

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 13,
2005 at 8:05 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.

CHAIR REP. CHRISTINE KAUFMANN (D), HD 81, HELENA, called the meeting to order. **CHAIR KAUFMANN** led the committee through a housekeeping discussion on scheduling and room changes, and provided the committee and attendees with her office location and telephone number.

Ms. Pat Gervais announced that due to weather conditions, one of the two American Sign Language interpreters scheduled for today's meeting and hearing was unable to attend. The attending interpreter would provide limited interpretation of the committee meeting and complete interpretation of public testimony.

{Tape: 1; Side: A; Approx. Time Counter: 2.4}

Mr. Joe Matthews, Administrator of the Disability Services Division (DSD) of the Department of Health and Human Services (DPHHS), took the floor, recounting yesterday's overview of DSD community services and the Montana Developmental Center (MDC) and introducing today's overview of DPHHS' Montana Vocational Rehabilitation Program.

Mr. Matthews explained that Montana authorized its first Vocational Rehabilitation Act just following World War I, in an effort to reintegrate veterans. The Vocational Rehabilitation Act is re-authorized every five years, and is up for reauthorization this year.

Mr. Matthews reported that the mission of Montana's Vocational Rehabilitation Program is to provide services enabling eligible persons with disabilities to go to work. It is an eligibility-based program working with matched 78.7% Federal funding and 21.3% state funding. Last year, the Vocational Rehabilitation Program served approximately 8,000 Montanans.

Mr. Matthews noted that not all of those served by program counselors are deemed eligible for services. Those who are eligible work with counselors to create and implement vocational goals. **Mr. Matthews** held that most Vocational Rehabilitation Program consumers are either individuals who have not worked very much, or those who have extensive career experience but can no longer remain in their field due to injury.

Mr. Matthews sees the Vocational Rehabilitation Program as an important component of economic development, as many persons with disabilities want to and can work. The Vocational Rehabilitation Program makes this possible by helping consumer set vocational goals and providing labor and/or post-secondary training, job development and placement, employer surveys and education, independent living skills training, and adaptive equipment.

Mr. Matthews added that new and existing technologies help to open up excellent professional opportunities for persons with disabilities.

Mr. Matthews attested that in the past, the Vocational Rehabilitation Program primarily served people with orthopedic disabilities, including neck, back and limb problems sustained through Montana's many heavy labor jobs. Now, the program primarily serves people who have mental disabilities, including those who are chronically mentally ill, mentally disabled, and/or developmentally disabled. **Mr. Matthews** portrayed this as a national trend, due in part to increased diagnostic testing for mental illness.

{Tape: 1; Side: A; Approx. Time Counter: 13}

Other populations served include people with traumatic brain injuries, paraplegics and quadriplegics.

Mr. Matthews described the Vocational Rehabilitation Program as highly accountable to Federal regulations, and said that data from federal accountability studies is often brought before the Montana legislature as the division states its case for funding or policy changes.

Mr. Matthews stated that in Fiscal Year (FY) 2004, the Vocational Rehabilitation Program placed 872 people into employment, a number consistent with the division's recent historical averages. The average hourly wage for those placed was \$9.12/hour, which he noted as a good salary in the State of Montana. He reported that the average weekly hours worked by those placed was 30 hours, and that the annual earnings of all employees placed or served by Vocational Rehabilitation was \$12.4 million. He also remarked that many Vocational Rehabilitation Program consumers receive financial help from Temporary Assistance to Needy Families (TANF), Supplemental Security Income (SSI), Worker's Compensation, and other government programs.

Mr. Matthews indicated that the Vocational Rehabilitation Program employs 45 counselors who each cover 125 cases. Counselors are located in 10 field offices and regularly travel to outlying communities. Vocational Rehabilitation Program counselors coordinate their efforts with a variety of other agencies, including local Human Resource Development Council (HRDC) offices, Job Service offices, and school districts. Consumer cases are usually open for an average of two to three years, with the longest cases extending to eight to ten years. He noted that the length of the case is often determined by the severity of the consumer's disability.

Mr. Matthews also informed the committee that the Vocational Rehabilitation Program requires its consumers to undergo a financial needs test. He went on to state that the program is a part of the Federal Workforce Development program, which emphasizes the importance of consumer choice and aims for measurable quality outcomes.

Mr. Matthews characterized one of the Vocational Rehabilitation Program's biggest challenges as its consumers interest in self-employment. In these instances, the program provides a business consultant to help the consumer determine if the business plan is feasible, if a business loan can be obtained, and what role the Vocational Rehabilitation Program should play in this process.

Mr. Matthews expressed that the division's Decision Package (DP) request includes funds enabling the Vocational Rehabilitation Program to keep pace with university and vocational training tuition hikes. He noted that tuition funds are also covered with matched 78.7% Federal funding and 21.3% state funding.

SEN. DAN WEINBERG (D), SD 2, WHITEFISH, requested further information on the 45 counselors.

Mr. Matthews reviewed the information provided earlier and noted that all counselors are full-time state employees. Federal regulations require that all counselors either have or obtain, during the course of employment, a Master's degree in Rehabilitation Counseling. He stated that in the State of Montana, this degree program is available only at the University of Montana (UMT)-Billings.

{Tape: 1; Side: B; Approx. Time Counter: 1.4}

Ms. Gervais directed the committee to Page B-139 of the Budget Analysis, noting that while DPHHS has asked for a 4% increase in funding to cover tuition hikes, recent hikes come at a rate of approximately 7% per year. She advised the committee to consider at which level they would like to fund requested increase, and informed members that the UMT Board of Regents will meet next week to decide on the terms of the next increase.

SEN. JOHN COBB (R), SD 9, AUGUSTA, asked how much more funding would be required to keep pace with the 7% increase.

Ms. Gervais contended that with a 7.3% increase, the division would require \$1.5 million (approximately 20% general fund).

Responding to a follow-up question from **SEN. COBB**, **Mr. Matthews** stated that 3,500 individuals, or a little less than half of the

8,000 total number served, receive tuition coverage through the Vocational Rehabilitation Program. He maintained that if the division does not have adequate funds to cover tuition hikes, it decreases the number of courses each student may take and thus extends the amount of time they are in school. As always, funding preference goes to consumers with the most significant disabilities.

Mr. Matthews took this occasion to relate the program's emphasis on consumer satisfaction. He described the program's governing council members as consumers, lawyers and business advisors who especially monitor this issue, and contract with UMT-Billings to conduct regular consumer satisfaction surveys. Recent results indicate that 80-85% of consumers are satisfied with services.

SEN. WEINBERG asked how many employees staff the division's Helena office. **Mr. Matthews** said that the Helena office has 12 employees.

Mr. Matthews went on to cover the Vocational Rehabilitation Program's extended employment services for individuals with mental disabilities or brain injuries. This program offers sheltered workshop employment to 74 people at a cost of \$590 per month per consumer, and follow-along community employment to 125 people at a cost of \$196 per month. One hundred and forty people are on the waiting list.

{Tape: 1; Side: B; Approx. Time Counter: 10.5}

REP. PENNY MORGAN (R), HD 57, BILLINGS asked if extended employment services consumers engage in cost participation using income from their jobs.

Mr. Matthews stated that some do, but many do not. He told the committee that consumers of this program usually receive supplemental income from SSI or other government programs.

SEN. COBB called for more detailed information on the waiting list. **Mr. Matthews** stated that 21 individuals are waiting for sheltered employment, while 119 are waiting for follow-along employment.

Responding to a question from **SEN. WEINBERG** regarding the number of individuals on the waiting list who need services, **Mr. Matthews** said that most need services and that the division works hard to place them in jobs, albeit without the job coaching to help them remain employed. He noted that such individuals routinely lose their jobs and return to the waiting list.

Responding again to **SEN. WEINBERG, Mr. Matthews** offered limited comments on the cost differences inherent in offering complete services versus offering incomplete but immediate services.

SEN. COBB asked if the program has maximized its federal match funding.

Mr. Matthews surmised that if all DP requests go through, the program will maximize its federal match funding. He also noted that the extended employment program is covered by general funds that cannot be federally matched.

SEN. COBB then requested information on the Vocational Rehabilitation Program's average waiting list time.

{Tape: 1; Side: B; Approx. Time Counter: 18.9}

Mr. Matthews explained that the waiting list time is different in each region. The longest waiting list time (14 years) is in Missoula, where a hospital program cares for a large number of brain injury patients. Missoula also has the highest population of extended employment eligible individuals.

Responding to follow-up questions from **SEN. COBB, Mr. Matthews** indicated that Title 7 of the Rehabilitation Act provides federal funding for the Vocational Rehabilitation Program's four Independent Living Centers, which provide independent living education for disabled persons, community advocacy on behalf of the disabled, and accessibility advice for local businesses. The centers are advised by the state's Independent Living Council, chaired by June Hermanson, and are located in Helena, Missoula, Billings and Great Falls. **Mr. Matthews** noted that general fund monies help to fund these centers.

REP. MORGAN posed several questions regarding the Program Funding Table on Page B-136. **Mr. Matthews** responded that 2% of base funding covers the Independent Living Center program. Under Title 7 of the Rehabilitation Act, the program is funded in Parts B and C. Part C comes directly from the federal government to the Independent Living Centers, while Part B comes through the state general fund. General fund is allocated for the state Independent Living Council and the two centers (Great Falls and Billings) who do not receive Part C funding from the federal government.

REP. MORGAN asked what portion of DSD's \$42 million budget will be allocated to the Vocational Rehabilitation Program, and **Ms. Gervais** and **Mr. Morgan** agreed to provide this information to the committee.

{Tape: 2; Side: A}

Mr. Matthews then briefed the committee on the Disability Determination Unit, which works as an arm of the Social Security Administration to help determine the kinds of benefits for which disabled people qualify. He noted that the federal government ranks Montana's Disability Determination Unit fifth in the nation, commending it for its 96-98% accuracy rate and ability to adjudicate cases within sixty days.

Mr. Matthews reported that the Department is requesting funds to cover overtime as the Disability Determination Unit moves to adopt the new federally mandated fully electronic system.

Ms. Gervais directed the committee to Pages B-140 and B-141 for more information on the \$256,000 DP regarding this matter.

SEN. LIND asked why said funds were extended for several years, since implementation of an electronic system should bring immediate increases in efficiency.

Michelle Thibodeau, Chief of the Disability Determination Services Bureau, stated that the extension of funds is based on the time frame precedent set by other states.

Mr. Matthews then introduced the committee to **Connie Phelps, Director of the Montana Telecommunications Access Program (MTAP)**.

Ms. Phelps provided an overview of MTAP, which the 1989 legislature established in accordance with Title 4 of the Americans with Disabilities Act and the Federal Communications Commission (FCC) mandate for telecommunications, providing a functional equivalent for deaf and hard-of-hearing people. She stipulated that hard-of-hearing is the term preferred and used most widely by members of said community.

Ms. Phelps reported that a 13-member, Governor-appointed committee of consumers, business people and senior citizens governs MTAP. MTAP also employs five staff, including three administration and outreach staff and two equipment distribution staff.

Ms. Phelps provided the committee with information about MTAP's two programs: relay services and equipment distribution.

Ms. Phelps characterized relay services as those that allow the deaf and hard-of-hearing to communicate via telephone. Equipment used includes a Text Telephone or Teletypewriter (TTY), also known as a Telephone Device for the Deaf (TDD). **Ms. Phelps** demonstrated

TTY usage, which through traditional relay involves connecting to a phone line, dialing a universal number, speaking with a relay operator, and typing a conversation which is then voiced by the operator to the call recipient.

The Caption Telephone (CapTel) is a new relay services device that MTAP has been distributing for only nine months. It provides both amplification for hard-of-hearing individuals, as well as a text screen to which a silent relay operator feeds text from voice recognition software. **Ms. Phelps** related that the CapTel is used most frequently by senior citizens who have some hearing capabilities but cannot discriminate specific words.

{Tape: 2; Side: A; Approx. Time Counter: 20}

Ms. Phelps also described the speech-to-speech Relay Service, which connects a caller with some speech capacity to an operator trained in speech patterns. The operator will re-voice portions of the conversation for a call recipient who cannot understand the caller.

Next, **Ms. Phelps** described the Equipment Distribution service, which provides equipment to Montana residents with recognized hearing problems who meet financial qualifications (currently capped at 250% of poverty).

Ms. Phelps conveyed that consumers who do not qualify for the CapTel may purchase it directly from the distributor. She noted that only eight CapTel phones are sold each month to Montana residents, so that the state-funded CapTel Relay Service can adjust confidently to growing service demands. She also expressed that under federal mandate, Montana is required to cover the costs of relay services.

Ms. Phelps stated that 85% of MTAP consumers are eligible for and receive amplified telephones. Consumers with mobility issues can receive the hands-free RC-200 telephone, and speech pathologists may distribute electric larynxes to eligible MTAP consumers.

Ms. Phelps stated that a ten-cent surcharge on every land-line telephone and cell phone in Montana goes to fund MTAP. She claimed that in the future, TTY demand will even out as CapTel demand grows. She also informed the committee that all MTAP employees are trained to explain the equipment it distributes, and that MTAP has cut its outreach budget by terminating its contract with a public relations firm and bringing all of its outreach in-house.

Ms. Phelps then described three relay services that are available to consumers but not covered by MTAP, which include the free internet-accessible Video Relay Service; the free Internet Protocol Sprint Relay online, which turns any computer into a TTY; and the Federal Relay program, which provides free relay services to veterans, Native Americans, current members of the armed services, and current or retired government staff.

{Tape: 2; Side: B}

SEN. LIND asked how many Montanans, both those currently served and those currently unserved, could benefit from MTAP help.

Ms. Phelps surmised that there are approximately 75,000 deaf or hard-of-hearing people in Montana. Only 8,000 currently qualify for and receive MTAP help.

CHAIR KAUFMANN requested from Mrs. Phelps the dollar-amount savings incurred by making outreach an in-house program.

Ms. Phelps stated that this change removed \$260,000 from the biennial budget, leaving \$60,000 over the biennium to cover salary expenses for outreach. **Ms. Phelps** anticipates that the quality of outreach will remain the same.

Ms. Gervais suggested that the committee survey MTAP DP's on Page B-139 and Page B-140. These DP's deal with the ongoing structural issue of balancing MTAP's expenses with its anticipated level of revenue.

Clarifying **Ms. Phelps'** answer regarding how many Montanans could benefit from MTAP, **Mr. Matt Bugni, DSD Financial Services Bureau Chief**, stated that only 10% of the total number of eligible Montanans (as opposed to 10% per year) have been served by the MTAP equipment distribution program.

Ms. Phelps noted that limited public knowledge regarding MTAP makes for limited enrollment. She stated that previously, MTAP outreach focused on relay services, as mandated by the FCC. MTAP hopes to expand outreach to focus on equipment, as well. She also promised to provide **SEN. LIND** with information regarding MTAP's average cost for serving one individual.

Responding to **REP. MORGAN** regarding outreach about CapTel, **Ms. Phelps** averred that CapTel has only recently indicated that they are ready to handle the relay services that would be generated by positive response to widespread outreach. However, MTAP allows state-wide distribution of only a limited number of phones, due to the fact that federal mandates make MTAP responsible for all

CapTel relay costs, whether incurred by MTAP-eligible consumers or members of the general public. In the future, MTAP hopes to be able to cover expanded relay service costs and distribute a larger number of CapTel telephones. **Ms. Phelps** also said that the CapTel waiting list is relatively small.

Prompted by **SEN. LIND**, **Ms. Gervais** offered details regarding MTAP means-testing, which currently serves only those whose incomes are less than or equal to 250% of poverty. She claimed that the state is not mandated to provide equipment, so MTAP could reduce equipment costs in order to free up monies.

Additionally, **Ms. Gervais** noted that the legislature would need to enact a statutory provision in order to increase the 10-cent line tax that generates MTAP funds. She went on to explain to the committee that the legislature appropriates the state special revenue from the fund that receives and holds the 10-cent line tax.

{Tape: 2; Side: B; Approx. Time Counter: 15}

Responding to a follow-up question from **CHAIR KAUFMANN, Ms. Gervais** confirmed that the 10-cent line tax is the only source of funding for MTAP. Accordingly, MTAP receives no general fund monies.

Mr. Andersen added that there is an ending fund balance that provides some MTAP financial cushion. He projected that this fund would stand at about \$340,000 at the end of FY 2007.

Sheri Vukasin, Budget Analyst for DPHHS, stated that the ending fund balance can change based on the cost of relay service use.

SEN. LIND requested a more detailed breakdown of MTAP expenditures, which **Mr. Bugni** agreed to provide.

Mr. Matthews closed the MTAP overview.

Ms. Gervais offered a final comment on funding for the Independent Living Program, referring committee members to the information included in the tables on Page B-126 and Page B-125 of the Budget Analysis.

SEN. COBB suggested to DPHHS and division leadership that the divisions and their provider groups address the issues outlined in their respective portions of the Budget Analysis; then return to the committee with responses, information, and appropriate proposals.

{Tape: 3; Side: A}

After a brief break, **CHAIR KAUFMANN** asked **Ms. Gervais** to go through DSD issues and decision points as outlined in the Budget Analysis, and indicated that public testimony would begin at 11 A.M.

Ms. Gervais discussed bullet points regarding screening issues, as found on Page B-132 and Page B-133.

SEN. COBB suggested that the committee suspend their discussion of rate review until after the divisions and agencies have offered their ideas on the subject.

Mr. Matthews affirmed that the divisions and agencies would discuss rate review and return to the committee with the requested information.

{Tape: 3; Side: A; Approx. Time Counter: 11}

REP. JAYNE requested clarification of DSD's priorities over the coming biennium.

Ms. Gervais noted that per its directive to provide statutory guidance, the committee has the authority to guide the Department's selection of biennial priorities.

Mr. Stern replied that Department can only afford to select budget-neutral rates. If the Department concludes that the rates do not promote provider sustainability, then it will be forced to make difficult decisions regarding screening and service provision.

CHAIR KAUFMANN stated that last year's resources allowed providers to serve a certain number of people. With rate restructuring, the amount of resources no longer allows providers to serve the same amount of individuals. With this in mind, **CHAIR KAUFMANN** wondered where the Department is losing resources.

Mr. Stern could not provide accurate information regarding this question.

SEN. LIND asked if there were safeguards in the pilot program to protect consumers during the legislative interim.

Mr. Stern offered that slow, steady pilot program implementation should help to keep consumers safe and procure better data for the Department. He admitted that there financial concerns on the part of providers during this lag time, due to possible

shortfalls between expenditures project by the new Montana Resource Allocation (MONA) system and those calculated under the outgoing Resource Allocation Sheet (RAS) system.

Ms. Gervais indicated that during the pilot program, DSD must be very careful to meet all Medicaid requirements, so as not to jeopardize Medicaid funding.

CHAIR KAUFMANN suggested, per **SEN. COBB's** earlier request, that DSD comment on the bulleted issues found on Page B-135 of the Budget Analysis.

{Tape: 3; Side: A; Approx. Time Counter: 24}

Mr. Matthews turned to Page B-135 and discussed DSD's screening processes and the guiding principles of portability and choice. He stated that DSD does its best to provide choice while also bringing the most needy individuals into the system of care.

CHAIR KAUFMANN asked what criteria are used to determine most critical need status.

Mr. Matthews said that in adult services, such status is most often determined by considering both the severity of disability and the number of care crises the individual currently faces. He noted that children's services has a much more specific, less subjective definition tool.

CHAIR KAUFMANN enquired as to DSD's mode of procedure when the individual most in need has a cost plan higher than that allocated by the outgoing person's open slot.

Mr. Matthews reported that DSD will either defer system care until a slot of a higher cost plan opens up, or admit the individual and use available crisis funds to cover the shortfall.

{Tape: 3; Side: B}

Ms. Gervais stated that the committee might want to consider whether or not it is a defensible rationale to screen only wait-list individuals whose cost plan is equal to or less than that of the open slot.

Mr. Stern expressed that this issues presents many difficulties.

SEN. COBB asked Mr. Stern if this is a matter that DSD would like to handle on its own, or if it would like legislative comment.

Mr. Stern conveyed that DSD wishes to be open to the legislature's comment, especially because the division is receiving an increased amount of CMS oversight and would find it helpful to receive legislative input in areas where use of Medicaid funds are concerned.

REP. JAYNE requested that Chris Volinkaty, Lobbyist for Children's DD Programs, comment on screening procedures in children's services.

Ms. Volinkaty stated that children's services strives to adhere strictly to CMS screening requirements and regulations. She also stated that some individuals' most-needy status has shifted based on new MONA calculations.

{Tape: 3; Side: B; Approx. Time Counter: 8.4}

Ms. Gervais noted that before MONA, providers had the ability to move funds between consumers based on their discretion and the eruption of crises. Under MONA, the funding flexibility is now the responsibility of the Department.

Chair Kaufmann moved to begin public testimony, and asked witnesses give preference to those requiring the services of the American Sign Language (ASL) interpreter.

Ms. Linda Pouliot, a severely hard-of-hearing woman, testified as to the freedom, independence, and professional opportunities that have opened up to her, thanks to the CapTel telephone.

Ms. Tearra Donovan, a 17-year-old sophomore at Montana School for the Deaf and Blind (MSDB), described the benefits that MTAP-provided TTY. She stated that she has been using the TTY since the age of four, and that purchasing the device would have been a financial impossibility for her single parent mother. She thanked MTAP, DPHHS and the committee for their help.

Ms. Sarah Eyer, parent of a deaf son and employee of MSDB, offered her insights into the ways that MTAP's equipment distribution can mean the difference between independence and isolation, confidence and depression for many deaf individuals. She offered anecdotes detailing the ways in which MTAP-provided TTY had helped her son to gain responsibility and equal access.

Mr. John Delano, a former legislator who helped lobby the original bill authorizing MTAP, offered his support for all of MTAP's services and accomplishments. He offered written testimony to the committee.

EXHIBIT(jhh09a01)

Mr. Dean Ritta, a mechanic from Darby, MT, told the committee that CapTel allows him to successfully operate his own small business.

{Tape: 4; Side: A}

Mr. Tom Pouliot, brother to Ms. Linda Pouliot and several other deaf and hard-of-hearing individuals, described the ways in which MTAP equipment has increased his siblings' professional opportunities and his family's communication.

{Tape: 4; Side: A; Approx. Time Counter: 2.9}

SEN. WEINBERG solicited Ms. Eyer's ideas on how the division might offer more complete MTAP outreach to the deaf community.

Ms. Eyer suggested that MTAP work to develop relationships with a wider number of small communities within the larger and very diverse deaf and hard-of-hearing community.

REP. JAYNE asked Ms. Phelps if \$2.7 million in funding allowed MTAP to adequately meet the needs of deaf and hard-of-hearing Montanans.

Ms. Phelps stated that increased funds might help MTAP keep pace with its high demand for and large expenditures on amplified telephones.

REP. JAYNE followed up with a question for Mr. Pouliot, asking how he would direct increasing MTAP funding.

Mr. Pouliot indicated that an MTAP or DSD official might more accurately answer the question.

CHAIR KAUFMANN requested information regarding funding for Ms. Donovan, should she choose to attend university outside of Montana.

Ms. Phelps replied that in the event of such a situation, MTAP would help Ms. Donovan interface with programs in the state where she planned to pursue her degree.

CHAIR KAUFMANN closed questions.

Ms. Steinbeck provided committee members with a DPHHS Acronym List.

[EXHIBIT\(jhh09a02\)](#)

CHAIR KAUFMANN briefed the committee on a number of administrative and scheduling issues.

The following exhibits were submitted after adjournment:

[EXHIBIT\(jhh09a03\)](#)

[EXHIBIT\(jhh09a04\)](#)

[EXHIBIT\(jhh09a05\)](#)

ADJOURNMENT

Adjournment: 11:30 A.M.

REP. CHRISTINE KAUFMANN, Chairman

LAURA GOOD, Secretary

CK/LG

Additional Exhibits:

EXHIBIT ([jhh09aad0.PDF](#))