunteer time and worth improving with constructive criticism.