SJR 22 Joint Subcommittee on Health Care and Health Insurance

57th Montana Legislature

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LOIS O'CONNOR
SECRETARY

MINUTES

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.**

Sixth Meeting of Interim
Room 102, State Capitol
June 11, 2002

COMMITTEE MEMBERS PRESENT

Rep. Joe McKenney, Chair
Sen. Jon Ellingson, Vice Chair
Sen. Royal Johnson
Sen. Jerry O'Neil
Sen. Linda Nelson
Rep. Kathleen Galvin-Halcro
Rep. Bob Lawson
Rep. Bill Price
Rep. Trudi Schmidt
Rep. Bill Thomas

SUBCOMMITTEE MEMBERS EXCUSED

Sen. Glenn Roush
Rep. Gary Matthews

SUBCOMMITTEE MEMBERS ABSENT

Sen. Dorothy Berry
Rep. Michelle Lee

STAFF PRESENT

Gordy Higgins, Research Analyst
Bart Campbell, Staff Attorney
Lois O'Connor, Secretary

VISITORS, AGENDA

Visitors' list (ATTACHMENT #1)
Agenda (ATTACHMENT #2)

SUBCOMMITTEE ACTION

- Approved the minutes from the April 4, 2002, meeting
- Approved July 18, 2002, as the next meeting date
- Approved that health care policy and the costs of health care and health insurance be top priority issues for whichever interim committee they are referred to by the Legislature
- Approved July 18, 2002, as the next meeting date

CALL TO ORDER AND ROLL CALL

The meeting was called to order by Rep. McKenney, Chair, at 9:00 a.m. Attendance was noted; Sen. Roush and Rep. Matthews were excused and Sen. Berry and Rep. Lee were absent. (ATTACHMENT #3)

Gordon Higgins, Research Analyst, Legislative Services Division, spoke to the Subcommittee about his career change and how he intended to transition the Subcommittee's work through the remainder of the interim.

Rep. Schmidt **moved** that the minutes from the April 4, 2002, meeting be approved. Motion passed unanimously.

REPORT FROM THE TAX CREDIT WORKING GROUP

Sen. Ellingson said that the next step of the Working Group was to put a price tag on a number of different options that it was interested in, such as tax credits for individuals and small businesses to purchase insurance for their employees. Before it could cost out the options, data was needed from the Departments of Labor and Industry and Revenue, but it has not received that data to date. Sen. Ellingson added that it was also possible that some of the necessary data related to targeting businesses that were below a certain size and providing tax credits for employees of those businesses that were below a certain wage level may not be available at all, in which case, the Working Group may need to change the focus of the tax credit to small businesses based on size. However, his goal for the next meeting (July 15, 2002) will be to present the Subcommittee with some price tags on what may be purchased with a given amount of tax expenditure.

Mr. Higgins provided a synopsis of the Tax Credit Working Group's preliminary proposal to provide a tax credit for purchasing health insurance. (EXHIBIT #1) He requested that the Subcommittee come to some consensus on (1) individual income levels, (2) the value of the tax credit whether it be a flat dollar amount or some percentage of an average annual premium, and (3) whether that amount is sufficient enough to get people to participate in the program.

Rep. Lawson said that because Medicaid and other government programs have changed; because the payment for private insurance, deductibles, and co-pays have changed; and because there is more demand and less supply, the funding issue continues to raise its head. He believed that, at best, the Subcommittee was looking at short-range fixes; and although the issue is complex, it does not mean that the Subcommittee should not move forward with its ideas.

Rep. Schmidt questioned the stability of the federal CHIP funding, what the state could do to stabilize it, and what could be done to expand CHIP funding to include family members and tie it to the proposed tax credit. Mr. Higgins said that the tax credit could be designed around CHIP, and the benefit package could be richer if the tax credit is used to purchase an insurance policy. The tax credit could also be used to move people out of CHIP into the employer-sponsored market which frees up resources. The question would be the value of the tax credit and whether it would be enough to pull people out of CHIP and into some other insurance policy. Consensus on this issue is sketchy to date.

Sen. Ellingson said that since there is such a rich federal match with CHIP funding, the questions should be whether the state should spend its tax revenue and apply it toward a tax credit or should it be applied to CHIP. He felt that the Subcommittee would be better off to analyze those questions when it receives the pricing figures on the various options.

Claudia Clifford, Insurance Commissioner's Office, said that there has been very little detailed work done on tax credits, and when the data is not available, best estimates can only be made on fiscal impact. However, the Subcommittee's tax credit proposal has the potential to address the questions of cost shifting of the uninsured and whether the proposal is a stop gap or a short-term band-aid to address the problem. Another important goal is helping businesses and individuals continue their coverage when they are on the verge of being unable to afford insurance coverage any longer. Ms. Clifford added that medical bankruptcy is the number one cause for personal family bankruptcy in the nation and that small businesses have the most difficulty providing insurance to their employees. The Montana Comprehensive Health Care Association (MCHA) and the Insurance Commissioner's Office have focused their efforts on the affordability of health care coverage for people who are eligible for that coverage. The tax credit is one method that individuals may be able to afford that high-risk pool coverage. She added that CHIP is a finite appropriation; and if Congress was to make more funds available, the Subcommittee could look at dovetailing a tax-credit system with the parents buying CHIP coverage.

Sen. O'Neil said that if a tax credit was going to be established that it should be done in a way that would save money for the state. He felt that if the state were to put all of its employees, its low-income residents, and its school employees into the same purchasing pool, it would make a fairly significant sized insurance pool and it could reduce costs.

Sen. Johnson requested an update on the state planning grant to secure financial resources needed to conduct an in-depth analysis of the uninsured population in Montana. Mr. Higgins said that the state should hear whether it receives the grant sometime this month. Sen. Johnson questioned whether the Subcommittee should be focusing its efforts on how to acquire the necessary funding needed to establish the different scenarios being offered by the Working Group. He said that given the current status of the state's budget and if the Working Group was

unable to get the figures necessary to cost out the options, he felt that the work would be at a stand still.

Rep. McKenney proposed that he and Sen. Ellingson contact the Departments of Labor and Industry, Revenue, and Public Health and Human Services to expand the Working Group prior to the next meeting.

Rep. Schmidt asked about Commissioner Morrison's proposal to increase the tobacco tax. Ms. Clifford said that the Commissioner's proposal would raise the tobacco tax by $1.00 a pack raising $62 million a year. The funding mechanism for the tax credit would use $50 million a year for the tax credit, $10 million a year for assistance to lower income seniors for prescription drugs, and the remainder would help the MCHA.

MEDICAID PHARMACY PROGRAM

Shannon Marr, Program Officer, Health Policy and Services Division, Department of Public Health and Human Services (DPHHS), provided an overview of the Montana Medicaid Prescription Drug Program. (EXHIBIT #2)

Lori Morin, Past President, Montana Pharmacy Association (MPA), provided letters from independent community pharmacies across the state regarding insurance contracts offered for prescription drug coverage. (EXHIBIT #3) She said pharmacies are not always compensated adequately for their participation in Medicaid and they are subjected to national events that they have no control over. The cost of medication is predicated by the manufacturer, and it represents approximately 80% of the amount that pharmacies charge for prescriptions. Medication costs continue to rise at a rate of approximately 20% a year. The independent pharmacies current net profits are between 2% and 3% and anything that effects pharmacy cost figures directly impacts them.

Ms. Morin said that many MPA programs are run by pharmacy benefit managers (PBM) who, in many respects, are practicing pharmacy without a license. PBMs are very good about switching patients to formulary drugs which are not necessarily the most clinically, cost effective drugs but ones in which PBMs receive the highest drug rebate. The PBM prescription drug substitution rate is 25%, so PBMs are not doing a very good job of managing the state's prescription drug plans. Ms. Morin added that Montana has lost 9 pharmacies across the state as a result of the increase in prescription drug rates.

Ms. Morin said that it is very important that the state review the cost avoidance of the proper use of medication and that federal resolution will be needed to fix the problem, both to look at the drug industry and how they are pricing. A large majority of patients have their prescriptions covered as a benefit through their employer. If a drug company is pricing a medication based on someone else paying the bill, they have the tendency to price them as high as the market will bear. Ms. Morin said that the pharmaceutical industry is spending over $6 billion a year on direct consumer advertising. If they took that cost out of the equation, the price of their medication would plummet.

Sen. O'Neil asked if it were possible to allow, other than Medicaid participants, to participate in a rebate program. Ms. Marr said that the manufacturers' rebate program is for Medicaid purchases made by the state for Medicaid patients. PBMs receive a similar rebate but the

problem is that they do not cost-share that amount back with the employer. The MPA has proposed a mechanism to fund prescription drug coverage for the neediest seniors who do not qualify for Medicaid. The proposal would expand the program to those seniors with a cap, it could probably could get under the state rebate program. The state could capture all of the rebates if it had a state-run program for all citizens. The state becomes the purchaser of the medication; and if it provides the medications through its community pharmacies, the state would receive all of the rebates. Sen. O'Neil asked if the state could pass the rebates back to the people who are not on Medicaid. Ms. Marr said the state would provide the coverage to the patients so there would not be any need to give the rebate back.

Rep. Schmidt asked for clarification of the PBMs use of formulary drug rates. Ms. Morin provided a memo to Connie Welsh as an example of formulary drug rates. (EXHIBIT #4) She said that a PBM goes to a pharmacy, states their reimbursement rates, and establishes the formulary on drugs that reap them the most money. Pharmacies cannot negotiate. Rep. Schmidt asked if legislation was needed. Ms. Morin said yes, and that it was going to be tough to do because the heaviest lobbyists are within the drug industry, many of whom own PBMs. The question is how at the state level, can it affect change. She added that model legislation is proposed to address the fact that PBMs are not regulated by any Board of Pharmacy.

UPDATE ON MCHA ASSESSMENT STUDY (SB 441)

Aidan Myhre and Stuart Doggett, Montana Comprehensive Health Association (MCHA), provided an update on the MCHA's funding study and a copy of SB 441--a study of the funding mechanism for the MCHA plan and associated portability plan. (EXHIBITS #5 and #6 respectively)

Ms. said that the MCHA's portability plan is for people who leave group coverage and do not have any other insurance policy to purchase. It has grown at a much higher rate than the traditional plan. Five recommendations from the study are as follows:

- to continue to provide a low-income subsidy program; review how the pilot program is working with the $1.5 million; and if successful, look for other funding sources;
- that the premiums should equal 125% of the market level;
- to develop a reserve fund to get through the daily cash flow problems through tobacco settlement dollars, tobacco taxes, or foundations and charitable dollars;
- to support a tax credit for individual health insurance policies; and
- to secure tobacco settlement dollars for MCHA and CHIP.

The final recommendations will be presented to the MCHA Board and Insurance Commissioner in September. They will not require legislation with the exception of some flexibility in the low-income subsidy program.

Rep. Price asked if the recommendations addressed those who do not pay to be a participant in the system. Mr. Doggett said that the working group discussed the issue of political feasability. When it looked at the cost to the University System, the schools, and the state general fund, the working group did not reach a consensus.

Sen. Johnson asked if the University System, schools, and the state employees could go from the plan they were on into the MCHA plan never having paid into the MCHA plan at all, and is there a means test for people who are currently on the MCHA plan. Ms. Myhre said that

currently, there is no means testing for the portability plan and individuals can move from self-insured plans or a state plan into the MCHA plan. The Association is tracking where the people are coming from. Many of them are small group coverages that are being cancelled. Ms. Myhre will provide percentage information on where the individual are coming from.

FINDINGS FROM GOVERNOR'S HEALTH CARE SUMMIT

Jean Branscum, Health and Human Services Policy Advisor, Governor's Office, provided an update on the Governor's May 17, 2002, Health Care Summit and summarized the break-out session recommendations. (EXHIBIT #7)

Sen. Ellingson asked about responses from health care providers regarding the Governor's proposed 1% assessment tax on providers to generate dollars for Medicaid. Ms. Branscum said that the answer to that question would be better provided by DPHHS. The Governor's Office is anticipating that people will start stepping out of the box and become very creative to address health care issues. It is also supporting DPHHS's endeavor to toss the 1% assessment on the table to see what providers think about it. It also supports the concept of talking to all providers and including them in the initial process.

Rep. Schmidt asked if priorities related to health care had been set by the Governor. Ms. Branscum said no, but that the Governor's Office is hoping that the recommendations set forth at the Health Care Summit would be the foundation to set some priorities.

FISCAL ANALYSIS OF CHIP ELIGIBILITY EXPANSION TO 200% OF FEDERAL POVERTY LEVEL (FPL)

Lois Steinbeck, Senior Fiscal Analyst, Legislative Fiscal Division, provided a summary of federal funding and other issues related to raising financial eligibility for the CHIP program. (EXHIBIT #8) Ms. Steinbeck said that the state will receive three CHIP grants during the remainder of this biennium and the coming biennium for which it will not begin spending until the following biennium. It is also in a funding cycle that is much more advanced than its spending cycle.

Sen. Johnson asked if expenditures were anticipated and related to the expenditures in the 1998-2001 biennium, how much unspent money would have to be reverted. Ms. Steinbeck said that she is in the process of working with the Department on that amount. The amount that would be reverted or re-appropriated after the 2000 grant is unknown, and it will effect the ending fund balance. She added that currently, the state's annualized expenditure is approximately $11 million. There are two significant issues that the Legislature will have to decide regardless of what the real number turns out to be. First, if it wants to design a sustainable program, how long can it roll the carryforward forward without reverting it. At that level, Ms. Steinbeck was unsure whether to tie it to a level of poverty beyond making sure that enough of the funds were spent. She said that it is not a question of "Is 200% of poverty the right percent?" Second, if it does not want to revert the funds, does it want to do something very creative for a short term, recognizing that people will receive a higher level of service for a shorter period of time. She added that the Executive Branch may also consider restoring spending reductions for some of the expanded CHIP services that were eliminated.

Rep. Galvin-Halcro asked about the methodology used to determine how much of the reverted funds would be reallocated; and if a state did not revert funds, could it be in line for a

reallocation because they have overspent. Ms. Steinbeck said that the federal government decides how much of the reverted funds will be reallocated and states that received more of the reversions actually spent their own funds on part of the CHIP expansion. Because their federal funds are capped, they would receive first consideration for additional CHIP allotments. She added that there is speculation that if the federal government gets strapped for cash, it may go looking for funds anywhere it can find them.

Rep. Schmidt asked if states do not use all of their CHIP allocations and if they are reverted back, does it trigger what may happen in later years. Ms. Steinbeck said that CHIP was implemented very well because it was phased in. Therefore, she did not believe that it set a pattern for what may happen in later years because the overall constraint is the amount of general fund that the Legislature is willing to appropriate for CHIP. Rep. Schmidt asked if the Legislature did not allocate the match that was given to the state, were those funds reverted. Ms. Steinbeck said no, that DPHHS fully expended the general fund match. The first year in CHIP, because the implementation was gradual, the CHIP match went to offset Medicaid cost overruns in the first year of the 2001 biennium. One of the present law adjustments that the 2001 Legislature approved was restoring the level of funds for CHIP up to the level that the 1999 Legislature had anticipated.

Sen. Ellingson asked how the federal government could have a program for giving money to states for CHIP that cannot be accurately projected ahead of getting the check. Ms. Steinbeck said that she did not fully understand the federal appropriations process, but the initial federal allocation for CHIP is a lump sum and there are rules that implement how it is distributed. The funding level in reauthorization is not a constant, so it is not a matter of how much of the lump sum appropriation that Montana will receive. Sen. Ellingson asked if Montana maximizes its expenditure in state fiscal year 2005 from all of the grants, what amount is going to be left over for fiscal year 2006. Ms. Steinbeck said that if the Legislature were to appropriate the entire $35 million, which takes $7 million in matching funds, and did a one-time massive program in 2006, for example, and then decided to go back to the previous program after it was spent, depending on the grant amounts and the ongoing program level, that is how much cushion the state would have if it did not carry any of it forward. Sen. Ellingson asked if the state did not spend the entire $35 million in 2005, would it have to go back to a program that is approximately one-quarter of a size. Ms. Steinbeck said yes, that the tradeoff is trying to decide what level of sustainability that could be achieved.

Rep. Thomas asked how much money was allocated for fiscal year 2002 for CHIP. Ms. Steinbeck said that the total appropriation for CHIP in the first year of the biennium, federal and state funds, was $14.7 million each year of the biennium for physical health services. For mental health services, the appropriation was $3.5 million in federal funds for a $4.2 million total. The mental health expenditures have been one-half that amount.

Sen. Ellingson asked if the state was currently spending the maximum amount that it could on a fairly sustainable basis. Ms. Steinbeck said yes, and if the annual grants increased to $15 million, the story and picture begins to look very different.

K-12 PURCHASING POOL

Representative Dave Lewis, House District 55, said that he and MEA-MFT representatives have been discussing the possibility of legislation that would establish a mandatory K-12

purchasing pool to address the aging population of school district employees. The state financial contribution would be in the form of a loan to establish the needed reserves. The repayment of the loan would be allowed for in the rates that were set up over a certain period of time. The idea would be a coal tax loan to the pool that would be established and run by a consortium of MEA-MFT employees and the School Boards' Association. Advantages to a pool of this size would be that it would spread the risk over a much broader population rather than having a district-by-district insurance program, and it would provide an opportunity for the state to receive more benefits for the dollars it is spending to protect school employees against the dramatic growth in insurance costs.

Tom Bilodeaux, MEA-MFT, further outlined the MEA-MFT's K-12 legislative proposal. (EXHIBIT #9)

Rep. Price asked about the approximately 4,000 school district employees who would not fall under the plan. Mr. Bilodeaux said that currently, many school districts have the threshold that individuals must work 30 to 32 hours a week to be eligible for the group health plan. The individuals excluded by those thresholds are typically non-collective bargaining-classified employees of school districts with work schedules of less than 30 hours a week. It is uncertain how many employees this would cover because the information is not collected by any agency, resulting in MEA-MFT's estimate of 8,000 classified employees being a tenuous number. MEA-MFT also does not know precisely the number of people in the classified category who are currently insured nor does it know how much the employer may be contributing toward the premiums. Its best estimate is approximately 4,000 employees who are not eligible or otherwise covered. Rep. Price asked if the process included education on the over-utilization of the educational sector. Mr. Bilodeaux said that the proposal contains utilization provisions, and the exact cost of over-utilization has yet to be fixed. Difference between the populations of the K-12 proposal and the state health plan are that school employees tend to be older than state employees and generally, do not have work-induced injuries and medical costs to the same extent that state employees have. Another difference in joining the state health plan was a difference of belief in how the governance structure for the health benefit plan should be established.

Rep. Galvin-Halcro said that the she currently pays less than $20 a month for her coverage through the Great Falls School District. She asked what advantage would there be for her to join the proposal. Mr. Bilodeaux said that currently, the Great Falls school district health plan has a $323 composite premium--composite premium meaning an average of all premiums on a monthly basis per employee--which is the lowest composite rate existing in any other school district size across the state. MEA-MFT is currently analyzing it to figure out how Great Falls can maintain such a low premium rate. The statewide health plan composite rate will be closer to $500 per employee. Rep. Galvin-Halcro asked how the problem was going to be fixed and whether the state could mandate who can or cannot go on a bargaining plan. Mr. Bilodeaux said that the MEA-MFT has met with Great Falls School District and it will have to be worked out through bargaining. It is unclear how it will be done at this point. He added that the state can mandate the provision of a health benefit plan on all school districts in the state. To do it on voluntary basis would result in too much adverse selection against the plan that it would become fiscally ruinous for the plan to go in that direction.

Rep. Schmidt asked why MEA-MFT was not looking to adopt a plan like that of Great Fall. Mr. Bilodeaux said that the Great Falls plan is currently being evaluated. One recommendation being suggested by MEA-MFT staff is that it may want to identify a bottom line plan with a proven record.

Sen. Johnson asked where the reserve funds were currently. Mr. Bilodeaux said that existing reserves remain with their current holder (school districts) or their insurers. Reserve funds needed for the basic start-up cost of the K-12 proposal would be approximately $25 million. It would come from a coal tax trust fund loan and would be paid back with a $20 per-member or enrollee monthly surcharge.

MULTI-STATE PRESCRIPTION DRUG PURCHASING POOL

Paul Ritchley, Resident, Bozeman, same that he came to Montana after being in the health care consulting world that largely focused on the provider side of things and insurance carriers. He said that he has taken a personal interest in where health care costs are headed on a national basis. He and one of his consortium partners were invited by Tom Sussman to discuss trends in Fortune 500 and some of the programs that Mr. Sussman is in the process of implementing. General trends are approaching health benefits for employing populations from the perspective of time management. If illnesses, chronic conditions, long- and short-term disabilities, and workers compensation rehabilitation programs can be eliminated or minimized, it is a multiplier to the savings. Many employers are planning to set up personal care accounts. States, such as West Virginia, are trying to manage costs by implementing benefit designs that are married to disease management. A condition of benefit payment is going to depend on how well individuals maintain their health status.

Mr. Ritchley said that currently, Mr. Sussman has in place an electronic warehouse and has moved several years worth of health and pharmacy data into it and he will be taking over another one of the operations of the states' benefit programs. Ms. Sussman also has high hopes for the new PBM and the purchasing pool that he is currently rolling out, and he is reviewing Florida's initiative with Pfiser and Maine's initiative and the legal briefs that have been filed against its multi-state prescription drug purchasing pool.

Mr. Ritchley added that West Virginia employees are cost shifted against in a very deliberate fashion by private industry. To the extent that private industry gives an option to an employee to purchase health insurance through their employer or through their spouse and the spouse is an employee of the state of West Virginia, private insurers are saying to their employees, "Spend your money on other health benefits that you may need and let your spouse inside the state pick up the total cost of all the benefits." Mr. Sussman hopes for further communication with the Subcommittee and is hopeful that Montana would want to participate with the other five states in his program

Mr. Higgins said that he spoke to the governing board of the state employees' health plan about the work of the Subcommittee. In his closing, he told them of the Subcommittee's interest in moving toward a multi-state purchasing pool, specifically like West Virginia's. A discomfort arose because he followed the Eckard HealthScripts PBM presentation who is the new vendor for the state. The Board was not happy with the concept of a multi-state purchasing pool for public employees because they said that it would not work.

Although his conversations with Mr. Sussman have been very positive, the Subcommittee needs to make some issues very clear before it asks the Department of Administration to review joining any purchasing pool. Mr. Higgins added that the key issue to remember is that currently, the West Virginia and the Southern States Coalition for pooling its members is a phased in process, whereby public employees are the first to join. The issue of moving Montana's employees into this type of a purchasing pool does not address low-income seniors without prescription drug benefits. If Montana joined a multi-state purchasing pool and under favorable contract terms, it could see some savings, although he was unsure about the amount. He felt that the Department would have to conduct a cost-benefit analysis associated with that.

Mr. Higgins provided copies of the Washington and Idaho resolutions that ask Montana to pass a similar resolution discussing the creation of a purchasing pool. (EXHIBITS #10 and #11 respectively) He said that the question is how best to make the recommendation to the Department of Administration to begin looking into joining a multi-state pool or whether it should introduce legislation that would simply do that.

Sen. O'Neil asked if Montana joined a multi-state purchasing pool, would local pharmacies be able to buy drugs from it. Mr. Higgins said that the concept behind the Southern States Coalition is not that the states purchase and warehouse drugs but rather, it is about states pooling their needs to create a larger group resulting in cost savings through a combination of volume, administrative savings because of volume, as well as, how well PBMs can negotiate rebates with the pharmaceutical manufactures. Sen. O'Neil questioned whether PBMs were more interested in maximizing their profits rather than minimizing the total drug cost to the states, and if so, whether Montana would be better off without a PBM. He asked if a study had been done to find the overall cost to states if they go with a PBM. Mr. Higgins said that much discussion has been held on the role of PBMs and suspected that an analysis had been done. Because of the way that the Southern States Coalition contract was written, the states managed to increase the share of available rebates from any preferred drug and shifted the majority of the rebate back to the plan resulting in lower prices. Sen. O'Neil requested information from states who use PBMs.

Rep. McKenney requested a proposal from the Southern States Coalition on what the positives would be for Montana to join the purchasing pool. He also requested additional information on how the Subcommittee could address the local pharmacy issue.

Subcommittee members agreed to a conference call with Mr. Sussman.

HEALTH CARE INTERIM COMMITTEE: RECOMMENDATIONS FOR THE FUTURE

Mr. Higgins provided an outline of discussion points for establishing a standing health care interim committee. (EXHIBIT #12) He advocated looking to the Children, Families, Public Health and Human Services Interim Committee as the base to begin to have a long-term health care policy perspective with specific tasks and duties.

The Subcommittee decided that since affordable health care and the costs of health care and health insurance were long-term issues, they demanded a committee's full attention and that some type of an ongoing committee, whether it be the Legislative Finance Committee or the CFHHS, should continue to address the issues during the interim. The decision on whether to

form a new health care committee or fold these issues into an existing interim committee will be made at a later date.

Rep. Johnson **moved** that health care policy and the costs of health care and health insurance be top priority issues for whichever interim committee they are referred to by the Legislature. Motion passed unanimously.

PUBLIC COMMENT

Connie Welch, Employee Benefits Bureau, Department of Administration, stated the following:

- Montana requires that it receive 90% of the rebates back in its prescription drug contract with the PBM.
- Montana uses a tiered-benefit design that encourages a lower cost sharing for people who use generic drugs.
- Retail pharmacies are designed to serve customers when they have short-term prescription drug uses while mail order pharmacies are for longer-term uses.
- Upon consideration, do not look at the formulary only. Look at the plan design as a major part of how the employer assists the employee in filling their drug needs.
- As part of its work plan, the Department is reviewing whether the PBM mechanism works.

Anita Bennett, Montana Logging Association, provided an overview of a letter signed by a number of Montana trade associations regarding the increased cost of health insurance due to legislatively mandated benefits. (EXHIBIT #13)

Sen. Johnson requested a list of mandated benefits that were causing the increased costs. Blue Cross Blue Shield of Montana (MCBSMT) will provide the information.

Ed Eaton, AARP Montana, expressed concerns about the high cost of prescription drugs relating to the elderly. He requested that the Subcommittee support the $1.00 tax on tobacco products as recommended by John Morrison, Insurance Commissioner, that would generate $60 million for health care purposes, utilizing $10 million of that amount for a refundable tax credit for the elderly and disabled consumers.

Mark Eichler, Montana Pharmacist Association, said that purchasing pools are a misnomer because there is no "purchasing" going on. Drugs are purchased by community pharmacies from the wholesaler while PBMs, the state, or a purchasing pool does not purchase drugs. States join purchasing pools to receive further discounts from the manufacturer based upon higher numbers of utilization. He added that community pharmacies cannot lower their prices and continue to struggle to compete with mail order pharmacies. Mail order pharmacies' class of trade with manufacturers allows them to purchase medications much like a hospital while community pharmacies cannot. He said that purchasing pools could be a good thing, but requested that the Subcommittee involve the MT Pharmacy Association and PBMs in its discussions and be careful about how the purchasing pool is structured and what is going to be done with PBMs.

REMAINING ISSUES AND TASKS

Sen. O'Neil requested cost comparison's between state's that have certificate of need and those that do not have certificate of need. Staff will send the request to the Quality Assurance Division, DPHHS. Rep. McKenney will also follow up on the request.

The Subcommittee approved July 18, 2002, as its next meeting date.

Referring to correspondence sent by the Montana Retail Association that represents chain drug stores, Sen. Johnson requested information on the July 1, 2002, change in reimbursement rates to pharmacies. Ms. Marr said that the Department is moving forward with the rule changes as they relate to reimbursement rates to pharmacies. The state will move from Medicaid to the estimated acquisition cost--average wholesale price minus 15% rather than 10%.

There being no further business, the meeting adjourned at 4:10 p.m.

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