

SENATE JUDICIARY

EXHIBIT NO. 6

DATE 1/20/09

BILL NO. SB 189

REFERENCE COPY

Consumer Settlement Advisory Council
November, 2008

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Consumer Settlement Advisory Council Meeting
October 29, 2008 1:30 p.m.
Attorney General's Conference Room
Helena, Montana
Minutes

REFERENCE COPY

Attorney General Mike McGrath welcomed the members of the Advisory Council to the inaugural meeting. Members present were: Bill Thomas, Pam Bucy, Tara Veazey, and Matt Dale. Ali Bovington was absent due to a sick child. Staff present were: Michelle Truax, Rose Harmon, Thea Van Nice, Stuart Segrest.

Attorney General McGrath began with introductions, distributed the agenda (*Attachment #1*), then gave background information: The Attorney General (AG) been involved in a number of cases against the pharmaceutical industry, beginning in 2001 and continuing to this day. Several settlements have been reached, resulting in damages coming into the Montana Department of Justice (DOJ). Thus it has become necessary to find a system to determine how to allocate the money. Mr. McGrath created this advisory council to advise the AG on how to disburse these resources.

According to Attorney General McGrath, in 2005, the Montana Legislature moved the Consumer Protection Office from the Department of Administration to the Department of Justice. The AG is authorized to bring *Parens Patriae* lawsuits – the state as guardian of the people or a particular class of people – since the suit is not brought in the name of the state, but as a guardian of the people in consumer protection cases (other than Medicaid Fraud). The money recovered is not the state's money. The legislature also authorized DOJ to retain money from these lawsuits in a reserve fund, with proceeds recovered by the AG on behalf of the people or entities who've suffered loss, deposited in this account.

The majority of these cases involved improper marketing practices, i.e. giving the wrong drugs to the wrong person. If the AG had tried to sue for individuals, recovery for each person would have been minimal. Therefore, DOJ decided to provide funds to non-profit organizations with ties to Montana medically-related groups. Last December, approximately \$200,000 was given to community health clinics, based on the number of clients (Medicaid visits) recorded. Since that time, a substantial amount of money has been collected and is waiting disbursement.

Matt Dale handed out the Consumer Settlement Advisory Council Statement of Standard Operating Procedure (by-laws), (*Attachment #2*), noting that the public meeting had been posted, as required, on the DOJ website. (See *Attachment # 2, Section III A. 2*).

Dale noted that last December, when the initial funds were given to the community health clinics, there was less structure to the program. Now DOJ has language that tells us how to proceed: the by-laws. Mr. McGrath stated the importance of relating disbursements to the reason the suit was brought originally. Ms. Bucy noted that last years' distribution was related to assistance with discovery provided by community clinics.

Michelle Truax handed out the Budget Control Document (BCD) Approval Form (See Attachment # 3), which she designed, that designates approval for DOJ to spend the settlement money. Ms. Truax cited the AWP (average wholesale price) category as an example of phony practices – DOJ sued because of deceptive practices and won a settlement of \$720,309.28. The department is waiting for BCD approval before the money can be spent. Ms. Truax also noted that the Bextra-Celebrex settlement for inappropriate market deceptive practices resulted in DOJ's share of \$600,000, which has not yet arrived.

Mr. Dale pointed out page 2 of the by-laws, Section A 2 which states that the Council "shall establish a form that allows organizations to apply for funding, requiring submittal of a proposed budget, as well as an explanation of how the money will be used and what type of consumer will be served, which will be placed on the Department's website." Mr. Dale explained that had been done and passed out the Request for Funding sheet

(See Attachment #3). Members of the Council are welcome to offer suggestions to improve/change the draft form. Once the form has been approved, it will be posted on DOJ's website. Mr. Dale stressed that any funds given out will be given to an agency, not to individual people. He said the form was modeled on similar forms used by the Natural Resource Damage Program and the Montana Arts Council, agencies that also disseminate funds.

Mr. Dale asked if all possible players who might be eligible to submit proposals for funding were considered of this project. Ms. Bucy answered that initially, only local health clinics were approached as they were the only ones who helped gather data for last year's disbursement. Mr. Dale said he contacted Montana Shares, who then advised its members to submit proposals. He noted that many were told of the opportunity for funding, but if the proposal is not related to the settlement, there is less chance they will be funded. There have been a variety of lawsuits, and the issues differ, so the parameters for distribution can be broad.

Mr. Dale said the Consumer Protection staff is recommending today to give funding to the health clinics and legal services projects. (See Attachment #4, teal sheet). He said the Consumer Protection staff has a list of 11 clinics that qualify for funding (not including IHS) and each of the 11 provide Medicaid services and can prescribe drugs.

Ms. Truax explained that last year, because of funding from the Dey Pharmaceuticals Settlement, Missoula got \$20,000 and that it had a tremendous impact as more than 8200 clients were served with anti-psychotic medications and dental care. Ashland received far less but could do more with a larger grant. For example, they could use an exam table, which costs \$9000. Ms. Truax advocated that, regardless of the clinics' size, they each receive a flat amount to be used for medically necessary items.

Ms. Bucy stated the Council needs to find a way to follow up on how the money was spent. This information can be useful for reports to the legislature. A form will be created to accomplish this.

She also mentioned that Agenda Item #7, Possible Recipients, should include the Access to Justice Committee's Legal Needs Study, as it contains consumer protection issues. Along those lines, two Montana Legal Services proposals were brought forward for funding. One, for \$17,

250, would cover the match necessary to provide 13 AmeriCorp Vista workers across the state to assist victims of fraud. The second, for \$20,000, would help underwrite the cost of providing a web-based system to low-income consumers seeking redress.

Ms. Bucy suggested the Council fund item A.: County Health Departments/Free Clinics and item B.: MLSA Projects and withdraw item C.: Better Business Bureau.

MOTION: Bill Thomas moved to fund Agenda Item #7 A. County Health Departments/Free Clinics and Item B. MLSA Projects. Matt Dale seconded. Discussion followed: Ms. Bucy amended the motion to only funding item B. MLSA Projects today and consider item A. County Health Departments at the next meeting of the Council. Ms. Veazey asked for clarification as to how the projects at Legal Services qualified for funds. Ms. Bucy stated her belief that this proposal met the standard of providing assistance/education to consumers who had been harmed. Additionally, it is anticipated that funds will be disbursed to medical facilities at the Council's next meeting.

Substitute motion passed unanimously.

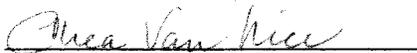
Mr. McGrath said that an instructional paragraph needs to accompany the Request for Funding Form, making the parameters clear. The form itself will be revised with specific instructions. The most important part is getting the consumer education money out the door. We can request more proposals for the remaining funds, and he encouraged Council members to get the word out.

The Council agreed to extend the deadline for proposals to Friday, November 28.

The CSAC will meet again on Wednesday, December 3 at 1:30 p.m. in the Attorney General's conference room.

The meeting adjourned at 2:45 p.m.

Respectfully submitted,



Thea Van Nice
Executive Assistant to the Attorney General
Staff for Consumer Settlement Advisory Council

Consumer Settlement Advisory Council Meeting
December 3, 2008 1:30 p.m.
Attorney General's Conference Room
Helena, Montana
Minutes

REFERENCE COPY

Attorney General Mike McGrath welcomed the members of the Consumer Settlement Advisory Council (CSAC) to its second meeting. Members present were: Bill Thomas, Pam Bucy, Tara Veazey, Ali Bovington, and Matt Dale. Staff members present were: Michele Truax, Thea Van Nice, and Angela Nunn.

Attorney General McGrath welcomed the group. Minutes of the previous meeting were circulated for approval.

MOTION: Pam Bucy moved the minutes be approved as written. Tara Veazey seconded. Motion passed unanimously.

Matt Dale drew attention to the proposals submitted for funding, including proposals from the previous meeting which hadn't been approved, and newly submitted proposals that met the deadline of November 28. The Council initially decided to promote programs that provided direct care as opposed to advocacy. Several Council members also expressed concerns about funding computer programs or off-the-shelf software.

Mr. Dale discussed the budget shortfall for Crime Victims Compensation, a function of the Office of Victim Services. The Attorney General noted that most of those funds are used to pay medical expenses for victims of violent crime. There was a consensus that additional unallocated funds be directed to the Victims Compensation Fund for payment of victim medical expenses.

Council members discussed each proposal, and then voted to approve or disapprove as recommendations to the Attorney General. Attached spreadsheet "A" shows the Council's recommendations. Spreadsheet "B" shows the final Attorney General approved expenditures.

Attorney General McGrath thanked the Council for their work and stated it was a pleasure to be able to distribute settlement funds to groups who will use the money for direct care purposes.

The next meeting of the CSAC will be Friday, February 27, at 1:30 p.m. in the Attorney General's conference room.

Respectfully submitted,


Thea Van Nice
Executive Assistant to the Attorney General
Staff for Consumer Settlement Advisory Council

REFERENCE COPY

**CSAC Proposals
December 3, 2008
Schedule A**

		Requested Amount	CSAC Recommended Amount	Notes
1	American Cancer Society - Pain Initiative	\$ 453,365.63	\$ 67,000.00	Pain Management Conference
2	American Lung Association of Mountain Pacific	\$ 58,300.00	\$ -	Protect Clean Indoor Air Act and Educate MT to Ease Implementation - Lobbyist
3	American Lung Association of Mountain Pacific	\$ 48,950.00	\$ 48,950.00	Protect Children from 2nd Hand Tobacco Smoke
4	American Lung Association of Mountain Pacific	\$ 88,000.00	\$ -	Freedom from Smoking Project
5	A.W.A.R.E., Inc.	\$ 50,000.00	\$ -	Increase Medical and Mental Health availability to child victims
6	Bridger Clinic, Inc.	\$ 52,000.00	\$ 52,000.00	Family planning - low income consumers - Budget shortfall amount
7	Cancer Family Network of Montana	\$ 15,900.00	\$ 19,850.00	Celebrating Family \$15,900 additional for program expense (not on cover amt)
8	Great Falls Community Food Bank	\$ 20,000.00	\$ 20,000.00	Purchase additional 40,000 lbs of food
9	Lewis & Clark City-County Health Department	\$ 50,780.00	\$ 50,780.00	Immunization software program
10	Lewis & Clark City-County Health Department	\$ 45,412.96	\$ 45,412.96	Youth suicide program
11	Montana Assoc. for the Blind	\$ 200,000.00	\$ 50,000.00	Summer newly blind orientation (benefits 25-30 per year) - Recommended 1 year
12	Montana Food Bank Network, Inc.	\$ 75,000.00	\$ 75,000.00	Back pack program
13	Montana Food Bank Network, Inc.	\$ 75,000.00	\$ 75,000.00	Mobile Pantry
14	Montana Food Bank Network, Inc.	\$ 100,000.00	\$ 100,000.00	Freezer / Cooler
15	Montana Mental Health Association	\$ 50,000.00	\$ -	Virtual Drop In Center

16	NARAL Pro-Choice Montana Foundation	\$ 22,190.88	\$ -	Reproductive health, birth control, & sex education
17	Susan G. Komen for the Cure	\$ 50,000.00	\$ 50,000.00	Mammograms to uninsured and underinsured women
18	Weel	\$ 57,360.00	\$ 57,360.00	Healthcare Coordinator
19	Montanans for Fair & Responsible Lending	\$ 62,500.00	\$ -	Research & collect data - coordinator

New Proposals

20	Ashland Community Health Center	\$ 20,000.00	\$ 75,000.00	Generator, van, rx's, exam tables, etc...
21	Butte Silver Bow Primary Health Care, Inc.	\$ 30,000.00	\$ 30,000.00	Medications to patients who would otherwise go without
22	Helena Food Share, Inc.	\$ 10,250.00	\$ 10,250.00	8 foot cooler, condenser. Transported and installed
23	Helena Indian Alliance	\$ 6,500.00	\$ 6,500.00	Food for seniors & indigent. Medical supplies & rx's
24	Missoula Food Bank, Inc.	\$ 20,000.00	\$ 20,000.00	Insurance for new refrigerated trucks for 1 year
25	Montana Family Advocacy Program	\$ 14,000.00	\$ 14,000.00	Combines law & medicine to assist vulnerable families
26	Partnership Health Center	\$ 50,000.00	\$ 50,000.00	Remodel pharmacy to expand by 40%
27	River Stone Health	\$ 99,162.00	\$ 50,000.00	1 FTE Eligibility Case Manager, to assist folks in applying for available benefits
28	Sweet Medical Center, Inc.	\$ 10,000.00	\$ 10,000.00	Prescription Assistance to uninsured and underinsured.
29	Community Health Partners	\$ 2,500.00	\$ 2,500.00	
30	Crime Victim Compensation		**	Amount to be determined
	Requesting Proposals - 2nd time			
	Community Health Care Center - GTF			Budget up to \$10,000
	Custer Cnty Community Health Ctr. Miles City			Budget up to \$10,000

Glacier Community Health Center - Cut Bank			Budget up to \$10,000
Indian Health Board of Billings, Inc.			Budget up to \$10,000
Lincoln County Community Health Ctr. - Libby			Budget up to \$10,000
Marias Healthcare Services			Budget up to \$10,000

Total \$ 1,837,171.47 \$ 979,602.96

CSAC Amount \$ 1,557,448.89
Proposed Grants \$ 979,602.96
Remaining \$ 577,845.93

REFERENCE COPY

**CSAC Proposals
12/3/2008
Schedule B**

Year	Proposal #	Requested Amount	Final Award Amount	Notes
2008	1	\$ 453,365.63	\$ 67,000.00	Pain management conference
2008	2	\$ 58,300.00	\$ -	Protect Clean Indoor Air Act and Educate MT to Ease Implementation - Lobbyist
2008	3	\$ 48,950.00	\$ 48,950.00	Protect Children from 2nd Hand Tobacco Smoke
2008	4	\$ 88,000.00	\$ -	Freedom from Smoking Project
2008	5	\$ 50,000.00	\$ -	Increase Medical and Mental Health availability to child victims
2008	6	\$ 52,000.00	\$ 52,000.00	Family planning - low income consumers - Budget shortfall
2008	7	\$ 15,900.00	\$ 15,900.00	Celebrating Family \$15,900 additional for program expense (not on cover amt)
2008	8	\$ 20,000.00	\$ 20,000.00	Purchase additional 40,000 lbs of food
2008	9	\$ 50,780.00	\$ 50,780.00	Immunization software program
2008	10	\$ 45,412.96	\$ 45,412.96	Youth suicide program
2008	11	\$ 200,000.00	\$ 50,000.00	Summer newly blind orientation (benefits 25-30 per year) - 1 year funding
2008	12	\$ 75,000.00	\$ 75,000.00	Back pack program
2008	13	\$ 75,000.00	\$ 75,000.00	Mobile Pantry
2008	14	\$ 100,000.00	\$ 100,000.00	Freezer / Cooler
2008	15	\$ 50,000.00	\$ -	Virtual Drop In Center
2008	16	\$ 22,190.88	\$ -	Reproductive health, birth control, & sex education
2008	17	\$ 50,000.00	\$ 50,000.00	Mammograms to uninsured and underinsured women

2008	18	Weel		\$ 57,360.00	\$	30,000.00	Healthcare Coordinator
2008	19	Montanans for Fair & Responsible Lending		\$ 62,500.00	\$	-	Research & collect data - coordinator
2008	20	Ashland Community Health Center		\$ 20,000.00	\$	75,000.00	Generator, van, rx's, exam tables, etc...
2008	21	Butte Silver Bow Primary Health Care, Inc.		\$ 30,000.00	\$	30,000.00	Medications to patients who would otherwise go without
2008	22	Helena Food Share, Inc.		\$ 10,250.00	\$	10,250.00	8 foot cooler, condenser. Transported and installed
2008	23	Helena Indian Alliance		\$ 6,500.00	\$	10,000.00	Food for seniors & indigent. Medical supplies & rx's
2008	24	Missoula Food Bank, Inc.		\$ 20,000.00	\$	20,000.00	Insurance for new refrigerated trucks for 1 year
2008	25	Montana Family Advocacy Program		\$ 14,000.00	\$	14,000.00	Combines law & medicine to assist vulnerable families
2008	26	Partnership Health Center		\$ 50,000.00	\$	50,000.00	Remodel pharmacy to expand by 40%
2008	27	River Stone Health		\$ 99,162.00	\$	50,000.00	1 FTE Eligibility Case Manager, to assist folks in applying for available benefits
2008	28	Sweet Medical Center, Inc.		\$ 10,000.00	\$	10,000.00	Prescription Assistance to uninsured and underinsured.
2008	29	Community Health Partners		\$ 2,500.00	\$	10,000.00	
2008	30	Crime Victim Compensation		\$ 538,155.93	\$	538,155.93	
		Requesting Proposals - 2nd time					
2008	40	Community Health Care Center - GTF		\$ 10,000.00	\$	10,000.00	
2008	41	Custer Cnty Community Health Ctr. Miles City		\$ 10,000.00	\$	10,000.00	
2008	42	Glacier Community Health Center - Cut Bank		\$ 10,000.00	\$	10,000.00	
2008	43	Indian Health Board of Billings, Inc.		\$ 10,000.00	\$	10,000.00	
2008	44	Lincoln County Community Health Ctr. - Libby		\$ 10,000.00	\$	10,000.00	
2008	45	Marias Healthcare Services		\$ 10,000.00	\$	10,000.00	

Total \$2,435,327.40 \$ 1,557,448.89

CSAC Amount
Proposed Grants
Remaining

\$1,557,448.89
\$1,557,448.89
\$ -