

Summary of Health and Human Services Legislation 2007 Legislative Session

Prepared for the Children, Families, Health and Human Services Interim Committee
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The 2007 Legislature acted on a number of bills involving health care, health insurance, children, and human services. This summary provides an overview of major legislation, excluding the budget provisions of House Bill 2, in the following areas:

CFHHS Interim Committee	Public Health
Children's Issues	Senior and Long-Term Care
Health Care/Health Insurance	Social Services
Mental Health	

The summary focuses only on legislation approved by the Legislature that has or will become law, except it includes bills that were approved by legislators but vetoed by the governor.

CHILDREN, FAMILIES, HEALTH AND HUMAN SERVICES INTERIM COMMITTEE

During the 2005-2006 interim, the Children, Families, Health and Human Services Interim Committee approved the drafting of 10 pieces of legislation, all of which were subsequently approved by the 2007 Legislature. The bills, and the topics they addressed, were:

Foster Children/Foster Parents

- HB 57** Requires the Department of Public Health and Human Services (DPHHS) to provide for liability and property damage insurance for foster parents
- SB27** Revises Montana's grandparent-grandchild contact statute to allow a district court to approve grandparent-grandchild contact over the custodial parent's objections only after determining the fitness of the parent and, if the parent is fit, only if the court has determined that the contact is in the best interest of the child. The revisions reflect recent U.S. and Montana Supreme Court rulings recognizing that a parent has the right of custody, care, and control of a child and that fit parents may determine with whom their children may associate.
- SB31** Allows a caretaker relative to petition a district court to retain custody of a child whose parent has been gone for at least 6 months and has not expressed a firm intention and date for return, if the parent later returns and expresses intent to reassert his or her parental rights
- SB 48** Allows a caretaker relative to consent to medical care in a parent's absence if the parent has not expressed a firm intention or date to return and certain other circumstances are met. The caretaker relative must complete a medical authorization affidavit before obtaining medical care, and a health care provider may refuse to provide certain medical services if a parent has expressly objected to them.
- SB 49** Allows a caretaker relative to enroll a child in school and discuss certain school-related matters with school officials if the parent has not expressed a firm intention or date to return and if certain other circumstances are met. The caretaker relative must complete an educational authorization affidavit before enrolling the child in school.

Mental Health

- SB 45** Allows behavioral health inpatient facilities to admit a person for voluntary psychiatric treatment, allows DPHHS to license the facilities, and imposes requirements for licensure, including standards for medical stability of those treated by the facility, the maximum length of stay allowed, and staffing levels and qualifications
- SB 81** Expands the definition of professional persons who may conduct mental health evaluations to include licensed psychologists

Children's Health Insurance Program (CHIP)

- SB 22** Increases the income eligibility level for CHIP from a combined family income of 150% of the federal poverty level to an income of 175% of the poverty level, a change that allows children of working parents to qualify for the program if the income for a family of four is at or below \$36,137 (compared with the current level of \$30,975). The committee legislation originally set eligibility at 165% of the poverty level, but the Legislature increased that rate to 175%.

Seniors

- SB 32** Gives the long-term care ombudsman access to long-term care facilities at any time of the day, rather than only during visiting hours, and allows access for a local ombudsman after visiting hours, with the approval and oversight of the long-term care ombudsman

Administrative Rules

- SB 47** Clarifies that agency notification of the proposed adoption of a rule stemming from legislation must be provided to the primary sponsor of the legislation that enacted or amended the statute involved

CHILDREN'S ISSUES

Abuse/Neglect/Foster Care

- HB 91** Revises child abuse and neglect laws to comply with recent changes in federal law, including giving courts the authority to allow testimony by telephone, videoconference, and other audio-visual means at any point in the proceedings; requiring that foster-care review committees follow the Interstate Compact on the Placement of Children by considering both in-state and out-of-state placement options; and requiring that health-care professionals involved in the delivery or care of an infant report to DPHHS when an infant has been exposed to a dangerous drug (DPHHS bill)
- HB 490** Provides a tax credit of \$1,000 for the legal adoption of a child when the adoption also qualifies for a credit for adoption expenses on a federal tax return
- HB 608** Allocates \$1 million to the Children's Trust Fund account in the 2009 biennium, to pay for a wide range of child abuse and neglect prevention services.
- SB 83** Gives courts the authority to ask DPHHS to evaluate a non-custodial parent as a possible caretaker when a child has been removed from the home (DPHHS bill)
- SB 193** Requires a child protection social worker to submit an affidavit within two days of an emergency removal of a child from a home, detailing the circumstances of the removal, and increases from two days to five days the amount of time allowed for the filing of a petition of abuse and neglect

Mental Health

HB 98 Creates a "system of care account" to pay for in-state and community-based services that meet the needs of high-risk children with multi-agency needs while allowing the children to remain in the least restrictive and most appropriate setting. The Legislature appropriated up to \$500,000 in state Medicaid funds to the account; other agencies working with high-risk children also may transfer a portion of their funds to the account. (DPHHS bill)

HEALTH CARE/HEALTH INSURANCE

Children's Health Care and Health Insurance

HB 117 Requires DPHHS to put in a place a program ensuring that all newborns are screened for hearing loss within one month of birth and to establish a comprehensive system of services for infants and children who are deaf or hard of hearing (DPHHS bill)

HB 157 Provides an exception to the 10% cap on administrative costs for the CHIP program, to allow DPHHS to pay for the costs of a federally required audit (DPHHS bill)

HB 198 Allows DPHHS to adopt rules to pay for significant dental expenses above the typical dental allowance and caps the amount of state funds allowed for those costs at \$100,000 a year. When combined with federal CHIP funds, the change allows DPHHS to pay about \$500,000 in additional dental expenses each year.

HB 687 Requires insurance coverage of well-child care, including vaccinations, for children up to 7 years of age, amending the current law requiring coverage through 2 years of age

SB 162 Expands the number of genetic tests for which an infant will be screened at birth and requires DPHHS to contract to ensure that followup services, including education and counseling, are available for identified children (DPHHS bill)

SB 289 Requires schools to allow students with asthma or severe allergies to possess prescription medication for those conditions while at school

Primary and Preventive Care

HB 118 Changes current law to allow registered nurses at family planning clinics under contract with DPHHS to dispense various types of prepackaged contraceptives, rather than only prepackaged oral contraceptives. The bill was amended to specifically prohibit the dispensing of RU-486. (DPHHS bill)

HB 406 Creates a grant program in DPHHS to encourage the development of federally qualified community health centers or the expansion of services offered by existing community health centers, with \$1.3 million appropriated for the biennium

SB 95 Eliminates the requirement that a physician provide medical oversight for an automated external defibrillator program; DPHHS will establish in rules the types of people responsible for overseeing a program (DPHHS bill)

SB 387 Requires insurance companies to provide informational brochures outlining the types of cancer screenings covered by their insurance policies

Medicaid

HB 77 Puts into effect changes required by the federal Deficit Reduction Act of 2005, to allow DPHHS to recover payments owed to Medicaid recipients and to require coordination of eligibility information involving Medicaid recipients (DPHHS bill)

SB 354 Establishes in law the formula for reimbursing physicians for the services they provide to Medicaid patients and establishes a minimum yearly percentage increase to the reimbursement conversion factor, which is the average of the conversion factors used by the top health insurers or third-party administrators that use the resource-based relative value scale to determine fees for Medicaid services

Approved by the Legislature; Vetoed by the Governor

- **HB 577**, which would have made children under the age of 19 eligible for Medicaid coverage if their family income is at or below 133% of the federal poverty level. Under current law, children 6 years of age and younger are eligible for Medicaid if their family income is at 133% of the poverty level, while the eligibility level decreases to 100% of poverty for children above 6 years of age. The change was expected to shift more children to Medicaid and open up more slots in CHIP.

Other Health Care Legislation

SB 287 Adopts the provisions of the Revised Uniform Anatomical Gift Act, to make Montana's laws relating to organ donation uniform with those in other states. Significant changes clarify the procedures for making or revoking an anatomical gift, including the role of relatives in those decisions; allow minors to make or refuse to make anatomical gifts, with certain limitations; and spell out the procedure for determining what organizations may receive an anatomical gift if a donee is not designated.

SB 553 Increases the incentives offered to physicians who practice in certain designated rural or medically underserved areas of Montana, including increasing from \$45,000 to \$100,000 the amount a physician may receive as an educational debt payment from the Board of Regents

Approved by the Legislature; Vetoed by the Governor

- **HB 536**, which would have established a system for tracking the distribution of prescription drugs from the manufacturer to the retail outlet, to ensure that counterfeit drugs don't enter the retail market.

MENTAL HEALTH

SB 382 Gives state district courts the authority to establish mental health treatment courts, in order to provide incentives and sanctions for a person with a mental disorder who has been convicted of a crime, so the person may receive treatment that will prevent further criminal behavior associated with a mental disorder

SB 478 Establishes a suicide prevention program in DPHHS that includes a suicide prevention officer, a suicide hotline, and the development of a plan to reduce suicide in Montana

HJ 19 Urges the Legislature, the Attorney General or the Governor to seek an exemption from the privacy provisions of the Health Insurance Portability and Accountability Act (HIPAA) if they find that provisions of state law that may affect persons with chronic or mental illness may be contrary to HIPAA but worthy of an exception to the provisions of the federal law

Approved by the Legislature; Vetoed by the Governor

- **HB 727**, which would have given DPHHS the authority to disregard up to the first \$1,000 in monthly earned income when determining eligibility for the Mental Health Services Plan

PUBLIC HEALTH

- HB 92** Generally revises and updates existing public health laws to reflect current public-health issues and practices and to encourage greater collaboration among public-health agencies, particularly in cases of health emergencies that cross jurisdictional lines (DPHHS bill)
- HB 743** Allows the use of up to \$2.7 million of tobacco settlement funds in each year of the biennium to fund chronic disease programs
- SB 505** Renews the cervical cancer task force, specifically to review information on the human papilloma virus (HPV) and the HPV vaccine, to identify strategies and recommendations for public education involving HPV and the use of the HPV vaccine. Requires a report to the CFHHS Interim Committee by Aug. 1, 2008.

SENIOR AND LONG-TERM CARE

- HB 156** Revises long-term care insurance laws and incorporates additional standards for long-term care insurance contracts.
- HB 378** Changes the composition of the Board of Nursing Home Administrators from five members, two of whom *may* be nursing home administrators, to six members, three of whom *must* be nursing home administrators
- SB 155** Creates the Older Montana Trust Fund to pay for new, innovative services or the expansion of existing services for Montanans who are 60 years of age or older, to allow older Montanans to live in the least restrictive setting. The trust fund will be established using money from the tobacco tax that is set aside for, but not spent on, Big Sky Rx, a prescription drug program for Medicare patients. (DPHHS bill)
- SB 206** Authorizes DPHHS to study the feasibility of increasing Medicaid payments to employers of personal care attendants and other direct-care employees, to pay for the costs of providing employer-sponsored health insurance and, to the extent funds are available, to establish a pilot program to test the effect of doing so

SOCIAL SERVICES

Developmental Disabilities

- HB 64** Revises the definition of "seriously developmentally disabled" for the purposes of commitment to a community-based residential care facility to eliminate the requirement that an individual have a disability so severe that "total care" is required. (DPHHS bill)
- HB 154** Gives district courts the option of ordering a person with serious developmental disabilities to receive treatment in a community setting, if an opening exists, rather than in a more restrictive residential facility (DPHHS bill)

HB 195 Allows school districts to continue to enroll a person with developmental disabilities if the person has graduated from high school but is not yet 19 years of age; appropriates state funds to pay the costs for enrolling those students; and clarifies that a person eligible for DD services may also receive Medicaid services, if eligible

HB 414 Allows a district court to seal records regarding the involuntary commitment of developmentally disabled persons (DPHHS bill)

Public Assistance

HB 41 Eliminates restrictions on the state's use of the principal in the Energy Conservation and Energy Assistance Account, which supports DPHHS's weatherization and Low-Income Energy Assistance (LIEAP) programs (DPHHS bill)

HB 782 Makes DPHHS responsible for repaying any overpayment of Food Stamp benefits if a recipient has notified the department of a likely error in payment