



Children, Families, Health, and Human Services Interim Committee

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60th Montana Legislature

SENATE MEMBERS

CAROL JUNEAU
RICK LAIBLE
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HOUSE MEMBERS

EDITH CLARK
ERNIE DUTTON
TERESA HENRY
DIANE SANDS

COMMITTEE STAFF

SUE O'CONNELL, Lead Staff
LISA JACKSON, Staff Attorney
FONG HOM, Secretary
PAT MURDO, Staff for SJR 15

MINUTES

March 18, 2008

Room 137, Capitol Building
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. The minutes are accompanied by an audio recording. For each action listed, the minutes indicate the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time may be used to locate the activity on the audio recording.

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COMMITTEE MEMBERS PRESENT

SEN. CAROL JUNEAU
SEN. RICK LAIBLE
SEN. TERRY MURPHY
SEN. DAN WEINBERG

REP. EDITH CLARK
REP. ERNIE DUTTON
REP. TERESA HENRY
REP. DIANE SANDS

STAFF PRESENT

SUE O'CONNELL, Lead Staff
LISA JACKSON, Staff Attorney
FONG HOM, Secretary
PAT MURDO, Staff for SJR 15

Visitors

Visitors' list, Attachment 1
Agenda, Attachment 2

COMMITTEE ACTION

- The committee asked that staff draft a letter to Montana's Congressional Delegation protesting the 10% cut in Medicare reimbursement for the committee's approval.

CALL TO ORDER AND ROLL CALL

00:00:09 Rep. Clark reconvened the meeting at 8:06 a.m. The committee secretary took roll visually.

AGENDA

MENTAL HEALTH STUDY/INITIATIVES

00:00:47 Sue O'Connell, Research Analyst, LSD, gave an overview of the Mental Health System in Montana (**Exhibit 1**).

Questions

00:10:09 Sen. Juneau asked if the statutory maximum income cap of 160% of the poverty level is a state cap or a federal cap and if Ms. O'Connell had an estimate of how many children with serious mental illness are being served. Ms. O'Connell said that the state cap is set in the Montana statutes. In response to Sen. Juneau's second question, Ms. O'Connell said that her report contains an estimate of the number of Montanans who may suffer from mental illness but as to the number of children being served, that estimate is harder to get.

Rep. Dutton asked Ms. DeCunzo to comment on the difficulty of dealing with mental illnesses and drug abuses that are intertwined when you might qualify for one program that may disqualify you for another program. **Joyce DeCunzo, AMDD, DPHHS**, said that in terms of the intertwining of the mental illness and substance abuse, there are high numbers of people who have both of those conditions. There is a difference in financial eligibility between substance abuse programs and mental illness programs. Specifically, the one that has been talked about the most is the MHSP program which serves people up to 150% of poverty. If a person has substance abuse, they can be served if they have an income of up to 200% poverty. If an individual has both of those conditions, and they have income up to 200% poverty, they would be able to receive their substance abuse services but not their mental health services.

00:16:33 **Joan Daly, Community Crisis Center, Billings**, gave an update on the Community Crisis Center in Billings (**Exhibit 2**).

Questions

00:30:47 Sen. Weinberg asked Ms. Daly to comment on the funding they receive from the 72-hour system and how they bill for it. Ms. Daly explained how they bill for their crisis center. A person may not be served for the whole 72 hours but is followed for the full 72 hours.

Sen. Weinberg asked Ms. Daly if there is a 72-hour facility in Billings that will take those people. Ms. Daly said that if the person needs that length of stay, they will refer them to the Psychiatric Center or to the Mental Health Center who has stabilization beds. She said that the Rimrock Foundation also has stabilization beds for those kinds of lengths of stay.

00:34:05 Sen. Laible asked if there was a system within the state that can be accessed containing an individual's name and identification number to see whether they are getting services some place else. Ms. Daly talked about a program called Pathways Program where that information is shared among the three health care organizations and they can follow those patients in terms of where they are accessing their care. That program has a database that is privately owned.

00:40:40 **John Schroeck, Primary Care Office, DPHHS**, talked about health profession shortage areas and specifically the state's mental health profession shortage area designation (**Exhibit 3**).

00:51:09 **Joyce DeCunzo, AMDD, DPHHS**, gave an update on the Addictive & Mental Disorders Division activities (**Exhibit 4**).

Questions

01:15:46 Rep. Dutton asked about the savings that the state is trying to achieve versus being able to offset some of the money that is being spent on the front end. Ms. DeCunzo said that the first few days in the Montana State Hospital costs more because a full battery of testing has to be done. When individuals go to the State Hospital on court ordered or emergency detentions, that stay is usually between 1 and 5 days. If that person is served in the community, it saves money at the State Hospital and the county level.

01:18:40 **Sheri Heffelfinger, Research Analyst, Law and Justice Interim Committee**, gave an update on mental health study for the Law and Justice Interim Committee. She reported on the activities of the Adult Justice and Juvenile Justice Working Groups.

01:33:38 **DMA Health Strategies: Mental Health Study Work Plan/Discussion -**

Richard Dougherty

Richard Dougherty gave a presentation on the Mental Health Study Workplan **(Exhibit 5)**.

Questions

02:07:31 Sen. Laible asked Mr. Dougherty to explain what a managed care system would look like. Mr. Dougherty said that the fundamental principles of managed care involve a method of financing that pools funds in some model of risk sharing, than currently available under fee for service, and allows the new entity to actively coordinate care in a manner that would allocate that services and that the right services are going to the right people in the right amounts.

Sen. Laible asked Ms. DeCunzo if she knew how many patients are in the mental health program and how many people are we providing services to. Ms. DeCunzo said that in the last year about 18,000 people were in the program. About 5,000 of those individuals are in the MHSP program and 13,000 in the Medicaid program.

Sen. Laible asked if Mr. Chappuis knew what the cost is to administer that program for 18,000 people? **John Chappuis, Deputy Director, DPHHS**, said that it is about \$33 Million in Medicaid for adult mental health and \$7 Million in MHSP, but does not include costs of operation of the Montana State Hospital, which is another \$28 Million.

Public Comment

02:21:27 **Joan Daly, Billings Community Crisis Center**, said she wanted to comment on the 72-hour presumptive eligibility issue. One of the things that she would like to remind people is that at some point in the stabilizing, if the patients are not engaged and do not want to be in the Crisis Center, they have a right to dis-engage. If they are not at harm to themselves and others, the Crisis Center cannot hold them against their will. That will sometimes contribute to that short period of stay.

02:22:59 **Mike Foster, St. Vincent Health Care, Billings**, commented on the budget of St. Vincent and the funding aspect. He said that keeping the Billings Clinic and St. Vincent open financially is by each hospital putting up about \$500,000 per year as a contribution.

02:27:14 **Donald Har, Physician Psychiatrist, Billings**, said that the last legislative session has demonstrated more concern in mental health care than any other session. The discussions today brought out recognition in finding ways for efficiency in approach to helping individuals receive the kinds of assistance they need and deserve. He said that he hopes the Legislature will be cautious having someone telling them what to do and how much money to put into managed care.

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES UPDATE

02:36:19 **Joan Miles, Director, DPHHS**, gave updates (**Exhibit 6**) on:

- CHIP
- Big Sky Rx Program
- Aging Services for Seniors
- Funding for Asbestos Related Disease, \$1.5 million for biennium
- Update on the new recipient of funds for a new community health center in the state
- Update on four dental expansion projects in four other community health centers throughout the state

Questions

02:52:25 Sen. Juneau said she wanted to know why EMS services are not able to get reimbursement from CHIP for emergency medical transport of children. Rep. Clark said that because of the limited amount of funding and to be able to fund the most children in the most normal way of usage, CHIP chose not to fund ambulance transports because that is more rare.

02:53:42 Sen. Laible asked if there was a co-pay system on the CHIP program or is it based on a sliding scale. John Chappuis said that there is a co-pay system but it is not on a sliding scale. Sen. Laible said that when the director talked about a new community health center to be announced within the week, do we know where that new health center is going to be? Ms. Miles said that they are still working on the final approval and notification.

02:54:50 **John Chappuis, Deputy Director, DPHHS**, talked about the documents that were distributed to the committee:

- Medicaid Eligibles Charts (**Exhibit 7**)
- TANF Program (**Exhibit 8**)
- Population Estimates by Poverty Level (**Exhibit 9**)

- DPHHS - Direct Care Wage Status (**Exhibit 10**)

Questions

03:11:17 Sen. Murphy asked what percentage of the total budget of the average nursing home comes from the Department? Mr. Chappuis said that it runs very close to 60% on average.

Public Comment

None at this time.

ADMINISTRATIVE RULES - Lisa Mecklenberg Jackson, Legal Staff, LSD

03:13:08 Ms. Mecklenberg Jackson talked about Administrative Rule activity (**Exhibit 11**).

LUNCH

COVERED BENEFITS AND PAYMENTS REGARDING THE CHIP PROGRAM - Sue O'Connell, Lead Staff

04:54:18 Ms. O'Connell said that there were questions of Joan Miles about the CHIP Program, Covered Benefits and Payments. She said that she went to their website and printed off their description of the program, eligibility requirements, covered services and their schedule of co-payments for people who are participating. She also attached the language from the statute that defines what the benefits are. She said that she has asked the head of that program to send a written response which she will forward to the committee why ambulance services were excluded from those benefits at the time the program was established (**Exhibit 12**).

SJR 15 STUDY: HEALTH CARE DELIVERY SYSTEMS - Pat Murdo, Lead Staff

04:55:24 Ms. Murdo said that she will be handing out documents pertaining to presentations on the medical treatment planning tool. She talked about SJR 15 issues that the committee will be addressing, such as health information technology. Ms. Murdo said that she included in the packet the schedule on the 990 Form for a non-profit organization, which will be discussed regarding community benefits. She said that the Physical Therapists Association has invited members of the committee to attend a health care forum that they are putting on regarding health care reform in Montana.

04:58:52 **Mike Foster, HealthShare Montana**, said that there have been a lot of

discussions in front of this committee about access and cost savings that can be realized using health information technology. In the last meeting there was a question raised by Sen. Laible regarding ownership and sale of data. He said that he will try to connect transparency and health information technology together.

05:01:22 **Dr. William Reiter, HealthShare Montana, and Cleary Waldron, Intern,** gave a demonstration on how the program "Health Information Exchange" works in obtaining patient information and using eRx (**Exhibit 13**). He talked about Continuity of Care Record (CCR) that is based on the Health Information Exchange. He said that he would hope that the Legislature will fund the phase one of the implementation throughout Montana of health information exchange and also provide the information needed for disease management and the ties for electronic prescribing.

Questions

05:25:05 Rep. Dutton said in terms of the potential drug costs, Dr. Reiter talked about a formulary. He asked if that was something that DPHHS could do or is that something that would be available for us to plug into? Dr. Reiter said that we would use the Montana Medicaid formulary.

Sen. Laible asked who would have access to this system. Dr. Reiter said that each organization would determine who would have access. The patient would give permission to have access and the business rules that you set up regarding who has access.

Sen. Laible asked if patients can request that their information no longer be in that system. Dr. Reiter said that the patients have their name and address in the system but they can opt out on having any further information on the system.

05:32:57 Rep. Sands asked if the Department of Public Health and Human Services would have access to that aggregated data? Dr. Reiter said that the system can provide the data but he didn't know how the mechanism for providing that data would work.

Public Comment

05:38:05 **Kristin Juliar, Chair of Health Share Montana Board of Directors,** talked

about data collection and data ownership. She said that they are in the process of forming a committee looking at what other states are doing in this area and will be developing a report on legal issues for the committee.

Questions

Rep. Dutton asked Mr. Foster to talk about the funding and the timing. Mr. Foster said that they are moving along the timeline where they will be ready when the money will become available.

Sen. Weinberg asked if there has been any discussion regarding access by pharmaceutical companies to this technology to track prescribing behaviors of individuals. Mr. Foster said that he is not personally aware of the interactions they have had with the pharmaceutical companies themselves.

05:46:25 **Penny Abegglen, Retired Deputy Chief Nurse, Montana Health Care System, Veterans' Administration Hospital, Fort Harrison**, talked about the VA's computer base system. The VA benchmarked information technology in a computerized patient care record system that was implemented nationally. She said that the VA has a mantra "One VA". She was pleased to hear Dr. Reiter speak to the fact that the computerized system that he wants to implement will be able to communicate with the very costly systems that are already implemented in other facilities.

05:51:09 **Transparency in Pricing/Quality - Mike Foster, Transparency Work Group of the Blue Cross Blue Shield Forum**
Mr. Foster discussed the Transparency Work Group of the Blue Cross Blue Shield Forum, a forum held last fall. He said that there have been meetings of the people who are associated with that Forum and that the group has grown and is now made up of attendees of the Forum and other interested parties. He said that one of the things that the Work Group is trying to find is useful information for price and quality to help consumers become good shoppers by identifying what some of the most common procedures. He said that health information technology is a key and he believes that the HealthShare Montana project will be critical as we move forward with this.

05:57:17 **Early Childhood Access to Care through Schools**
Sue Buswell, School Nurse and President of The Montana Association of School Nurses, and Kathy Boutilier, School Nurse, talked about access to health care in

school age children (**Exhibit 14**).

Questions

06:07:57 Sen. Juneau asked both Ms. Buswell and Ms. Boutilier to talk about what they do and how they provide services for mental health needs of kids in schools. Kathy Boutilier said that it is important for her as a nurse to be a member of a team,. She said Helena is fortunate to have many professional services that can work together. The greatest strength in their school district is the team approach, which looks at the whole child and not just a part of the child. Sue Buswell added that that is a huge need and part of the issue is that there are not enough mental health care providers in the state of referral for these services.

06:22:51 **Community Benefits - Kristianne Wilson, Vice President for Strategic Development, Billings Clinic**

Ms. Wilson, Billings Clinic, provided written testimony to the committee on the voluntary approach non-profit health care has used to quantify and communicate community benefits. She also commented on recent efforts by the Internal Revenue Service to implement uniform reporting of community benefits and the Attorney General's efforts to provide oversight of health care charitable purposes (**Exhibit 15**).

Discussion

06:37:37 Sen. Weinberg said that he felt that Ms. Wilson put the charity bar too low when she said that hospitals should not have the obligation to meet any charity threshold. He said they should be able to justify their non-profit status. He said that he would hope that she would consider the fact that when you build your buildings you are doing a lot of it with free community money. Ms. Wilson said that as a tax-exempt organization, the people who donate dollars to the organization do get some tax benefit. She said that some organizations are able to provide more charity care than others based on the composition of services they have.

Sen. Weinberg said that if you are going to broaden one side of the ledger, charity care and community benefit, you should broaden the other side too, not just tax savings but also all the free money you get from the community. That would be a more fair view rather than just to maximize those dollars that you are giving to the community through charity and community benefit but then limiting the money that you are saving. Ms. Wilson responded by saying that the Attorney

General does intend to look at the issues of philanthropy and tax exemptions. She said there are ways to add to the value of tax exemptions, which he labeled free money. Ms. Wilson said it is the donor that gets the tax benefit. She added that they will be looking at that issue and working with the AG over the next several years because they have already made it clear that that is a piece of interest to them as well.

06:42:26

Community Benefits - Larry White, Assistant Professor, University of Montana School of Public and Community Health Sciences

Mr. White talked about the Attorney General's report on Montana hospital's issues related to charitable purposes.

- The report is available on the AG's webpage and focuses on three topics: community benefits that are being prescribed by the IRS as it relates to regulations dealing with not-for profit organizations, hospital pricing, and collection practices.
- The conclusion of the report identified nine topics for further discussion.
- It would be a mistake to legislate any amounts of community benefit including charity care until they have had several years of complete data to be able to assess.
- The AG is in the process of entering a 5-year contract with the School of Public Health and Community Health Sciences at the University of Montana in order to complete the study five more times.
- In conclusion, Mr. White suggested that the hospitals and the Montana Hospital Association be allowed to investigate and work on this issue to see if there is a way to implement that idea and measure that over time in the AG's report.

06:51:41

Palliative Care, Hospice, and End of Life Directives - Pat Murdo, Lead Staff, SJR 15

Ms. Murdo gave a brief report on Palliative Care, Hospice and End of Life Directives (**Exhibit 16**).

Committee Discussion

06:57:23

Rep. Dutton said that it would be nice to have a representative from Hospice to speak to this issue at the next meeting.

Public Comment

None at this time.

DRAFT LEGISLATION LC0038 - Revised (March 18, 2008, 12:28 p.m.) - Pat Murdo, Lead Staff, SJR 15

07:04:41 Ms. Murdo talked about draft legislation for revising language related to economic credentialing (**Exhibit 17**).

Comments from Committee

07:16:40 Sen. Weinberg said that he talked with the people from MHA and asked for their cooperation on LC0038. He said that MHA requested that the committee not take a vote on the bill until the next meeting so that they could meet with the Montana Medical Association and review the draft bill further. Sen. Weinberg asked the committee if they would be willing to wait until the next meeting to vote on the bill.

07:18:47 After some discussion, it was the consensus of the committee to wait until the next meeting before voting on the LC0038.

Public Comment

07:22:45 **John Flink, Montana Hospital Association**, thanked the committee for consensus on the delay. He said that if they have some extra time, they can sort through the drafts and figure out if it is a workable piece of legislation both from the Department's perspective and from the proprietor's side.

07:23:47 **Roy Kemp, Deputy Administrator, Quality Assurance Division**, said that the Department is trying to work with Ms. Murdo on the technical aspects so that they can measure what can be implemented. He said that now that the vote on the bill has been delayed, he can speak to Ms. Murdo about the statutory reference errors contained in the draft bill.

07:25:16 **Jerome Anderson, Montana Orthopaedic Society**, said that the extension of time to accept the draft is merited. By delaying the vote, it will give the Society an opportunity to check the draft completely and work on it more in depth, although it looks satisfactory to them.

OTHER COMMITTEE DISCUSSION

07:26:13 Rep. Clark spoke on the issue of physicians and that for medical or other reasons, some are not allowed by the insurance companies to be a preferred

provider. She said that she wanted to bring this issue to the attention of the committee and ask for a solution. Members of the committee requested that representatives from insurance companies, the Montana Hospital Association, and the Montana Medical Association attend the next meeting to discuss this issue.

Rep. Sands **moved** that a letter be drafted for Rep. Clark's signature immediately to the Congressional Delegation to protest the 10% cut in Medicare reimbursement and forward the draft to the committee for their approval. The motion **passed** unanimously.

ADJOURNMENT

07:46:53 Rep. Clark adjourned the meeting at 3:53 p.m.

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