

MINUTES

MONTANA HOUSE OF REPRESENTATIVES 59th LEGISLATURE - REGULAR SESSION

JOINT APPROPRIATIONS SUBCOMMITTEE ON HEALTH AND HUMAN SERVICES

Call to Order: By **CHAIRMAN CHRISTINE KAUFMANN**, on January 26,
2005 at 8:10 A.M., in Room 472 Capitol.

ROLL CALL

Members Present:

Rep. Christine Kaufmann, Chairman (D)
Sen. Dan Weinberg, Vice Chairman (D)
Sen. John Cobb (R)
Rep. Joey Jayne (D)
Sen. Greg Lind (D)
Rep. Penny Morgan (R)

Members Excused: Rep. Walter McNutt (R)

Members Absent: None.

Staff Present: Pat Gervais, Legislative Branch
Laura Good, Committee Secretary
Lois Steinbeck, Legislative Branch

Please Note. These are summary minutes. Testimony and discussion are paraphrased and condensed.

A Glossary of Medicare Modernization Act (MMA) Acronyms was submitted prior to the meeting:

EXHIBIT(jhh20a01)

CHAIR REP. CHRISTINE KAUFMANN, HD 81, HELENA, called the meeting to order.

Ms. Steinbeck provided and discussed an unreviewed draft of changes in the Schweitzer budget and Department proposals for the Department of Public Health and Human Services (DPHHS). She also gave the committee a packet on the Health Resources Division (HRD) Decision Packages (DP's).

EXHIBIT(jhh20a02)

EXHIBIT(jhh20a03)

Mr. Hunter, Administrator, HRD, continued with the HRD Overview, referring to Exhibit 5 from Monday, January 24, 2005. He began discussion with issues pertinent to CHIP expansion and funding.

CHAIR KAUFMANN asked if the state should expand CHIP more aggressively and zero out its initial federal CHIP grant in order to qualify for federal CHIP funding rewards.

Mr. Hunter confirmed that states who have aggressively overspent their initial CHIP grants have received funds in the federal redistribution of CHIP funds not spent by more conservative states. He framed his concerns about pursuing CHIP federal redistribution funds in his discussion of CHIP funding variables, which include CHIP grant and redistribution, the unguaranteed availability of redistribution funds, costs incurred through aggressive CHIP expansion, and the affect of any potential reserve (secured through conservative expansion) on CHIP premiums.

Responding to **SEN. JOHN COBB, SD 9, AUGUSTA, Mr. Hunter** reported that the state can alter the CHIP benefit package. He offered the example of the state's 2002 reduction of the CHIP mental health benefit.

SEN. DAN WEINBERG, SD 2, WHITEFISH, asked if there were any overriding concerns regarding cuts in federal funding sources, especially in light of the ballooning federal deficit.

Mr. John Chappuis, Deputy Director, Department of Public Health and Human Services (DPHHS), stated that DPHHS posed this very question to the Centers for Medicare and Medicaid Studies (CMS) in November, and were told that there would be no cuts to

Medicaid federal funding. However, CMS did note that the federal government will tighten down program loopholes and enforce waiver caps.

Mr. Hunter provided handouts about and discussed three distinct CHIP federal funding cash flow options.

[EXHIBIT\(jhh20a04\)](#)

[EXHIBIT\(jhh20a05\)](#)

[EXHIBIT\(jhh20a06\)](#)

SEN. GREG LIND, SD 50, MISSOULA, asked what evidence supports the philosophical rationale behind keeping CHIP rolls low and continuous, rather than maximizing the number of children covered over a short period of time and cutting back the rolls when temporary funds are depleted.

Mr. Hunter stated that the division made its decision based on the hardships a program cut causes families, as well as the political difficulties posed when funds deplete and legislators feel manipulated into increasing a program's funds in order to extend coverage.

Mr. Hunter explained the information on Exhibit 4.

CHAIR KAUFMANN asked if enrolling more children ensures receipt of more federal funds.

{Tape: 1; Side: B}

Mr. Hunter stated that because the federal grant is a fixed grant (as opposed to a matching grant), enrolling more children does not ensure receipt of more federal funds.

Ms. Steinbeck followed up, saying that CHIP is not an entitlement program, so the federal government does not match every allowable expenditure. She noted that if the state expends all available CHIP funds, it would have to rely on CHIP redistribution funds.

Ms. Steinbeck expressed that due to the large federal deficit, she would not advise the state to count on CHIP redistribution funds.

Mr. Hunter noted that the state has three years in which to spend the initial CHIP grant.

CHAIR KAUFMANN called for **Mr. Hunter's** comments on why the state does not use existing Medicaid resources to cover children, as opposed to a CHIP expansion.

Mr. Hunter explained that CHIP reaches children in the tier just above Medicaid.

Mr. Chappuis offered a comparison of CHIP and Medicaid funding and coverage issues.

Mr. Hunter discussed Exhibit 6, went on to Exhibit 5, and also talked about Exhibit 4. He noted that premium increase expectations are built into all models.

SEN. COBB asked what percentage of premium increase was used in creating the models.

Mr. Hunter stated that the models include an 11% premium increase.

SEN. COBB asked about inflationary provider increases under CHIP, wondering if they were similar to those involved in Medicaid.

Mr. Hunter told the committee that CHIP reimburses providers at a rate higher than Medicaid provider rates.

Ms. Steinbeck explained that provider rate increases were determined with the knowledge that providers would begin rate negotiations at the proposed rate level. She also stated that the committee has no leverage in the rate negotiation process that takes place between BCBS and providers. Furthermore, she reminded the committee that there were enough recent CHIP reserves (unspent funds) that BCBS gave \$1.3 million to its own charitable foundation, although the Department had understood that the reserves were to act as a CHIP rate stabilization fund. Finally, she said that if the state decided to self-administrate, it could weigh in on the provider rate negotiation process.

Mr. Chappuis mentioned downsides to provider rate changes that might result from state administration of CHIP.

SEN. LIND requested details about the CHIP benefit package.

Mr. Hunter agreed to provide these.

Ms. Steinbeck noted that the CHIP benefit plan is comparable to the state employee benefit plan, and that if the state opted to take over CHIP administration it might consider doing so using the same mechanisms through which it currently administers the the state employee benefit plan. She also expressed that provider rate and network adequacy issues will remain volatile whether or not the state assumes administration.

Mr. Hunter discussed the potential need for two new FTEs to cover administration costs associated with enrolling and covering 3,000 new CHIP kids, as well as the 2002 discontinuation of the Mental Health Services Plan (MHSP) benefit. He noted that the division has a DP that would restore the MSHP benefit.

Ms. Steinbeck explained historic interactions between MHSP and CHIP. At the request of **REP. PENNY MORGAN, HD 57, BILLINGS**, she clarified the relationships between Exhibit 5, Exhibit 6 and MSHP.

Mr. Hunter told **REP. MORGAN** that Medicaid covers 9,200 Seriously Emotionally Disturbed (SED) kids every year.

Mr. Hunter continued with the HRD overview, discussing Page 75, CHIP funding; Page 76, PL 37: CHIP Federal Medical Assistance Percentage (FMAP) adjustment - deleted; Page 77, NP 90: CHIP donations (withdrawn); Page 78, NP 192: Fund Current CHIP Enrollment - Deleted (note: issues originally addressed in this NP can now be found in DP 192). At the request of **CHAIR KAUFMANN**, **Mr. Hunter** noted that the Schweitzer budget does not rely on CHIP donations.

{Tape: 2; Side: A}

Mr. Hunter covered Page 79, NP 150: Restore Children's Therapeutic Services - deleted (note: issues originally addressed in this NP can now be found in DP 3206); Page 80, NP 3192: CHIP enrollment to 10,900 children.

CHAIR KAUFMANN asked Mr. Hunter to explain the logic behind decreasing general fund and increasing special revenue for a popular and broadly supported program like CHIP.

Mr. Bob Andersen, Office of Budget and Program Planning (OBPP), provided a rationale for this funding decision, which included consideration of ways in which the state might most appropriately allocate I-146 and I-149 monies.

Ms. Steinbeck recalled the I-149 statute, which states that I-149 monies fund CHIP enrollment levels above that provided by 2005 appropriations. She noted that statute cannot be amended without majority vote.

Mr. Hunter went on to Page 81, NP 3192: CHIP enrollment to 10,900 Children; Page 82-83, NP 3206: CHIP expansion by 3,000 Children.

For **SEN. COBB**, **Mr. Hunter** clarified matters regarding CHIP outreach and enrollment numbers. Responding to **REP. JOEY JAYNE**,

HD 15, ARLEE, Mr. Hunter detailed MHSP benefits availability historically and as proposed in restoration. He noted that the MHSP funding amount seen in the Martz budget covers adults only, not children.

{Tape: 2; Side: B; Approx. Time Counter: 15.8}

SEN. COBB asked if the Division had identified potential recipients of mental health wraparound services.

Mr. Hunter replied that such individuals are easily and quickly identified.

Mr. Hunter discussed Page 84, covering other legislation affecting CHIP.

REP. JAYNE and **SEN. COBB** requested further details about SB 154.

Mr. Hunter explained that lower administrative costs would provide the division with additional federal authority, and that while administrative costs totaled 13.2% of the CHIP budget under BCBS, they would cost an estimated 12% under self-administration. With these savings, CHIP could cover 160 more children per year.

Ms. Steinbeck noted that self-administration would garner further cost savings, as the state would not be responsible for paying reserves or a profit. She noted again, however, the federally regulated spending cap on state-administered plans, but that the committee might be able to avoid this problem by tying CHIP to the state employee benefit plan.

Regarding SB 156, **REP. MORGAN** wondered why the division advocated raising the CHIP poverty level, instead of increasing its outreach to current eligibles.

Mr. Hunter offered examples of SB 156's potential benefits.

Mr. Chappuis stated that while DPHHS does not oppose SB 156, SB 156 is not a DPHHS-sponsored bill.

CHAIR KAUFMANN requested explanation of why CHIP's administration costs represent such a large percentage of its total budget, while Medicaid's represent a small percentage.

Mr. Chappuis stated that this is due to CHIP's relatively small total budget, as compared to Medicaid's very large total budget.

Ms. Steinbeck remarked that because Medicaid insures populations that are much more expensive than the CHIP population, its costs are much higher.

Mr. Hunter discussed Page 85, 86, and 87, Children's Special Health Services, and provided the committee with a booklet about Montana Pediatric Specialty Clinics and Outreach Services.

EXHIBIT (jhh20a07)

{Tape: 2; Side: B}

Ms. Jackie Forba, Bureau Chief, Health Care Resources, gave a rationale for the NP 115 funding request.

Ms. Steinbeck discussed the Legislative Fiscal Division (LFD) issue related the NP 115.

Mr. Hunter told the committee about existing and proposed Montana Pediatric Specialty Clinics.

Referring to Exhibit 7, **SEN. WEINBERG** asked how the frequency of covered services is determined.

Ms. Forba stated that frequency of specific services is based on the total need of the population served by a specific clinic.

Ms. Steinbeck provided extensive explanation of LFD issue on Page B-89 of the Budget Analysis.

Mr. Chappuis also commented on nuances of the LFD issue.

{Tape: 2; Side: B; Approx. Time Counter: 14}

Ms. Steinbeck discussed statutory interpretation, contract language, funding authorization, audit, and accounting system issues involved in moving grants and benefits funds into operating costs, and vice versa. She also noted ways in which the committee's attempts to achieve flexibility in statute or reward divisions for prudent spending might be unintentionally subverted.

Mr. Chappuis asked that further discussion of this issue be deferred until more informed DPHHS representatives are in attendance.

Mr. Andersen discussed issues proposed by Ms. Steinbeck from the OBPP perspective.

Mr. Hunter thanked the committee for their time and attention, and distributed two documents: one covering Mental Health Services for Children, Proposed Added Benefit for CHIP; and an Overview of Nationwide Medicaid and State Children's Health Insurance Program (SCHIP) Expansion Programs.

[EXHIBIT\(jhh20a08\)](#)

[EXHIBIT\(jhh20a09\)](#)

{Tape: 3; Side: A}

CHAIR KAUFMANN reconvened the meeting following a short break.

Ms. Mary Dalton, Administrator, Quality Assurance Division (QAD), provided the committee with a QAD Overview packet.

[EXHIBIT\(jhh20a10\)](#)

Ms. Dalton described her own personal and professional background and gave a brief history of QAD, then directed the committee to Exhibit 10, Slide 2, QAD's Primary Responsibilities; Slide 4, QAD Organization, including introduction of attending staff members; Slide 5, Number of QAD FTE and location; Slide 6, QAD Funding; Slide 7, DP 3210, Montana Medical Marijuana Act (CI-148).

Responding to **REP. MORGAN**, **Ms. Dalton** stated that QAD has processed 26 applications for the Medical Marijuana Program.

REP. JAYNE inquired as to whether QAD might waive the fee for low-income applicants.

Ms. Dalton told the committee that QAD does not waive fees, but uses a sliding-scale fee.

Mr. Roy Kemp, Licensing Bureau Chief, QAD, offered that a Washington, D.C. organization takes applications for full-coverage from individuals at up to 150% of poverty.

In response to follow-up questions, **Ms. Dalton** noted that Medicaid money cannot cover Medical Marijuana, since marijuana is not a prescription drug. She also confirmed that QAD notifies low-income applicants of the Washington, DC funding organization.

Ms. Dalton continued with Slide 8, DP 9999; Slide 9, DP 193, Medicaid Payment Error Rate Program (PERM), and directed the committee to Page B-118 in the Budget Analysis for further information.

SEN. WEINBERG asked if the Medicaid review is mandated or elective.

Ms. Dalton replied that the Medicaid review federally mandated, and discussed the Medicaid Review error reporting method.

REP. JAYNE asked if providers are eligible for reimbursement in the event of Medicaid underpayment.

Ms. Dalton confirmed that this is a possibility.

{Tape: 3; Side: B}

Ms. Dalton fielded discussion and questions from the committee and agreed with them that the Medicaid Review process is unfair to small population states.

Ms. Steinbeck stated that the only real recourse the state has in this situation is through petitioning the congressional delegation in order to voice dissatisfaction.

SEN. WEINBERG suggested other actions the committee, other legislators, and the Department might take to make their dissatisfaction known.

At the request of **REP. JAYNE**, **Ms. Dalton** elaborated on Medicaid Review and Full Time Equivalent (FTE) cost recovery issues.

Ms. Steinbeck noted that DP 193 will have to be "netted out." She agreed to complete this work and provide information to the committee.

REP. JAYNE asked what steps might be taken to minimize the negative effects of the Medicaid Review.

Ms. Dalton stated that the review will reflect the effectiveness of Montana's eligibility and reimbursement processes, in hopes that the results might help the state streamline its Medicaid program.

Mr. Chappuis described continuing education for staff involved in Medicaid eligibility determination, reimbursement and billing, all efforts that help to improve and maintain efficiency and accuracy.

Ms. Dalton noted additional continuing education efforts.

SEN. WEINBERG asked if QAD supports "whistle-blowing" initiatives.

Ms. Dalton stated that QAD maintains no formal "whistle-blowing" initiative, but that it maintains a Legislative Hotline through which it receives and refers complaints for action.

{Tape: 3; Side: B; Approx. Time Counter: 9.4}

SEN. LIND described his interactions with providers whose concerns about Medicaid eligibility have been ignored or blocked from review and asked **Ms. Dalton** for her comments on this situation.

Ms. Dalton asked to hold her comments until discussion of the Surveillance Utilization Review (SUR) Unit.

Ms. Dalton directed the committee to Slides 10 and 11, Legislation directly affecting QAD; noting that SB 101 is a QAD bill. Responding to **SEN. WEINBERG**, **Ms. Dalton** stated that SB 60, which deals only with hospital beds, is significantly distinct from SB 257, which addresses certificates of need for swing beds.

Ms. Steinbeck noted possible MMA impacts for QAD.

Ms. Dalton introduced discussion of the Office of Fair Hearings, covering Slide 13, Key Responsibilities; Slide 14, Major Accomplishments; Slide 15, Hearing Requests; Slide 16, Telephone and In-Person Hearings.

Referring to Slide 15, **REP. JAYNE** asked what percentage of consumers request a hearing.

Ms. Dalton agreed to provide this information to the committee.

Ms. Dalton continued with Slide 17, Hearing Requests by Program, noting that Medicaid hearings generally address a consumer's request for services not typically offered under Medicaid. She also asserted that individuals lodging complaints must specifically request a hearing.

{No Audio Available, due to Technical Difficulties}

Responding to a question from **SEN. COBB**, **Ms. Dalton** stated that most in-person or telephone hearings are in regards to substantiation cases or individual eligibility cases.

Ms. Bobbie Conrady, Bureau Chief, Office of Fair Hearings, remarked that the majority of appeals are Medicaid cases and Food Stamp cases. She also provided information regarding the appeals system and process.

REP. JAYNE asked how the division learns from overturned appeals.

Ms. Dalton offered that overturned appeals give the division an opportunity re-word rules and clarify policys.

Ms. Dalton went on to Slide 19, Informal Dispute Resolution. She then introduced discussion on the Program Compliance Bureau, Slide 21, Key Responsibilities; Slide 22 and 23, Key Responsibilities and Accomplishments.

SEN. WEINBERG inquired as to why Health Insurance Portability and Accountability Act (HIPAA) bills are not subject to initial QAD review, and suggested that protocol should be changed to include such.

Mr. Chappuis respectfully disagreed with **SEN. WEINBERG's** suggestion, and explained why he did not feel that QAD should involve itself with HIPAA legislation.

Ms. Dalton discussed Slide 24, Surveillance Utilization and Review (SUR); Slide 25, SUR's Recoveries, 1999-2004. She also provided background information about recent large SUR recovery amounts.

SEN. LIND voiced providers' frustration with SUR's inefficiencies.

Ms. Dalton emphasized how few persons SUR's recoveries affect. She noted that of 12,000 physicians, only 24 were charged to recover funds.

SEN. LIND countered that although only 24 providers were charged to recover funds, a significant number of other individuals entered and were inconvenienced and frustrated by SUR's inefficient processes.

{Tape: 4; Side: A}

CHAIR KAUFMANN asked how much education or training is offered to providers in the event of a change in rules.

Ms. Dalton claimed that QAD offers appropriate amounts of education and training, but that providers do not always choose to participate. She described QAD outreach efforts, including provider manuals, newsletters, fairs, and networking with provider associations.

Responding to **CHAIR KAUFMANN's** follow-up questions, **Ms. Dalton** stated that because QAD processes over six million claims each

year, claims cannot be reviewed immediately upon submission, but only later through a formal review process.

Ms. Dalton continued with Slide 27, Third Party Liability (TPL) Cost Avoidance, Cash Recoveries, and Estate Recoveries, Fiscal Year (FY) 2001-FY 2004. She then moved on to discuss the Audit Bureau, Slide 30, Major Accomplishments; Slide 33, Key Responsibilities; Slide 34 Child Care Licensing Program Accomplishments; Slide 35, Child Care Facilities by Type; Slide 36, Child Care Facilities by Capacity.

Ms. Gervais provided the committee with three documents: Montana Code Annotated 2003, regarding energy conservation and energy assistance; HB 387 Rep. Juneau Bill Assumptions; and Disability Services Division Deeming Survey Conclusions.

[EXHIBIT\(jhh20a11\)](#)

[EXHIBIT\(jhh20a12\)](#)

[EXHIBIT\(jhh20a13\)](#)

ADJOURNMENT

Adjournment: 11:50 A.M.

REP. CHRISTINE KAUFMANN, Chairman

LAURA GOOD, Secretary

CK/lg

Additional Exhibits:

EXHIBIT ([jhh20aad0.PDF](#))