

**CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES
INTERIM COMMITTEE**

DRAFT Work Plan for the 2017-2018 Interim

by
Sue O'Connell, Research Analyst

for Committee review and discussion on June 29, 2017

Published By



Legislative Services Division
PO Box 201706
Helena, MT 59620-1706
PHONE: (406) 444-3064
FAX: (406) 444-3036
<http://leg.mt.gov/>

INTRODUCTION AND OVERVIEW

The Children, Families, Health, and Human Services Interim Committee (Committee) is one of the interim committees established in law and required to meet between the end of one regular legislative session and the beginning of the next session. State law sets out the duties and responsibilities of interim committees, as follows:

- conducting interim studies as assigned;
- proposing bills and resolutions the committee believes should be presented to the next Legislature; and
- reviewing administrative rules, programs, and legislation for agencies within the committee's jurisdiction. The Committee is responsible under state law for monitoring the Department of Public Health and Human Services (DPHHS), the largest agency in state government.

This interim, the Legislative Council assigned three studies to the Committee, as follows:

- House Joint Resolution 20, health care price transparency;
- House Joint Resolution 17, prescription drug pricing; and
- House Joint Resolution 24, services for developmentally disabled adults.

This work plan details the Committee's study and agency oversight duties for this interim, which effectively runs from June 2017 through August 2018. It also discusses other activities the Committee may undertake. The work plan includes:

- a matrix to help the Committee determine the level of involvement it would like to have in its interim study responsibilities and its DPHHS oversight duties, beginning on Page 9; and
- a list of topics for which the Committee may want additional information during the interim, beginning on Page 11.

A proposed schedule of activities for each Committee meeting will be added to the work plan after the Committee makes its initial decisions on how to approach its various studies and statutory duties.

ASSIGNED STUDIES

The Legislative Council decided on June 6 to assign all 20 study resolutions that were approved by the 2017 Legislature to the various interim committees and to let each committee determine how much time it wants to spend on each study.

Following is a brief description of the studies assigned to the Committee.

- HJR 20, the top-ranked study in the post-session poll of legislators, requests a study of health care price transparency. The resolution asks that the Committee look at factors influencing the cost of health care services, efforts undertaken in other states and in Montana to make prices more transparent, ways to ensure that price transparency efforts include information about quality of services, and ways to encourage consumers to make informed health care decisions.
- HJR 17, a study of prescription drug pricing, ranked third out of the 20 study resolutions. HJR 17 asks the Committee to review changes in prescription drug pricing in the last 10 years, the factors related to price changes, the cost of prescription drugs to publicly funded health benefit programs, and efforts in other states and in Congress to control the price of prescription drugs or obtain more information about how they are priced.
- HJR 24, a study of services for adults with developmental disabilities, ranked 10th out of the 20 study resolutions. It asks the Committee to look at the waiting lists for community services, how limitations on funding may affect the ability of community providers to offer services, barriers to reducing the waiting list, service delivery models in other states, and youth transition into the adult system.

In addition to assigning the three studies to the Committee, the Council also made the following suggestions specific to the Committee's assignments:

- The Committee should consider creating a formal subcommittee that could include public members to work on the HJR 20 study of health care price transparency. The Council agreed to set aside some money from the emerging issues budget to cover subcommittee costs, if necessary.
- The Economic Affairs Interim Committee should consider appointing members to the HJR 20 subcommittee.
- Given the sizable scope of the HJR 17 study of prescription drugs, the Committee should consider whether it has time to undertake the study.

Anatomy of a Study

In general, an interim study follows a basic pattern in which the Committee:

- gathers information about the topic at hand;
- identifies issues of concern or interest in order to narrow the focus of the study; and
- considers options for action, including potential legislation.

The first phase of the study covers the first few meetings of the Committee. Steps taken during this time include:

- review of staff research papers on study topics;
- presentations by stakeholders who can offer specific information or perspectives related to the study; and
- public comment from interested parties, who may offer specific study-related suggestions.

In the second phase of the study, the Committee spends a meeting or two narrowing the focus of the study. During this time, the Committee identifies topics or questions that members would like to address through further analysis or legislation. This phase helps members concentrate on the study issues they consider to be of the most importance and obtain any additional information needed to make recommendations to the 2019 Legislature.

The final stage of the study covers the last few meetings, when members review and decide on options for action. Potential solutions usually are reviewed and refined at multiple meetings before the Committee takes final action.

Committee Decision Points

With three assigned studies on its plate this interim, the Committee will need to decide how much of that plate each study will take up and how much room to leave for other Committee duties. The amount of time that can be devoted to a study is primarily influenced by:

- the amount of Committee meeting time available; and
- the Committee's level of interest in the study.

The Committee's budget will cover approximately 10 meeting days, including the organizational meeting. That leaves about 70 hours of meeting time for the Committee to split among its various studies and its other statutorily required oversight duties for the Department of Public Health and Human Services, as outlined in this draft work plan.

The table on Page 10 provides options for four levels of involvement in the assigned studies. The options range from no action at all to significant Committee involvement.

An accompanying document, *CFHHS Studies: Assignments and Tasks*, lists the study tasks specified in each study resolution and options for carrying out those tasks.

As the Committee determines which approach it wants to take to each study, members may want to consider these questions:

1. Does the Committee want to undertake each study task outlined by the study resolution or only selected tasks? Does the Committee want to add any tasks?
2. How much Committee time do members want to devote to each element of the study?
3. Does the Committee want to conduct all three studies simultaneously over the full course of the interim or undertake them one at a time?
4. Does the Committee want to create a subcommittee for the HJR 20 study? If so, additional decision points are listed in the *CFHHS Interim Studies: Assignments and Tasks* document.

The table below indicates the estimated amount of Committee time that would be devoted to each study under the options outlined in Appendix A on Page 10.

Study	Option A	Option B	Option C	Option D
HJR 20: Transparency	0 hours	6 hours	12 hours	19 hours
HJR 17: Drug Costs	0 hours	4 hours	8 hours	14 hours
HJR 24: DD Services	0 hours	5 hours	10 hours	16.5 hours

AGENCY OVERSIGHT

The Department of Public Health and Human Services has more than 3,000 employees throughout the state and is responsible for providing public health services to all Montanans. It also offers a wide array of assistance to vulnerable Montanans, including children and the elderly, needy, disabled, abused, neglected, and mentally ill.

The department is organized into three branches and 12 divisions. It also operates six different institutions, as follows:

- the Montana Developmental Center in Boulder, which is transitioning out of its role of serving developmentally disabled individuals with high-level needs to become a 12-bed facility solely for individuals in need of intensive treatment because of continuous or repeated behaviors that pose an imminent risk of harm to self or others;
- the Montana State Hospital at Warm Springs, for adults with mental illness who are ordered to receive evaluations or treatment there;

- the Montana Chemical Dependency Center in Butte, an inpatient treatment center for adults who have been diagnosed as having an addiction to drugs or alcohol or who suffer co-occurring addiction and mental illness;
- the Mental Health Nursing Care Center in Lewistown, a long-term care facility for people who have a mental disorder, require a level of care that is not available in a community setting, and who cannot benefit from the treatment services available at the State Hospital; and
- the Eastern Montana Veterans' Home in Glendive and the Montana Veterans' Home in Columbia Falls, for veterans and their spouses who need skilled, intermediate-level nursing care or who suffer from Alzheimer's disease.

State law sets out several duties that interim committees must undertake to fulfill their agency oversight responsibilities. Each of these duties is discussed below.

Administrative Rule Review

The Committee's legal staff routinely reviews and summarizes DPHHS rulemaking notices and will provide the Committee with information on proposed and adopted rules, with particular attention to any rules that may be out of compliance with legislative intent or the Montana Administrative Procedure Act. That law allows interim committees to:

- obtain an agency's rulemaking records to review them for compliance;
- submit written recommendations on adopting, amending, or rejecting a rule;
- require that a rulemaking hearing be held;
- participate in proceedings; and
- review the conduct of administrative proceedings.

Program Monitoring

The Committee also is required to monitor DPHHS operations with specific attention to:

- identifying issues likely to require future legislative action;
- identifying opportunities for improving the existing laws governing the agency's operation and programs;
- determining whether experiences that Montanans have had with the agency may be improved through legislative action; and
- reviewing proposed agency legislation and other materials relevant to the Committee's oversight of DPHHS.

In addition, the Committee is specifically required under the Montana Medical Marijuana Act to monitor activities related to carrying out that law. In recent years, the Committee has limited its involvement to reviewing statistics related to the program and to following developments in the legal challenge that was filed to the 2011 law that created stricter requirements for the program.

The Montana Supreme Court upheld all but one element of the law last year, and the strictest of the requirements went into effect in September 2016 — a limit of three patients per marijuana provider. Voters then approved Initiative 182 in November, lifting that limit and making other changes to the law. The 2017 Legislature made further changes, including taxing gross sales, creating a production tracking system, revising the amounts of marijuana that providers and cardholders may possess, and expanding the Committee's monitoring duties to specifically include monitoring development of the tracking system and the results of unannounced inspections by DPHHS.

Required Reports

DPHHS and other entities are required by law to present a number of reports to the Committee, as listed in the table below.

Report	Frequency
Child and Family Ombudsman Activities/Recommendations	Annually
Child Abuse and Neglect Review Commission Recommendations	Biennially
Strategic Plan for Reducing Child Abuse and Neglect	Biennially
Out-of-State Placement of Children with Mental Health Needs	Twice a year
Preschool Pilot Program Results/Recommendations	One Time
Children's Mental Health Outcomes	Annually
TANF Parents as Scholars Program	Annually
Medicaid Expansion (HELP) Oversight Committee	Biennially
Suicide Reduction Plan	Biennially
Use of Suicide Prevention Appropriations in HB 118	Regularly
Interagency Coordinating Council on Prevention Programs	Unspecified
Effectiveness of Increased HCBS Waiver Slots and Rates	Biennially
Status of Individuals Released from MDC to Community Programs	Annually
Medical Marijuana-Related Complaints Against Physicians	Annually
Results of Unannounced Inspections of Medical Marijuana Providers	Biennially

Review of Draft Legislation

The interim committee process allows for an early review of agency-requested legislation. Interim committees typically authorize the drafting of many state agency bills in advance of the November election. This process frees up time for the Legislative Services Division to concentrate on legislator bill draft requests after the election. Agency bills drafted as a result of this process must be introduced before the 2019 legislative session begins and are usually among the first bills scheduled for hearings.

Other Interim Monitoring

Interim committees also may take up other matters related to the agencies and topic areas they oversee. In addition to its other activities, the Committee may want to:

- hear updates on DPHHS programs or newly passed legislation. A list of potential topics is included in Appendix B, beginning on Page 11. The list gives a short description of the topic and the reason it was included on the list; it also leaves room for Committee members to suggest additional topics.
- review other DPHHS or general health and human services topics as the need arises. Committee staff will keep tabs on topics that may be of interest to the Committee. Staff will periodically provide informational material for the Committee's review and consideration. The Committee also could identify topics when finalizing the work plan or as the interim progresses.

Committee Decision Points

The Committee will need to determine how much time to spend on its statutory oversight duties, as well as whether to leave time for emerging issues.

The table below lists differing levels of involvement in each required oversight activity, along with staff estimates on the amount of Committee time that would be devoted to each activity based on the level of involvement the Committee chooses. The table in Appendix A on Page 9 provides more detail about the activities envisioned for each level of involvement.

Activity	Minimal	Moderate	Significant
Rule Review	1 hour	1.75 hours	2.75 hours
General Monitoring*	1 hour	10.5 hours	17.5 hours
Agency Legislation	0.5 hours	0.5 hours	0.5 hours
MMA Monitoring	1 hour	3.5 hours	5 hours
HB 142 Review	0.25 hours	1 hour	3 hours
Total	3.75 hours	17.25 hours	28.75 hours

* General monitoring includes reports required by law, updates by DPHHS officials, and other DPHHS topics of interest as identified by the Committee.

MEETING SCHEDULE

Following is a tentative meeting based on the Committee's budget of \$33,340 for the interim. The budget will cover about 10 meeting days, including the organizational meeting. If the Committee forms any subcommittees, money must be allocated from the budget to cover those costs if they exceed any other amounts made available by the Legislative Council. The number of meeting days for the full Committee may be reduced as a result. Committee members may change the dates or the number of meetings, within the budget, to better reflect their wishes for the interim.

Meeting Schedule

Monday Sept. 11, 2017
 Friday Nov. 17, 2017
 Friday Jan. 19, 2018
 Thurs-Fri March 22-23, 2018
 Monday May 14, 2018
 Friday June 22, 2018
 Thurs-Fri Aug. 23-24, 2018

Time Allocation

The CFHHS Work Plan Decision Matrix in Appendix A on Pages 9 and 10 lists the Committee's duties, with options for the level of involvement members would like to have with each topic. The options chosen from that list should total 70 to 72 hours, to equal the amount of Committee meeting time available this interim.

Item	Description	Meeting Time	% of Time (72 hours)
HJR 20 Study	Health Care Price Transparency		
HJR 17 Study	Prescription Drug Pricing		
HJR 24 Study	Developmental Disability Services		
Statutory Oversight	Administrative Rule Review		
	Agency Monitoring		
	Agency Legislation Review		
	Medical Marijuana Act Monitoring		
	HB 142 Review		
Other Monitoring	Emerging/Other Issues As Identified		
Total		72 hours	100%

APPENDIX A: CFHHS WORK PLAN DECISION MATRIX

Oversight Duties: DPHHS/Health and Human Services

Administrative Rule Review		
<p><u>Minimal Involvement: 1 hour</u></p> <ul style="list-style-type: none"> Have access to the list of proposed rules through the Committee's Web site Legal staff will note issues of concern 	<p><u>Moderate Involvement: 1.75 hours</u></p> <ul style="list-style-type: none"> Receive brief written descriptions of each rule prior to meetings Legal staff will discuss rules summaries and note issues of concern 	<p><u>Significant Involvement: 2.75 hours</u></p> <ul style="list-style-type: none"> Receive brief written descriptions of each rule prior to meetings Legal staff will note issues of concern Committee review of any rule identified for further review Public comment on rules of legislative concern
Agency Monitoring		
<p><u>Minimal Involvement: 1 hour</u></p> <ul style="list-style-type: none"> Required reports included in meeting packets; presentations scheduled upon Committee request Written update of DPHHS activities included in meeting packets; Committee members designate topics on which they would like further information at a future meeting 	<p><u>Moderate Involvement: 10.5 hours</u></p> <ul style="list-style-type: none"> Agency presentation on 3-4 of the statutorily required reports; other reports provided only in writing Update on DPHHS activities at each meeting Additional updates scheduled on 2 or 3 topics identified in Appendix B or by Committee members, DPHHS, or constituents during the interim 	<p><u>Significant Involvement: 17.5 hours</u></p> <ul style="list-style-type: none"> DPHHS presentation on all statutorily required reports Update on DPHHS activities at each meeting Additional reports or presentations scheduled for each topic of interest identified in Appendix B or by Committee members, DPHHS, or constituents during the interim
Agency Legislation Review		
<p><u>Minimal Involvement: 0.5 hours</u></p> <ul style="list-style-type: none"> Hear a DPHHS presentation on proposed agency bills; authorize pre-drafting of bills 		
Montana Medical Marijuana Act Monitoring		
<p><u>Minimal Involvement: 1 hour</u></p> <ul style="list-style-type: none"> Written staff updates on registry statistics and reports on DPHHS activities as needed 	<p><u>Moderate Involvement: 3.5 hours</u></p> <ul style="list-style-type: none"> Written staff updates on registry statistics and issues related to implementation of Medical Marijuana Act changes Periodic DPHHS presentations on new developments Identify issues in need of legislative attention in 2019 and draft legislation 	<p><u>Significant Involvement: 5 hours</u></p> <ul style="list-style-type: none"> Written staff updates on registry statistics and issues related to implementation of Medical Marijuana Act changes Regular presentations by DPHHS and other stakeholders to hear about implementation and related issues Identify issues in need of legislative attention in 2019 and draft legislation
HB 142 Review: Statutorily Required Advisory Councils and Reports		
<p><u>Minimal Involvement: 0.25 hours</u></p> <ul style="list-style-type: none"> Review the list of statutory advisory councils and reports to determine if any should be reviewed for changes 	<p><u>Moderate Involvement: 1 hour</u></p> <ul style="list-style-type: none"> Review staff-provided information on each advisory council and report Designate councils or reports for further review 	<p><u>Significant Involvement: 3 hours</u></p> <ul style="list-style-type: none"> Review staff-provided information on each advisory council and report Schedule presentations on each report and advisory council

Assigned Study Resolutions

Option A All Studies: 0 hours	Option B HJR 20: 6 hours HJR 17: 4 hours HJR 24: 5 hours	Option C HJR 20: 12 hours HJR 17: 8 hours HJR 24: 10 hours	Option D HJR 20: 19 hours HJR 17: 14 hours HJR 24: 16.5 hours
No Action	<p><u>Committee Activities</u></p> <ul style="list-style-type: none"> Panel discussion on one or two study topics identified by Committee <p><u>Staff Deliverables</u></p> <ul style="list-style-type: none"> Summary of findings from panel discussion Legislation if requested Final report 	<p><u>Committee Activities</u></p> <ul style="list-style-type: none"> Review staff-provided background materials on three to four study topics identified by the Committee Multiple individual or panel presentations on selected topics <p><u>Staff deliverables</u></p> <ul style="list-style-type: none"> Staff research papers on topics selected by the Committee Legislation if requested Final report 	<p><u>Committee Activities</u></p> <ul style="list-style-type: none"> Review staff-provided background materials on all topics identified in study resolution Review additional staff materials developed at request of Committee Panel discussions or individual speakers on all topics identified in study resolution Additional items as identified by the Committee <p><u>Staff deliverables</u></p> <ul style="list-style-type: none"> Staff research papers on all topics identified in the study resolution and by Committee members or stakeholders Legislation if requested Final report

APPENDIX B: Topics for CFHHS Consideration

The Committee may want to obtain more information on the following topics, either through presentations, staff or agency reports, or other means identified by the Committee. Suggested dates are subject to other items in the Committee's work plan and on DPHHS availability.

Topic: Children	Reason	Activity	Date
Pilot Project: Alternative Child Abuse and Neglect Procedures	The 2017 Legislature continued a pilot project allowing for informal resolution of child abuse and neglect cases before the filing of an abuse or neglect petition against a parent.	Agency report	Summer 2018
Topic: Developmental Disabilities	Reason	Activity	Date
Status of MDC Closure	The 2015 Legislature passed SB 411, requiring MDC to close in 2 years. The 2017 Legislature extended the closure date by 2 years and authorized a 12-bed secure unit to remain on the campus as an intensive behavior center	Staff, agency reports	Ongoing
Topic: Health Care	Reason	Activity	Date
Changes to the Affordable Care Act	Congress is considering changes to the Affordable Care Act that may affect health care services and payment for the services		As needed
Topic: Medicaid	Reason	Activity	Date
Provider Rate Changes	Senate Bill 261 established a trigger that could lead to a 1% reduction in provider rates	Agency or stakeholder report	
Clinical Pharmacist Practitioners	The 2015-16 Interim Committee proposed legislation (SB 31) that subsequently led to a DPHHS rule change allowing Medicaid reimbursement of clinical pharmacist practitioners	Agency report	Summer 2018
Direct Care Worker Wages	The 2017 Legislature appropriated money to increase wages for direct care worker wages; SB 261 could affect those increases	Agency report	September 2017 and August 2018

Administration of Medicaid Expansion Program	Revenue triggers in SB 261 could lead to cancellation or nonrenewal of the current third-party administrator contract for the Medicaid expansion program. CMS also will be reviewing whether to renew the waiver for the TPA at the end of 2017.	Agency report	September 2017 and January 2018
Medicaid Expansion in Montana	The law allowing for expansion of Medicaid under the Affordable Care Act sunsets in 2019		March 2018
Federal Changes	Congress is considering changes to the structure of the Medicaid program		Scheduled based on Congressional action
Topic: Mental Health	Reason	Activity	Date
Peer Support Specialists	Senate Bill 62 provided for certification of behavioral peer support specialists, potentially increasing the use of these individuals in mental health and substance abuse treatment efforts	Provider comment	Spring/ Summer 2018
Targeted Case Management	Revenue triggers in SB 261 could lead to reductions in this service	Agency, stakeholder reports	September 2017 and Summer 2018
Board of Visitors	Revenue triggers in SB 261 could lead to loss of 1 FTE in this agency, which inspects public mental health programs and the Montana Developmental Center	Staff, agency reports; provider comment	September 2017 and Summer 2018
Topic: Senior Citizens	Reason	Activity	Date
WINGS Program	HB 70 by the 2015-2016 Interim Committee created a working interdisciplinary network of guardianship stakeholders and created a grant program for public guardianship programs	Agency report	Summer 2018
HCBS Waiver Program	HB 17 by the 2015-2016 Interim Committee appropriated money for increasing HCBS waiver slots and assisted living reimbursement rates; SB 261 may void the appropriation if revenue triggers are met	Staff, agency reports	September 2017 and Summer 2018