



Children, Families, Health, and Human Services Interim Committee

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61st Montana Legislature

SENATE MEMBERS

RICK LAIBLE--Vice Chair
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CHRISTINE KAUFMANN
TRUDI SCHMIDT

HOUSE MEMBERS

DIANE SANDS--Chair
MARY CAFERRO
GARY MACLAREN
PENNY MORGAN

COMMITTEE STAFF

SUE O'CONNELL, Research Analyst
LISA JACKSON, Staff Attorney
FONG HOM, Secretary

MINUTES

September 21, 2009

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

REP. DIANE SANDS, Chair
SEN. RICK LAIBLE, Vice Chair

SEN. ROY BROWN
SEN. TRUDI SCHMIDT

REP. MARY CAFERRO

COMMITTEE MEMBERS EXCUSED

SEN. CHRISTINE KAUFMANN
REP. GARY MACLAREN
REP. PENNY MORGAN

STAFF PRESENT

SUE O'CONNELL, Research Analyst
LISA JACKSON, Staff Attorney
FONG HOM, Secretary

Visitors and Agenda

Visitors' list, Attachment 1
Agenda, Attachment 2

COMMITTEE ACTION

- The committee decided to send a letter to the Congressional Delegation asking them to revisit the issues of Relative Value Unit calculations for primary care and to support funding for community health centers.
- The committee requested that staff look at the language in the commitment statutes for people with developmental disabilities, Title 53, chapter 20.

CALL TO ORDER AND ROLL CALL

00:00:01 Rep. Sands called the meeting to order at 8:05 a.m. The committee secretary visually noted the roll. Sen. Kaufmann and Rep. MacLaren were excused. The written minutes of the June 2, 2009 meeting were unanimously approved and adopted.

AGENDA

SJR 35: HEALTH CARE STUDY

WHO HAS INSURANCE AND WHAT KIND?

Sue O'Connell, Lead Researcher, Legislative Services Division
Mary Dalton, Department of Public Health and Human Services
Jill Sark, State Auditor's Office
Carol Roy, State Auditor's Office

00:03:10 Sue O'Connell gave an overview of the number of Montanans who are insured and uninsured, as well as the number who are insured by public programs **(Exhibit 1)**.

Questions

Sen. Laible asked how many uninsured Montanans would be eligible for Medicaid and what percentage are illegal immigrants? Ms. O'Connell said that Mary Dalton of DPHHS would be able to talk about the Medicaid expansion and that the Census Bureau data may not include information on nationality.

00:13:43 **Medicaid/CHIP/Healthy Montana Kids - Mary Dalton, Medicaid and Health Services Branch Manager, Department of Public Health and Human Services**
Ms. Dalton distributed and discussed the 2009 Income Eligibility Guidelines **(Exhibit 2)** for public insurance programs, Medicaid Enrollment by Eligibility Category **(Exhibit 3)**, and Healthy Montana Kids **(Exhibit 4)**. She also discussed the number of people who may be eligible for Medicaid if federal proposals to expand the Medicaid program are approved.

00:40:52 **Insure Montana Program - Jill Sark, Director, Insure Montana Program,**

State Auditor's Office

Ms. Sark gave a presentation on the Insure Montana Program (**Exhibit 5**).

00:56:19 **Montana Comprehensive Health Association Insurance Plans - Carol Roy, Chief of Market Compliance Insurance Department, State Auditor's Office**
Ms. Roy spoke on the Montana Comprehensive Health Association (MCHA) and presented the Annual Report of the Montana Comprehensive Health Association (**Exhibit 6**).

Questions for the Presenters

01:00:08 Sen. Schmidt asked Ms. Dalton about the status of CHIP funding.

01:04:14 Sen. Brown wanted clarification on the number of people on Medicaid. Ms. Dalton said that the chart she gave the committee is a point in time and shows how many people are on Medicaid in a month. They estimate that in 2014, for instance, there will be 122,000 people on Medicaid at some point in time.

01:10:46 Sen. Laible asked about the co-payments in the Healthy Montana Kids plan.

Sen. Laible asked Ms. Sark whether Insure Montana would still be needed if every business will be required to provide health insurance under federal reform.

01:19:05 Rep. Caferro asked Ms. Sark to explain the eligibility requirements for Insure Montana.

Rep. Caferro asked Ms. Dalton if there was any strategy in place for Healthy Montana Kids plan as CHIP becomes full because CHIP is not an entitlement program.

PRIMARY CARE: ISSUES IN MONTANA

Sue O'Connell, Lead Researcher, LSD
Kristin Juliar, Office of Rural Health Policy, Montana State University
Dr. Jay Larson, Helena physician
Dr. Kurt Kubicka, Helena physician/Montana Medical Association
Mary Beth Frideres, Montana Primary Care Association
Dick Brown, Montana Hospital Association

01:24:16 Ms. O'Connell gave a brief synopsis on her document "Primary Care Issues and Health Care Reform" (**Exhibit 7**).

Kristin Juliar, Director, Montana Office of Rural Health; Chair of the Montana Health Care Workforce Advisory Committee

01:25:37 Ms. Juliar distributed and discussed a report written by Saul M.J. Rivard, entitled "Montana's Primary Care Workforce" (**Exhibit 8**).

Dr. Jay Larson, Primary Care Physicians

01:36:59 Dr. Larson discussed factors contributing to the decline in primary care (**Exhibit 9**).

Dr. Kurt Kubicka, Montana Medical Association

01:45:47 Dr. Kubicka spoke on the declining numbers of primary care physicians in Helena and on the Medicare reimbursement system that uses the Resource-Based Relative Value Scale (RBRVS) and Relative Value Units (RVU), to determine payment for each task performed by physicians.

Mary Beth Frideres, Montana Primary Care Association

01:52:22 Ms. Frideres spoke on community health centers and health care reform (**Exhibit 10**) and what Montana needs to do to insure that Montana has primary care providers to serve the newly insured.

Dick Brown, President of the Montana Hospital Association and Association of Montana Health Care Providers

02:09:10 Mr. Brown gave a presentation on recruitment and retention issues for allied health professionals, how health care impacts the economy of Montana, and the workforce challenges facing health care providers (**Exhibit 11**).

Questions

02:21:34 Sen. Schmidt asked what the Legislature can do to change the RVU issue. Dr. Kubicka said to lobby the Congressional Delegation and impress upon them that RVU valuations need to be changed.

Dr. Larson agreed with Dr. Kubicka because private insurers also base their payment rates on Medicare rates.

02:25:10 Sen. Laible asked Dr. Kubicka and Dr. Larson if there is a need for tort reform. Dr. Larson said that the best defensive medicine is to spend longer times with patients to explain things and to develop a better relationship. Dr. Kubicka said that MMA supports tort reform.

Sen. Laible asked Ms. Frideres if community health centers have an asset test for people. Ms. Frideres said that community health centers are required to perform means testing for their patients. The patient will be billed at full fee until they provide proof of income.

Sen. Laible asked if there was a co-pay formula that they go by based on the means testing. Ms. Frideres said that community health centers are required to establish a sliding fee scale.

Sen. Laible said that on a national level there is a move to have small health clinics within retail stores. He would be interested in the presenters' take on where this will go in the future. Ms. Frideres said that that is called convenience care and is different from comprehensive primary care.

02:35:25 Rep. Caferro asked Dr. Kubicka to explain what he meant when he said the tort

system at the state level was positive. Dr. Kubicka said Montana laws are better than other states and pointed to the \$250,000 cap on non-economic damages and the Montana Medical Legal Panel, which functions as a screening panel.

02:40:43 Sen. Schmidt discussed an article in the Great Falls Tribune on medical malpractice reform, the costs of increasing state support for medical education programs, and whether the committee should consider sending a letter to the Congressional Delegation about Medicare rates.

- Break -

COMMENT ON FEDERAL HEALTH CARE REFORM PROPOSALS - Monica Lindeen, State Auditor

02:56:38 Ms. Lindeen discussed her views on the importance of federal health care reform.

MONTANA HEALTHCARE FORUM (Exhibit 12)

Mark Burzynski, Blue Cross Blue Shield

Claudia Clifford, AARP Montana

Mary Beth Frideres, Montana Primary Care Association

Erin McGowan Fincham, American Cancer Society/Cancer Action Network

03:28:13 **Mark Burzynski** gave a brief history of the Montana HealthCare Forum.

03:32:56 **Mary Beth Frideres** talked about the five strategic directions that Forum members want to move in: expanding access to affordable coverage; improving the quality of care; building and supporting Montana's healthcare workforce; improving the health of Montana's population; and managing healthcare costs.

03:35:31 **Claudia Clifford** gave an update on the legislative recommendations and outcome that were made by the HealthCare Forum during the 2009 Session **(Exhibit 13)**.

03:40:34 **Erin McGowan Fincham** distributed the review that the Government Relations Director of American Cancer Society/Cancer Action Network (ACS CAN) did on 19 consumer and patient advocacy organizations regarding health care reform **(Exhibit 14)**.

Questions

03:48:38 Sen. Laible asked Ms. Clifford about AARP's views on the federal reform proposals. Ms. Clifford talked about the focus of their advocacy to preserve the benefits and the access to care for the AARP members.

- Lunch Break -

ADMINISTRATIVE RULE REVIEW - Lisa Mecklenberg Jackson, Committee Attorney, LSD

04:58:05 Ms. Jackson discussed DPHHS Administrative Rule activity **(Exhibit 15)**.

Questions

05:06:38 Rep. Caferro asked Ms. Dalton how the presumptive eligibility requirement in the Healthy Montana Kids Act was addressed. Ms. Dalton said that the presumptive eligibility concern will be addressed through the Department administrative rules in 2010.

Ms. Dalton was asked to comment on Mr. Morrison's waiting list concept. She said that the waiting list is not something that will happen in this first year.

05:10:09 Ms. Jackson said that part of the confusion with the rules may have been because there is no definition within the rules or in the initiative for the term "active enrollment". She spoke with the counsel at DPHHS who agreed that that was a relevant point and they will be providing a definition.

OVERVIEW OF FEDERAL HEALTH CARE REFORM BILLS - Sue O'Connell, Research Analyst, LSD

05:14:09 Sue O'Connell gave a brief overview on the federal health care reform proposals (**Exhibit 16**). Ms. O'Connell distributed a document on 13 Ways the Baucus Health Care Reform Plan Affects States (**Exhibit 17**) for the committee's review. Ms. O'Connell also discussed the document "Comparisons of Selected Elements of the Reform Proposals" (**Exhibit 18**).

Public Comment

05:23:11 **Dick Brown, President of the Association of Montana Health Care Providers**, presented MHA's comments (**Exhibit 19**) on health care reform.

05:34:34 **Erin MacLean, Montana Medical Association**, discussed the findings of a survey that was sent to the members of the Montana Medical Association (**Exhibit 20**) asking them what they thought about health care reform.

05:41:31 **Amy Grmoljez, Billings Clinic**, said that the Clinic is very supportive of the health care reform that is taking place at the federal level.

05:49:49 **Barbara Schneeman, Riverstone Health and Association of Montana Public Health Officials**, commented that our health system is focused on treating people after they become sick instead of keeping them healthy in the first place. Prevention is the foundation of getting better help and building a strong public health system at the federal, state and local level and is a critical component of any health care reform.

05:59:12 **Lora Wier, American Public Health Association**, discussed HB 173. She wanted to make clear that community health centers and public health are basically two different parts of health care. She provided a document (**Exhibit 21**) from the American Public Health Association that compares health reform in three committees: the Senate Health Education Labor and Pensions Committee, the House Tri-Committee, and the Senate Committee on Finance.

06:02:10 **Anita Roessmann, Disability Rights Montana**, commented on an issue that

was brought to the committee's attention regarding possible revision of Title 53, chapter 20, part 1, relating to the involuntary commitment of developmentally disabled individuals. Disability Rights Montana urges the Committee to consider scrutinizing those statutes more closely.

- Break -

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES UPDATE

06:31:01 **Mary Dalton, Medicaid and Health Services Branch Manager**, said that they will be bringing updates of the mental health bills, a bill regarding services to older Montanans, the medication aide study for long term care, Medicaid eligibility in nursing home study, and bill on Medicaid buy-in at the November meeting. She distributed a chart showing Medicaid enrollment from March 1995 through August 2009 (**Exhibit 22**).

06:36:12 **Laurie Lamson, Operation Services Branch Manager**, gave an update on the 2013 Biennium Budget Reduction - Work Plan (**Exhibit 23**).

Questions

06:47:07 Sen. Schmidt said that she has concerns with the child protective services, case workers, and children in foster care. She would like a report from the budget office on the status of the budget, as DPHHS continues to plan for possible reductions.

06:51:15 Rep. Caferro wanted clarification on why the Department has been charged to come up with a plan to reduce the budget by approximately \$20 million for consideration at the next legislative session.

07:11:24 **Laurie Lamson** said that in response to Sen. Brown's request from the last meeting, she left a copy of their budget for 2010-11 by line item as well as history from fiscal year 2007, 2008 and 2009 for the committee's information. She discussed the progress of the new Montana Medicaid Management Information System; RFPs have been sent out.

07:13:56 **Bonnie Adee, Children's Mental Health Bureau Chief**, gave a report (**Exhibit 24**) on:

- monitoring the number of children placed out-of-state
- reasons for Medicaid funded youth placed out-of-state
- cost of youth placed out-of-state
- efforts by the Children's Mental Health Bureau to avoid out-of-state placements

Questions

07:32:39 Sen. Laible asked Ms. Adee about the Department's definition of a wrap around system that relates to either psychiatric or therapeutic children and its plans for using System of Care funds.

07:37:00 Sen. Schmidt asked **Bob Peak, Youth Court**, and **Steve Gibson, Department of Corrections**, to discuss the differences between Medicaid and non-Medicaid

youth placed out of state.

Public Comment

- 07:41:08 **Erin MacLean, Montana Medical Association**, said that Dr. Kubicka is willing to help the committee work on the physician reimbursement issue.
- 07:42:33 **Anita Roessmann, Disability Rights Montana**, wanted to call the attention to the committee about a study that was done by the Montana Children's Initiative that looked at the most expensive children in the state. It would be good to see what came of that study.
- 07:46:14 **John Wilkinson, Executive Director, Montana Chapter for National Association of Social Workers**, talked about his experience as an executive director of a program in California that provided wrap around services to children.

COMMITTEE WORK SESSION ON SJR 35 HEALTH CARE STUDY

- 07:51:04 Sen. Schmidt said that Dr. Larson thought that we should let our Congressional Delegation know that there needs to be changes to CMS and it was related to RVUs and Medicare's formula for physician payments.

Sen. Liable said it was premature to involve ourselves in putting some effort into how we are going to relate to a federal health bill when details of the bill aren't known. We should also include in the letter the relaxing of federal laws that doesn't allow insurance companies to provide insurance coverage across state lines.

Sen. Brown said that one thing that the committee agreed on is the need to have more emphasis on community health centers.

Motion

- 08:01:18 Sen. Schmidt **moved** to send a letter to the Congressional Delegation regarding Medicare reimbursements and the RVUs calculation.

Discussion

Rep. Sands said that we could add our support for expansion of funding for community health centers as a way of increasing cost effective access in the state.

Motion

Sen. Brown **moved** to amend Sen. Schmidt's motion to include community health centers.

Discussion

Sen. Brown asked for clarification on RVUs. Ms. O'Connell said that RVUs stands for Relative Value Unit and is part of the calculation in setting Medicare rates which is then used by private insurers and Medicaid as they develop their own reimbursement rates. The primary care briefing paper, pages 2 and 3, provides more information.

Sen. Brown asked if the letter would then be focused strictly on primary care providers or recommending to our Congressional Delegation to change the RVUs for everyone.

Restatement of the motion is to send a letter from the CFHHS Interim Committee to the Congressional Delegation asking them to revisit the issue of the Relative Value Unit for primary care services and support for funding for community health centers. The motion passed with Sen. Kaufmann and Rep. MacLaren voting aye by proxy.

OTHER MATTERS

08:14:44 **Health Care Forum, November 18 and 19, 2009**

Members of the committee were invited.

08:14:49 **Court Ruling on Commitment Process of DD (Exhibit 25)**

Ms. Jackson explained why this is before the committee. It was suggested that the Legislature revisit the rewording that is contained in the commitment statutes for the developmentally disabled.

Motion

08:14:56

Sen. Schmidt **moved** to have staff look at the language in the commitment statute, Title 53, chapter 20, and report back to the committee. The motion passed with Sen. Brown voting nay and Sen. Kaufmann and Rep. MacLaren voting aye by proxy.

Adjournment

08:19:23

With no further business before the committee, Rep. Sands adjourned the meeting at 4:25 p.m.

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