



Children, Families, Health, and Human Services Interim Committee

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65th Montana Legislature

SENATE MEMBERS

MARY CAFERRO
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ALBERT OLSZEWSKI
DIANE SANDS

HOUSE MEMBERS

KATHY KELKER
JON KNOKEY
DENNIS LENZ
GORDON PIERSON

COMMITTEE STAFF

SUE O'CONNELL, Lead Staff
ALEXIS SANDRU, Staff Attorney
FONG HOM, Secretary

MINUTES LOG

March 23, 2018
Room 102, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken. The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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Please contact the Legislative Services Division at 406-444-3064 for more information.

COMMITTEE MEMBERS PRESENT

SEN. MARY CAFERRO
SEN. FREDERICK (ERIC) MOORE
SEN. ALBERT OLSZEWSKI

REP. KATHY KELKER
REP. JON KNOKEY
REP. DENNIS LENZ
REP. GORDON PIERSON

COMMITTEE MEMBERS EXCUSED

SEN. DIANE SANDS

STAFF PRESENT

SUE O'CONNELL, Lead Staff
JULIE JOHNSON, Staff Attorney
FONG HOM, Secretary

VISITORS' LIST (Attachment 1)

AGENDA (Attachment 2)

RECONVENE/ROLL CALL

00:00:04 Sen. Caferro called the meeting to order at 8:04 a.m. The secretary called roll.
Sen. Sands was excused. (Attachment 3)

WORK SESSION: HJR 24 STUDY

Committee discussion on additional research and ideas for potential legislation

00:01:30 Rep. Kelker said that the committee has received a list of recommendations from the providers that should be implemented, and she would like to make sure that the committee continues to receive information on that.

00:02:30 Sen. Moore said that he would like an update on the discussions between the Department of Public Health and Human Services and the providers.

00:02:48 Sen. Caferro said the committee should consider what it has heard and ask staff to prepare potential draft legislation or provide more research on specific topics.

00:05:46 Rep. Kelker said that she is interested in following up on the crisis team issue.

00:07:32 Sen. Caferro referred the committee to the briefing paper, "HJR 24 Study: Summary of Provider Proposals for System Change" (Exhibit 14), and the four proposals that the Montana Association of Community Disability Services had suggested. (See Exhibit 12 of the March 22, 2018 meeting)

00:10:52 Rep. Kelker said she would like to look at provider rate tiers and at assessment tools other than the Montana Resource Allocation Protocol (MONA).

00:11:33 Sen. Olszewski said he would like to make funding easier to access.

00:16:39 Sen. Caferro discussed the cost plan and not being able to access money because of the formula. She said that Ms. O'Connell had done research regarding rate structures in many states and that most states had moved to a daily rate and some states had a monthly or semi-monthly rate for certain services. Sen. Caferro would like staff to look at the system of funding and find a way to ensure that the money actually goes for the intended services.

HJR 20: HEALTH CARE PRICE TRANSPARENCY

Recommendations of the HJR 20 Subcommittee

00:22:40 Rep. Kelker summarized the activities of the subcommittee working on the HJR 20 study of health care price transparency. The subcommittee completed its work on March 21, and Rep. Kelker provided the recommendations from the subcommittee to the full committee. (Exhibit 15)

00:47:05 Sen. Olszewski, a subcommittee member, said that he is reassured that the private sector providers are collaborating and coordinating among themselves and creating good products to help not only with cost transparency but also patient care collaboration.

Public Comment on the HJR 20 Study

00:50:55 Jennifer Hensley, PacificSource Health Plans
00:54:42 Jean Branscum, Montana Medical Association

AGENCY OVERSIGHT: MEDICAID EXPANSION

Federal Activity Related to the Medicaid Program

Sue O'Connell, Committee Researcher
Kathleen Nolan, Managing Principal, Health Management Associates (*by phone*)

00:58:35 Ms. O'Connell referred the committee to the following documents: Work Requirements and Other Federal Changes (**Exhibit 16**), Medicaid Expansion Member Profile (**Exhibit 17**), HELP enrollment by zip code (**Exhibit 18**), and Montana County to Legislative District Index (**Exhibit 19**).
01:03:09 Ms. Nolan (**Exhibit 20**)

Committee Questions

01:23:34 Rep. Kelker asked Ms. Nolan if changes in Medicaid at the federal level include services for mental health.
01:24:33 Sen. Caferro asked Ms. Nolan if there was a policy on required work activities or community engagement, if a cost-benefit analysis was done regarding setting up the IT infrastructure, and if federal money is available for the IT costs.
01:29:33 Sen. Caferro said she was curious about "sanctioning" as used in the Temporary Assistance for Needy Families (TANF) program, that if an individual does not comply then they are removed from the Medicaid program. She asked Ms. Nolan if there has been any discussion about the impact of removing someone from Medicaid for failure to work and the financial burden that it puts on the providers.
01:31:35 Sen. Olszewski asked Ms. Nolan to address the program integrity issue and the report card issue.

Panel Discussion: Provider Experiences with Medicaid Expansion

Bob Olsen, Senior Vice President, Montana Hospital Association
Pamela Robertson, Chief Executive Officer, Kalispell Regional Healthcare (*by phone*)
Randy Holom, Chief Executive Officer, Frances Mahon Deaconess Hospital, Glasgow
Mary Windecker, Western Montana Mental Health Center

01:35:09 Bob Olsen (**Exhibit 21**)
01:47:48 Randy Holom
02:00:41 Pamela Robertson (*by phone*)
02:07:00 Mary Windecker

Committee Question of the Panelists

02:09:44 Sen. Moore asked Mr. Olsen about emergency room utilization by expansion enrollees.
02:12:55 Sen. Moore noted data showing Medicaid expansion has brought \$902 million into Montana. He asked Mr. Olsen if he knew where that money went.
02:15:59 Rep. Pierson asked Mr. Holom if convenient care or urgent care is considered

- primary care or an emergency room care.
- 02:17:35 Sen. Olszewski asked Ms. Robertson to address the strategy of Kalispell Regional Healthcare as it relates to the pediatric needs in the state and how Medicaid expansion fits into that.
- 02:20:07 Sen. Olszewski asked Mr. Holom about the costs of an air ambulance flight from Glasgow to Billings.
- 02:21:36 Sen. Olszewski asked the panelists about the unexpected tilt in the payer mix following expansion of Medicaid.
- 02:22:35 Mr. Olsen
- 02:23:24 Mr. Holom
- 02:24:34 Ms. Windecker
- 02:25:24 Ms. Robertson
- 02:25:50 Rep. Kelker asked Ms. Windecker about Medicaid expansion's effect on mental health and substance abuse coverage.
- 02:36:32 Sen. Moore asked Mr. Olsen about the expansion enrollment and if the state is nearing a saturation point in enrollees.
- 02:38:45 Sen. Caferro commented on a presentation that she heard from Bryce Ward on the economic impact of Medicaid expansion in Montana. She suggested inviting Mr. Ward to the next meeting.

Expansion Enrollee Experiences

Melissa Smylie, Great Falls
Patti Parker, Helena

- 02:45:22 Melissa Smylie (**Exhibit 22**)
- 02:58:43 Patti Parker

Committee Questions

- 03:04:00 Rep. Kelker asked Ms. Smylie to explain how obtaining a part-time job resulted in losing her health insurance.
- 03:05:02 Rep. Knokey asked the panelists what they think a working requirement for Medicaid expansion should look like.
- 03:06:12 Ms. Smylie
- 03:08:09 Ms. Parker
- 03:11:53 Sen. Caferro asked whether HELP-Link, Montana's voluntary workforce development program, should be mandatory or voluntary.
- 03:12:56 Ms. Smylie

Public Comment on Medicaid Expansion

- 03:15:15 Matt Kuntz, Executive Director, NAMI Montana
- 03:19:11 Stacey Anderson, Montana Primary Care Association

Public Comment on Any Non-Agenda Topic Within the Committee's Jurisdiction

- 03:21:30 Gale Everson, retired Lutheran minister, commented on child protective services and the turnover of case workers.
- 03:26:00 Raye Newmeyer commented about the Child and Family Services Division keeping children in the home and providing in-home services that would help the family rehabilitate more quickly.

- 03:27:06 Keith Newmeyer commented that Montana has the highest rate of children removed from homes in the country.
- 03:30:20 Rep. Mary Ann Dunwell commented on the impact of the DPHHS budget cuts on her constituents.
- 03:39:44 Rose Hughes, Executive Director, Montana Health Care Association, gave an update on the Medicaid Provider Rate Cuts. [\(Exhibit 23\)](#)
- 03:44:22 Strausie Hart commented on the general situation in the United States.
- 03:47:14 Matt Kuntz, Executive Director, NAMI Montana, commented on the DPHHS budget cuts.
- 03:50:00 Beth Brennenman, Disability Rights Montana, commented on the DPHHS budget cuts and urged the committee to consider objecting to the proposed rules on mental health and substance abuse treatment.
- 03:54:01 Nick Hart, Alzheimer's Association, commented on the diagnosis and treatment of dementia. He distributed written testimony from Dr. Lottie Eaton, Alzheimer's Association Montana Board of Directors [\(Exhibit 24\)](#), and written testimony from Marsha Goetting, a member of Montana Alzheimer's Disease and Related Dementias Work Group [\(Exhibit 25\)](#).

LUNCH (reconvened at 12:45 a.m.)

AGENCY OVERSIGHT: CHILD PROTECTIVE SERVICES

Child Protective Services in Other States - Sue O'Connell

- 04:46:20 Ms. O'Connell referenced two documents from the National Conference of State Legislatures related to privatization in child welfare services [\(Exhibit 26\)](#) and how other states structure their child protective services [\(Exhibit 27\)](#).

Department of Public Health and Human Services Initiatives - Laura Smith, DPHHS Deputy Director

- 04:47:12 Ms. Smith provided an update on:
- the First Years Initiative;
 - the Child and Family Services Division's Extension for Community Healthcare Outcomes (ECHO) project [\(Exhibit 28\)](#);
 - the RFP for community partners to provide an addiction recovery team to identify and coordinate treatment and recovery needs of a family member with substance use disorders; and
 - the Protect Montana Kids Commission bills: House Bill 303 and Senate Bill 113.

Court Diversion Pilot Project - Beth McLaughlin, Court Administrator

- 04:59:08 Ms. McLaughlin gave a presentation on the Child Abuse Diversion Pilot Project. [\(Exhibit 29\)](#)
- 05:07:50 Ms. McLaughlin gave a presentation on the 2017 Youth Court report card. [\(Exhibit 30\)](#)

Public Comment Related to Child Protective Services

- 05:14:18 Keith Newmeyer commented on the record number of kids removed from their homes in Montana.

COMMITTEE WORK SESSION

Discussion and Direction on the HJR 20 Study

05:18:08 Rep. Kelker discussed the next steps for the HJR 20 Study. She said that the Children and Families Committee should accept the HJR 20 Subcommittee's report and make it part of the record and also should vote on the recommendations.

Motion

05:19:15 Rep. Kelker moved that the committee accept the subcommittee report.

Vote

05:19:43 The motion passed unanimously on a voice vote with Sen. Sands and Rep. Pierson voting aye by proxy.

Motion

05:20:01 Rep. Kelker moved that the committee adopt the six recommendations as outlined in the HJR 20 Subcommittee's report.

Discussion

05:20:22 Sen. Caferro said she would like to segregate recommendation #6 from the motion.

05:20:41 Ms. O'Connell asked for clarification on the direction for recommendation #3.

05:21:38 Rep. Kelker said that recommendation #6 involved an issue that was outside of the subcommittee's purview but that received a lot of discussion during subcommittee meetings.

Vote

05:22:32 The motion to accept recommendations 1 through 5 passed unanimously on a voice vote, with Rep Pierson and Sen. Sands voting aye by proxy.

Motion to Adopt Recommendation 6

05:23:33 Sen. Olszewski moved to adopt recommendation #6.

Discussion

05:23:42 Sen. Olszewski said a need exists to address the recommendation because prescription drug prices are increasing and getting information is important.

05:24:19 Sen. Caferro said that she segregated recommendation #6 because the committee had decided not to go forward with the study on prescription drug pricing. She noted that the State Auditor Office is working on that issue and has the option of drafting agency bills.

Roll Call Vote

05:26:20 The motion failed on a tie vote with Sen. Caferro, Sen. Sands, Rep. Kelker, and Rep. Pierson voting no, and Sen. Moore, Sen. Olszewski, Rep. Knokey, and Rep. Lenz voting yes. Sen. Sands and Rep. Pierson voted by proxy.
(Attachment 4)

AGENCY OVERSIGHT: MONTANA MEDICAL MARIJUANA ACT

Revenue and Transportation Interim Committee Request

- 05:28:25 Rep. Tom Jacobson, presiding officer of the Revenue and Transportation Interim Committee (RTIC), explained why RTIC wanted the Children, Families, Health, and Human Services Interim Committee to object to the implementation of administrative rules that DPHHS adopted for the medical marijuana program.
- 05:36:02 Erica Johnston, Manager, DPHHS Operations Services Branch ([Exhibit 31](#))

Committee Options - Julie Johnson, Legal Staff

- 05:39:09 Julie Johnson ([Exhibit 32](#))
- 05:41:57 Ms. Johnston of DPHHS referred the committee to Director Hogan's letter ([Exhibit 31](#)) and discussed the emergency rule process pursuant to 2-4-303, MCA.

Committee Questions

- 05:45:50 Rep. Kelker asked Rep. Jacobson about the emergency rules that DPHHS discussed.
- 05:46:55 Sen. Olszewski asked Ms. Johnson whether a formal objection would change the onus of who would pay for litigation. He also asked if the committee could file an objection at a later meeting because the deadline for the objection is not time limited.
- 05:48:29 Sen. Caferro asked Ms. Johnston about her statement that tying the canopy, or square footage for marijuana production, to a patient would control overproduction.
- 05:51:07 Sen. Caferro said that the rules do not comply with the legislative intent of Senate Bill 333 because the bill did not tie the canopy allotment to the number of patients. She also said the seed-to-sale tracking system was intended to prevent overproduction. She asked Ms. Johnston to comment on the issue of phasing in licensing.
- 05:56:37 Sen. Caferro asked Ms. Johnston when the seed-to-sale system would be implemented.
- 05:57:40 Sen. Caferro asked why someone who is not yet due for licensing register with the seed-to-sale tracking system.
- 05:59:24 Sen. Caferro stated the way Senate Bill 333 was implemented was disappointing and that, as the bill's sponsor, she would have liked to have been involved in the process.
- 06:00:38 Sen. Caferro said that she understands the role of public comment in the administrative rules process and appreciates the department's hard work, but she would like to see a delay in implementing the program.
- 06:01:06 Sen. Moore asked Ms. Johnston about the timeline for any changes to the rules.
- 06:02:59 Rep. Kelker asked Ms. Johnston why the department would not want to have all of the growers registered in the seed-to-sale tracking system at the start of the process.
- 06:06:25 Sen. Caferro asked Ms. Johnston to provide the amount of money in the state special revenue account for the medical marijuana program.

Public Comment on the RTIC Request

06:07:35 Rhonda Wiggers, Montana Labs ([Exhibit 33](#))
06:14:07 Kate Cholewa, Montana Cannabis Information Association ([Exhibit 34](#))
06:22:39 Bob Devine, provider, commented on the tiered system.
06:28:48 Barbara Turner, Libby, commented on canopy space and renewal dates.

AGENCY OVERSIGHT: DIRECTOR'S UPDATE - Sheila Hogan, DPHHS Director

06:33:05 Director Hogan reported on the following activities of the Department:
06:34:07 Targeted Case Management for the Developmental Disabilities Program
06:35:32 Adult Mental Health and Substance Use Disorder Manual
06:37:27 Medicaid Expansion
06:38:17 Montana Developmental Center
06:38:50 Implementation of Legislation Involving Naloxone
06:40:51 Montana Native Youth Suicide Reduction Strategic Plan ([Exhibit 35](#))
06:43:36 HB 118 Suicide Prevention Grant Awards ([Exhibit 36](#))
06:43:45 Tribal Health Improvement Program

Committee Questions of Director Hogan

06:45:57 Rep. Kelker asked if the behavioral health manual would be changed to match the amount of money that is being taken out of those programs.
06:47:00 Rep. Kelker said that the final manual will dictate the models that will be used in the addiction programs under lower funding. Rep. Kelker said that she doesn't want people to think that the cuts will be eliminated if the committee objects to the rule.
06:48:51 Rep. Knokey and Director Hogan discussed the 17-7-140, MCA, budget cuts and the objection that the committee made regarding provider rate cuts.
06:57:14 Marie Mathews, Medicaid and Health Services Branch Manager, responded to Rep. Knokey's question regarding whether the 2.99% provider rate cut will add up to more than the \$3.5 million in savings required under Senate Bill 261.
06:58:26 Rep. Kelker said that the documents that Director Hogan was referring to do not give specifics about the cuts that were finalized in the special session. She had asked questions in September that had to do with what happened in the 65th Session.
06:59:20 Rep. Knokey asked Ms. Matthews if the department or the executive branch will support a supplemental appropriation now that revenues have risen.
07:00:17 Director Hogan said the question would best be directed to the governor or the budget director.
07:00:36 Rep. Knokey asked Ms. Matthews if changing the rules halfway through the process created business problems for providers.
07:03:24 Sen. Moore asked for an update on the trends for child protective services caseloads and the status of the search for a new Child and Family Services Division administrator.
07:04:28 Laura Smith, DPHHS deputy director
07:04:39 Sen. Caferro asked Director Hogan about the changes to the 0208 Waiver and Sen. Caferro's earlier request for the list of cuts.
07:05:36 Sen. Caferro asked Director Hogan about the 2.99% Medicaid provider rate cut and the dollar amount of the reduction that is called for in Senate Bill 261.

- 07:07:51 Sen. Caferro asked whether the department has requested the Medicaid contingency money that was appropriated in House Bill 2.
- 07:08:25 Erica Johnston, DPHHS Operations Services Branch Manager, responded that they have not yet accessed the money but expect to do so.
- 07:09:00 Sen. Caferro asked how that funding fits in with the supplemental appropriation the department is planning.
- 07:09:02 Ms. Johnston

BREAK (reconvened at 3:25 p.m.)

COMMITTEE WORK SESSION

- 07:22:12 Ms. O'Connell referred the committee to the document "Senate bill 261 and 17-7-440 cuts explainer" that Director Hogan had provided to Rep. Kelker.
(Exhibit 37)

HJR 24 Study: DD Adult Services

- 07:22:36 The committee asked staff to provide more information or draft legislation on the following items for the HJR 24 study: crisis services; the 90-day exit policy and federal requirements; direct care worker wages; assessment instruments; and flexibility in the use of funds for services.
- 07:30:07 Ms. O'Connell said that she would talk with the department and the Legislative Fiscal Division about the appropriations process for the DD Program.
- 07:35:50 Rep. Lenz asked about the MONA assessment tool.
- 07:37:00 Rep. Kelker said there were questions about transportation and how people got out into the community and the strict rules on using transportation.
- 07:38:12 Rep. Knokey asked if the committee could send a letter asking the department to explain why the 2.99% provider rate cut would be kept at that level in the next fiscal year. Rep. Knokey said that if the cut is spread out over 12 months rather than 6 months as it was this fiscal year, it should go from 2.99% down to 1.495%.
- 07:39:01 Sen. Caferro said that she has been asking for a chart that shows all of the cuts, the dollar amount, and the percent per program. Sen. Moore suggested requesting that information from the Legislative Fiscal Division, as well.

Medicaid Expansion Activities

- 07:43:46 Sen. Caferro asked that Bryce Ward of the University of Montana Bureau of Business and Economic Research be scheduled to discuss Medicaid expansion at the next meeting.

Revenue and Transportation Interim Committee Request

- 07:44:30 Sen. Moore said he supports option #2 in Julie Johnson's memo, directing staff to draft a formal objection letter for consideration at the May meeting. He said the committee will know by then whether the revised or emergency rules address the concerns brought by RTIC and some of the providers.

Agency Oversight Activities

- 07:45:22 Rep. Kelker suggested making a list of ideas for Medicaid expansion.

Other Health or Human Services Activities

- 07:46:00 Rep. Kelker said that she would like to know when the Child Abuse and Neglect Review Commission will be meeting.
- 07:46:35 Rep. Kelker asked why the committee received the information on how other states have organized their health and human services agencies.
- 07:46:56 Sen. Moore said that he requested it.

May Meeting Location and Topics

- 07:47:06 The committee discussed whether the May meeting will be a 2-day meeting and where the committee wanted to hold the meeting. Rep. Kelker said she doesn't think that it is necessary to travel outside of Helena because the tours the committee took on March 22 provided good information for the HJR 24 Study.
- 07:48:10 Sen. Caferro thanked Westmont for the tour. Sen. Moore commented that he learns more when they are outside the Capitol building than inside it. Rep. Kelker said that it is impressive how much work Westmont has done to make life healthy and happy for the people they are serving.

ADJOURNMENT

- 07:49:34 With no further business before the committee, Sen. Caferro adjourned the meeting at 3:53 p.m.

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