



Children, Families, Health, and Human Services Interim Committee

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65th Montana Legislature

SENATE MEMBERS

MARY CAFERRO
FREDERICK (ERIC) MOORE
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

January 18, 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.

Access to an electronic copy of these minutes and the audio or video recording is provided from the Legislative Branch home page at <http://leg.mt.gov>. On the left-side menu of the home page, select Committees, then Interim. Once on the page for Interim Committees, scroll down to the appropriate committee. The written Minutes Log, along with the audio and video recordings, is listed by meeting date on the interim committee's web page. Each of the Exhibits is linked and can be viewed by clicking on the Exhibit of interest. All Exhibits are public information and may be printed.

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
SEN. DIANE SANDS

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

COMMITTEE MEMBERS EXCUSED

REP. JON KNOKEY

STAFF PRESENT

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

VISITORS' LIST ([Attachment 1](#))

AGENDA ([Attachment 2](#))

COMMITTEE ACTIONS

The committee heard presentations related to its House Joint Resolution 17 study of prescription drug prices, HJR 24 study of community services for adults with developmental disabilities, and review of Medicaid expansion. The committee also heard an update on the activities of the subcommittee working on the HJR 20 study of transparency in health care pricing; reviewed information on recent Department of Public Health and Human Services activity related to required spending reductions; and heard concerns from county attorneys about the department's decision not to provide information on child protective services cases as required by Senate Bill 229, approved by the 2017 Legislature.

The committee:

- voted to ask legislative leadership to request a formal attorney general's opinion on whether the requirements imposed by SB 229 regarding sharing of information are in conflict with federal laws, as stated by DPHHS;
- voted to send a letter to DPHHS asking that it reconsider its decision to terminate contracts with organizations that provide targeted case management services to developmentally disabled individuals and instead see if the providers would be willing to continue to offer the services at a reduced rate in light of the reductions DPHHS must make to its spending;
- voted to send a letter to DPHHS asking it to meet with organizations that provide services to developmentally disabled individuals to discuss potential changes to the provider rate reimbursement schedule for Medicaid waiver services;
- agreed to ask the State Auditor's Office to provide an update in June on the office's effort to review prescription drug prices and identify state action that could be taken to reduce prices; and
- discussed whether the committee budget would allow for an out-of-town meeting, possibly in May rather than March as discussed earlier in the interim.

CALL TO ORDER ROLL CALL

00:00:04 Sen. Mary Caferro called the meeting to order at 8:00 a.m. The secretary called roll. Rep. Jon Knokey was excused. ([Attachment 3](#))

AGENCY OVERSIGHT: MEDICAID EXPANSION

Overview of Expansion Law, Waivers, and Demographics - Sue O'Connell, Staff Researcher

00:01:20 Ms. O'Connell on Key Elements of SB 405. ([Exhibit 1](#))
00:07:53 Ms. O'Connell on Comparison of SB 405 and CMS Waivers. ([Exhibit 2](#))
00:11:25 Ms. O'Connell on Some Statistics to Date. ([Exhibit 3](#))
00:14:16 Ms. O'Connell on Enrollee Demographics. ([Exhibit 4](#))
00:16:00 Ms. O'Connell on Workforce Activities. ([Exhibit 5](#))

Committee Questions of Ms. O'Connell

00:18:27 Sen. Eric Moore asked about statistics showing disenrollment numbers.

Expansion Enrollment, Expenditures, and Savings - Erica Johnston, Operations Services Branch Manager, Department of Public Health and Human Services

00:21:40 Erica Johnston ([Exhibit 6](#))

Committee Questions of Ms. Johnston

- 00:25:30 Sen. Diane Sands asked for more data on the number of people who fit the profile that Ms. Johnston spoke about.
- 00:26:06 Rep. Kelker asked about the impact to elderly care due to the budget cuts. Ms. Johnston referred that question to Marie Matthews.
- 00:26:59 Marie Matthews, State Medicaid Director, said that the Department did not have enough data to say whether or not these individuals were in the nursing home prior to becoming eligible for Medicaid expansion.
- 00:28:04 Sen. Sands asked the Department to provide enrollment numbers by legislative district.
- 00:29:03 Sen. Caferro said that she heard an argument that some people apply for Medicaid just to access opioid drugs. She asked Ms. Johnston and Ms. Matthews to address that. Ms. Matthews referred that question to Dan Peterson.
- 00:30:10 Dan Peterson, Chief of the Allied Health Services Bureau, discussed the different strategies the department uses to detect and prevent opioid abuse by Medicaid recipients.
- 00:31:46 Sen. Sands asked Mr. Peterson about the limits on refilling opioid prescriptions.
- 00:34:33 Sen. Caferro asked Mr. Peterson if the standard of utilization review is applied to other drugs and whether any evidence shows that people in Montana are applying for Medicaid coverage as a way to get access to opioid drugs.
- 00:36:28 Sen. Moore asked Ms. Matthews whether the breakdown of health care costs by provider type under Medicaid expansion looks the same for the previously existing Medicaid population prior to expansion.

HELP-Link Implementation and Participation - Scott Eychner, Administrator, Workforce Services Division, Department of Labor and Industry

00:38:49 Scott Eychner

Participant Experiences

- 00:46:36 Amanda Childers, Thompson Falls, gave a presentation on her experience with HELP-Link.
- 00:47:20 Sen. Caferro asked Ms. Childers if the HELP coverage been beneficial to her.
- 00:49:23 Mr. Eychner introduced the next participant, Ruth McCafferty.
- 00:49:52 Video remarks by Ruth McCafferty, HELP-Link participant.

Committee Questions

- 00:51:52 Rep. Dennis Lenz asked Mr. Eychner if the top three of the five medically related.
- 00:52:22 Rep. Kathy Kelker asked about the number of women and men who are in HELP-Link and what is being done about getting short-term training for women trying to get a health care job.

Public Comment on Medicaid Expansion Program/Activities

00:55:33 Jean Branscum, Montana Medical Association

01:02:29 Jackie Mohler, President, Montana Association for Behavior Analysis ([Exhibit 7](#))
01:06:35 Matt Kuntz, Executive Director, NAMI-Montana
01:10:18 Mike Mahoney, Executive Director, Family Outreach

AGENCY OVERSIGHT: STAFF REPORTS

Administrative Rule Review - Julie Johnson, Staff

Attorney 01:12:20 Julie Johnson ([Exhibit 8](#))

Requested Updates and Required Reports

MDC Closure Update

01:14:38 Ms. O'Connell ([Exhibit 9](#))

Committee Questions

01:16:23 Rep. Kelker asked for more information on the people who are currently in the Intensive Behavior Center at the Montana Developmental Center.

01:17:30 Sen. Caferro provided that information.

Overview of DPHHS 17-7-140 Spending Reductions

01:19:34 Ms. O'Connell ([Exhibit 10](#))

Committee Questions

01:20:14 Sen. Moore asked about the cuts that would have been triggered by Senate Bill 261 and from the November 2017 special session.

Overview of Required Agency Reports

01:22:40 Ms. O'Connell referred the committee to the documents, "Parents as Scholars" ([Exhibit 11](#)), and the "Required Out-of-State Placement and Monitoring Report" ([Exhibit 12](#)).

Public Comment on any non-study topic within the committee's jurisdiction

01:24:41 Matt Kuntz, Executive Director, NAMI-Montana, commented on the offices that are closing around the state due to budget cuts and that they are working on meeting with health care providers to get a feel for what's happening around the state.

01:26:30 Heather O'Loughlin, Montana Budget and Policy Center, commented on the Department of Public Health and Human Services' spending reductions.

01:29:02 Mike Foster, Catholic Hospitals in Montana, commented on focusing on the problem of drug-affected babies and pregnant women who are using drugs.

BREAK (reconvened at 10:01 a.m.)

HJR 17: PRESCRIPTION DRUG PRICING

Introduction - Sue O'Connell

02:00:30 Ms. O'Connell

Drug Pricing Trends - Kris Hansen, Chief Legal Counsel, State Auditor's Office, and Derek Oestereicher

02:01:37 Kris Hansen and Derek Oestereicher ([Exhibit 13](#))

Committee Questions

- 02:40:15 Rep. Kelker asked about the state employee health plan and about efforts to negotiate directly with drug manufacturers.
- 02:40:50 Ms. Hansen discussed the Navitus plan.
- 02:41:10 Sen. Olszewski discussed the issue of drug prices and rebates that can be used as kickback money, and the issue of Medicaid prices that are set through CMS that reference-based pricing for commercial insurance.
- 02:42:28 Mr. Oestereicher

Pharmacy Profession Update: University of Montana and the State - Christie Blaskovich, UM Student and Montana Pharmacy Association Student Director-Elect

- 02:45:36 Ms. Blaskovich

Committee Questions

- 03:05:00 Sen. Sands commented on community health centers providing care for many Montanans.
- 03:06:20 Rep. Lenz asked about the pharmacy and provider status in Montana.
- 03:11:44 Sen. Olszewski asked about comparing the provider status to what we currently have.

Public Comment on the HJR 17 Study

- 03:13:30 John Doran, Blue Cross Blue Shield of Montana
- 03:17:25 Jennifer Hensley, PacificSource Health Plans
- 03:19:31 Stuart Doggett, Montana Pharmacy Association

PUBLIC COMMENT on any non-study topic within the committee's jurisdiction

- 03:22:57 Rhonda Wiggers, Montana Labs, commented on the concerns Montana Labs has with the proposed rules for medical marijuana. She requested that the committee encourage DPHHS to expedite the rules quickly to implement new laws on background checks, inspections, and tracking of inventory.

LUNCH BREAK (reconvened at 1:00 p.m.)

HJR 24: DD SERVICES FOR ADULTS

- 04:59:46 Ms. O'Connell gave an overview of the panel discussion.

Panel Discussion: Transition from School to Community Services

Frank Podobnik, Special Education Division, Office of Public Instruction
Christy Sofianek, Inclusive Higher Education Program Coordinator, Montana State University
Shelly Dowdle, Parent

- 05:01:06 Frank Podobnik (**Exhibit 14**)
- 05:17:15 Christy Sofianek (**Exhibit 15**)
- 05:35:19 Shelly Dowdle, Belgrade

Committee Questions

- 05:49:46 Rep. Kelker asked Mr. Podobnik about the elimination of services in high schools

because of funding issues.
05:51:48 Rep. Kelker asked Ms. Dowdle about the off and on programs that dealt with the waiting list and asked if there had been an attempt to go back to having 21- and 22-year olds in the high schools.

Public Comment on HJR 24 Study

05:57:12 Diane Reidelbach, Executive Director, Job Connection, Billings, Montana
06:02:35 Jim Uecker, Director, Residential Support Services, Billings, Montana

Committee Questions

06:04:14 Sen. Sands asked about the waiting list for adults with developmental disabilities.
06:04:41 Ms. O'Connell distributed the Department of Public Health and Human Resources' letter regarding the waiting list. [\(Exhibit 16\)](#)
06:05:05 Sen. Caferro read statistics related to the waiting list.
06:06:25 Sen. Sands asked a representative from the Department to address the issue.
06:07:08 Erica Johnston, Operations Services Branch Manager, DPHHS

AGENCY OVERSIGHT: MONTANA MEDICAL MARIJUANA ACT

Overview of Activity to Date

06:07:49 Ms. O'Connell gave an overview on the Activities to Date [\(Exhibit 17\)](#) and the Medical Marijuana: Registry Statistics [\(Exhibit 18\)](#).

Department of Public Health, and Human Services Update

06:12:00 Erica Johnston, Operations Services Branch Manager, DPHHS, provided an update on the Department's implementation of Senate Bill 333.

Committee Questions of Ms. Johnston

06:20:30 Sen. Olszewski asked Ms. Johnston about the rules and regulations that will treat marijuana as a pharmaceutical grade substance.
06:25:10 Rep. Kelker asked if it was possible to have partners under a company with only a few clients.
06:27:21 Sen. Moore referenced the data that was compiled by Ms. O'Connell and said that on December 29, 2017, 43% of the cardholders were under the age of 40 when, in general, older people tend to be sicker than younger people.

Industry Perspective - Kate Cholewa, Montana Cannabis Industry Association

06:29:27 Ms. Cholewa gave a presentation on the perspective of the cannabis industry.

Committee Questions

06:44:28 Sen. Sands asked Ms. Cholewa about the implication of the repeal of the memo by letter.
06:47:27 Sen. Sands asked Ms. Johnston about the risks to state employees if medical marijuana is illegal on the federal level.
06:48:17 Ms. Johnston
06:48:50 Ms. Cholewa
06:49:19 Sen. Sands discussed the lack of direction from U.S. Attorney General Jeff Sessions regarding pursuing any kind of action against providers or growers and the unclear policy and potential for uneven implementation of the law and putting

06:50:23 a lot of people at risk.
Ms. Cholewa

BREAK (reconvened at 3:15 p.m.)

REQUIRED REPORT: OFFICE OF THE CHILD AND FAMILY OMBUDSMAN - Traci Shinabarger, Child and Family Ombudsman, Department of Justice

07:17:12 Ms. Shinabarger ([Exhibit 19](#))

Committee Questions of Ms. Shinabarger

07:51:54 Sen. Moore asked Ms. Shinabarger if DPHHS had given her a reason why she would not be able to participate in the meetings with Child Protective Services.

07:53:02 Rep. Kelker asked about the communication between Ms. Shinabarger's office and law enforcement.

07:55:11 Sen. Moore asked about the graph on page 4 of the Report that talked about the number of contacts being up over 48% general contact from citizens and direct contact to Office of the Child and Family Ombudsman was 50%.

Department of Public Health and Human Services Response

07:55:48 Laura Smith, Deputy Director, DPHHS, and Branch Manager for the Economic Security Services Branch, provided an update of the activities of the Child and Family Services Division and highlighted the work and recent initiatives that the Department is implementing that align with the recommendations in the Office of the Child and Family Ombudsman's Report.

PUBLIC COMMENT on any non-study topic within the committee's jurisdiction

08:05:27 Rep. Ellie Hill, Missoula, commented on the medical marijuana industry.

08:14:21 James Thomas, a medical marijuana provider, commented on the marijuana laws with regard to hiring workers.

08:21:24 Sarah Moore, Missoula, commented on the positive effects of medical marijuana.

08:25:22 David Lewanski, an investor in the medical marijuana industry, commented on the third-party contract issue.

08:31:44 Paul Simonich, a medical marijuana provider, commented on the backlog of medical marijuana applications and would like the Department to report the time it takes to review the applications.

08:34:41 Keith Erwin, Fidelity Diagnostics Laboratory, said DPHHS has not provided clarity on the following questions: is it permissible for owners of a state-certified testing lab to also be a provider; is it permissible for an extraction lab to function as a third-party extraction lab; and what constitutes a third party?

08:39:32 Ms. O'Connell distributed several documents to the committee: public comment ([Exhibit 20](#)), letter from DPHHS regarding questions raised previously by committee members ([Exhibit 21](#)), and Developmental Disabilities Program-Targeted Case Management FAQs ([Exhibit 22](#)).

RECESS

08:40:09 Sen. Caferro recessed the meeting at 4:41 p.m., to reconvene at 8:00 a.m. on January 19, 2018.

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