



Children, Families, Health and Human Services Interim Committee

PO BOX 201706
Helena, MT 59620-1706
(406) 444-3064
FAX (406) 444-3036

56th Montana Legislature

SENATE MEMBERS

MIGNON WATERMAN, PRESIDING OFFICER
DALE E. BERRY
EVE FRANKLIN
BOB KEENAN

HOUSE MEMBERS

LOREN L. SOFT, VICE PRESIDING OFFICER
BOB LAWSON
TRUDI SCHMIDT
CAROLYN SQUIRES

COMMITTEE STAFF

SUSAN BYORTH FOX
RESEARCH ANALYST
DAVID NISS
STAFF ATTORNEY
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.**

Fourth Meeting of Interim
Room B-07, Federal Bldg.
February 25, 2000

COMMITTEE MEMBERS PRESENT

Sen. Mignon Waterman, Presiding Officer
Rep. Loren L. Soft, Vice Presiding Officer
Sen. Dale E. Berry
Sen. Bob Keenan
Rep. Bob Lawson
Rep. Carolyn Squires

COMMITTEE MEMBERS EXCUSED

Sen. Eve Franklin
Rep. Trudi Schmidt

STAFF PRESENT

Susan Byorth Fox, Research Analyst
David Niss, Attorney
Lois O'Connor, Secretary

VISITORS

Visitors' list (ATTACHMENT #1)

COMMITTEE ACTION

- Approved the minutes of the November 19, 1999, meeting as amended

- Approved that Committee staff write a letter on behalf of the Dental Coalition in support of its efforts to seek a community integrated service system (CISS) grant for dental access

CALL TO ORDER AND ROLL CALL

The meeting was called to order by Sen. Waterman, Chair, at 8:40 a.m. Roll call was noted; Senator Franklin and Representative Schmidt were excused. (ATTACHMENT #2)

Sen. Berry **moved** that the minutes of the November 19, 1999, meeting be approved.

Sen. Waterman made a substitute motion to amend the minutes as follows:

- Page 17 -- Third paragraph -- Sen. Waterman said that medical . . .helpful in obtaining ~~Medicaid~~ supplemental Social Security (SSI) coverage for clients, . . .

The minutes were approved unanimously as amended.

PLEASE NOTE: These changes have been made in the original minutes which are on file in the Legislative Services Division.

FAIM PHASE II REPORT

Hank Hudson, Administrator, Human and Community Services Division, Department of Public Health and Human Services (DPHHS), provided an update on FAIM Phase II. (EXHIBIT #1) In addition to his written testimony, Mr. Hudson provided the following information:

- Because of the Committee's concern about public involvement in FAIM Phase II planning, ideas were solicited from advocacy groups and 8,000 invitations were sent to clients for "road show" attendance.
- A format of 25 meetings in 18 communities, including each reservation, was chosen and a draft proposal for FAIM Phase II will be available in late March or early April.
- To date, the Department does not plan to ask for additional general or federal funds and it will not appear as an increase in the budget but as a change in how the block grant is used.
- Sen. Berry and Rep. Soft are members of a study group that is developing a dependable, understandable, and equitable funding strategy for public assistance that erases the historic distinctions between assumed and nonassumed counties. The solution to the problem needs to be cost neutral, it cannot leave the state with less money than the old system, and it cannot put an additional burden on the counties.
- The biggest discussion surrounds what ongoing role county commissioners will have in the direction, oversight, and design of programs in their counties.
- The DPHHS is also working with a committee formed by Senate Bill No. 184 that is charged with reviewing local court, education, and local government funding and assessing the appropriate roles of the various funding streams. A legislative proposal was presented to the committee that would take \$14 million of county property tax and non-levy revenue and replace it with \$14 million from the general fund resulting in no property tax or local revenue in the welfare system. The proposal also includes an offset increase in expenditures for counties. The proposal was

presented to the committee and the Department requested that it be included in the committee's report.

Rep. Squires asked what is the benefit of all-inclusive omnibus legislation when, historically, it causes much legislative contention. Mr. Hudson said that he was unsure whether the Legislature would give the Department \$14 million in a separate piece of legislation and it felt that the \$14 million should be a part of a larger realignment of duties and local government funding streams. The Department is also working on an alternative strategy with the Montana Association of Counties (MACo) to continue to using local property tax revenue but develop a system that erases the assumed and non-assumed county distinction, as would the first proposal.

Sen. Waterman asked the following questions:

- Were FAIM participants continuing to be sanctioned for failure to turn in their participation sheets?
- What issues are the Department receiving from the public and FAIM participants regarding FAIM Phase II and how well have the public hearings been attended?
- Is there a way, within federal requirements, that Montana can pay the parents of special-needs children to be the child's primary care giver?

Mr. Hudson responded:

- The Department must following up on participants when it does not receive their participant sheets but it does so under the assumption that participants have sent them.
- The public hearings have not been well attended, averaging between 10 to 15 public members and two FAIM participants per meeting.
- Issues discussed at the public hearings have been that FAIM needs to evolve into a low-income, working-person advancement and retention program; that the block grant be used to dovetail with the Department of Labor and Industry's Workforce Investment Act to assist participants with moving into better paying jobs; sanctions and more interaction with the participants getting sanctioned; more and better case management; what approach the Department is taking with participants who are the parents of children with special needs and whether it would be counterproductive to hire another person to care for a special-needs child while the child's parent, who may be the best care giver, is moving into the work force; tribal issues centering around Rep. Cobb's legislation that set aside state money as an incentive to the tribes to develop their own welfare plans; whether more money should be spent on pre-employability needs in communities that have very few jobs, and employ or purchase case management services.
- There is no state law that would allow the parents of a special-needs child to be hired as the primary care giver nor can the Department's child-care block grant be used for such a purpose. However, the Department can allow the parent to remain at home and receive their cash-assistance check because of a waiver that allows the Department to do so. The waiver will sunset in 2003.

Rep. Squires requested that the Department review its policy regarding participants who are required to attend school in addition to completing the required 35 hours of work needed to maintain their grants

because of the burden it places on the participants. She also requested that the Department review the Manpower Training Act that allowed an individual to earn a \$3,000 incremental increase in salary before they were severed from daycare assistance. Rep. Squires also expressed her concern about the term "immediate employment" and what it really means (i.e., Does it mean flipping burgers or does it mean short- or long-term training along with flipping burgers?). Mr. Hudson said that discussions have been held on how to incorporate post-secondary education into the work program so that participants could split their time between the two. Participant frustration has been the inability to access child care in the evening hours for infants and special needs children so that participants can attend training. The Department is contemplating incentive payments for evening and infant care to its child care providers to expand the availability of child care.

Rep. Soft asked whether the Department had decided to continue with Rep. Cobb's legislation in the 2001 session or was it still unsure whether it was the proper junction to take. Mr. Hudson said that the tribes wanted to know if the option was going to be available beyond the end of biennium because they factor in whether they want to apply for their own plans. The Department's concern is whether it should be supporting that budget item in HB 2. The Department, to date, has not appropriated any of the funds and it has not taken any position on the process and will not until the end of FAIM Phase II. The main concern of the tribes regarding whether to run their own welfare plans is assuming the large administrative burden, such as eligibility, hiring staff and managers, and conducting federal reports, etc.

PUBLIC COMMENT

Judy Smith, WORD, expressed her concern that the public hearings were presented in such a way that they did not allow for recipient involvement. Recipients would prefer a process that provides for real negotiation rather than more input. Ms. Smith provided a list of talking points for the FAIM Phase II community meetings. (EXHIBIT #2)

Wendy Young, WEEL, said that she attended the first and second public meetings in Helena, and although questions were asked, the actual format of the public meetings was never discussed and very few, if any, notes were taken. Her concern was that important things being said were being missed.

Sen. Waterman commented that if people are concerned that comments are not being written down or if the agenda did not allow for input or discussion, that the Department is continuing to accept written or e-mail comments.

Kate Cholewa, Coping with Block Grants Project, said that in order to make the best decisions, an assessment of past and present welfare statuses is necessary. When participants discuss the welfare system and how they would like it to look, they must know all of the funding streams and what those funding streams can be used for.

CHIP UPDATE

Mary Noel, Children's Health Insurance Plan (CHIP), provided information on the current status of CHIP, a map of CHIP enrollees by county, and a CHIP brochure used by the Department in its outreach efforts. (EXHIBITS #3, #4, and #5 respectively)

Sen. Waterman asked how many children appearing to be eligible for Medicaid have actually enrolled in Medicaid. Ms. Noel said that the information was currently unavailable but she would provide the information at the next meeting.

Rep. Squires asked if the length of the application form had been reduced and asked about the status of the controversy regarding a family who applies for CHIP directly to the Department versus the county. Ms. Noel said that the Department is trying to further reduce the current 8-page application form. However, applicants indicate that they are not so much concerned with the length of the form but with the ease in which it can be used. She added that if a family applies to CHIP and they appear to be Medicaid eligible, the Department keeps a photocopy of the form and sends the original to the appropriate county office for followup.

Sen. Waterman asked what was happening with the application form envisioned in Sen. Eck's legislation. Ms. Noel said that Sen. Eck's application was being used for CHIP, Medicaid, mental health services, special health services, and the Caring Program.

In response to questions from Rep. Soft and Sen. Keenan, the Department will provide the Committee with information on how many CHIP enrollees identified as Native American were urban versus reservation Native Americans and the status of the quality assurance rules for managed care.

DEVELOPMENTAL DISABILITIES FUTURE STUDY

Rep. Lawson said that under the provisions of HB 2, the Disabilities Service Division (DSD) was directed to establish a proposal by June of 2000 to be reviewed by the Children, Families, Health, and Human Services Committee that considers the following options:

- moving individuals from the Montana Developmental Center and Eastmont Human Service Center to community settings if it is determined that a person may benefit from services in a community setting and if the services appropriate for the person's needs are available;
- based on the population remaining at both institutions, determine if an institution could be closed;
- if an institution is proposed to be closed, explore and recommend alternative uses for the institution; and
- develop a reduction in force plan that takes into consideration a reasonable way to reduce the staff at the institutions through normal attrition and planned layoffs and calculate the cost for paying out sick leave, vacation, and severance pay.

Rep. Lawson added that the DSD will have a written proposal available by June 30, 2000, and he requested that the proposal be discussed at the Committee's August meeting. The written proposal will be mailed to the Committee prior to the meeting.

Joe Mathews, Administrator, DSD, DPHHS, provided an overview of the table of contents for the overall written study. (EXHIBIT #6) He said that much of the study plan working group discussions have centered around what community infrastructures need to look like before moving people from the institutions into the community and the disparity in salaries for community-based programs versus institutional employees. The result of the disparity in salary is causing a significant turnover in direct-care staff in community programs which effects the service delivery system.

Rep. Squires asked if the DSD reviewed the wages, turnover rates, and the training aspects of each of the agencies that provided disability services in the community. Mr. Mathews said yes, adding that different programs have different direct-care staff turnover rates and the turnover rates are more significant in some places than in others. Community infrastructure, trained staff, and disparity in salary are the most serious concerns. Rep. Squires suggested that the revenue saved by eliminating the institutions or bringing the people from an institutional setting to a community-based setting should follow the worker to be used for training.

Rep. Soft asked about the HCFA review of the Division's home and community-based waiver. Mr. Mathews said that because it has been seven years since the last visit, the DSD requested that HCFA come to Montana to review the home and community-based waiver and to review how the Division is handling the waiver. Although a date has not been set, the visit will probably be in late spring.

Sen. Keenan provided a letter from Dr. Charles J. Marlen, Great Falls, whose daughter has been unable to receive services because of a dual diagnosis. (EXHIBIT #7) Mr. Mathews said that the DSD and the

Addictive and Mental Disorders Division (AMDD) is aware of the problem and is currently working on a solution. Sen. Waterman requested an update on the resolution.

Sen. Waterman asked how the DSD was addressing the salary and turnover issues within its executive planning proposal (EPP) process. Mr. Mathews said that the Division's EPP top priorities will be to build up community infrastructures, to increase provider fees, and to decrease the community waiting list which is currently around 400 people.

Sen. Keenan felt that there was an overlap in services and misunderstandings, particularly in areas of fetal alcohol effect (FAE), fetal alcohol syndrome (FAS), and other voluntary or involuntary environmental or chemical effects on the development of the brain. He offered his help to find out which services could be used to address these areas because he felt that they were going to represent a large gap in services in the future. He asked about agency coordination between the DSD, the AMDD, and the Department of Corrections. Mr. Mathews said that DSD is coordinating its efforts with AMDD about the issues of FAE and FAS. Last year, there was a substantial increase in the number of commitments to the Montana Developmental Center versus previous years. Many people that Judges are committing fall into the categories described by Sen. Keenan. The study group is reviewing what the mission of the institutional services should be and what treatment modalities should be used because treatment for developmental disabilities, in many cases, is very different from mental health treatment.

Sen. Waterman said that she would like the Committee to begin focusing on issues that require a budget proposal or a Committee recommendation for discussion in the next two meetings.

Andrea Rhodes, Montana Advocacy Program (MAP), said that the class action lawsuit against the DSD was filed to reduce the community waiting list, to increase the quality of services, and to increase more individualized services. She added that she did not want to leave the Committee with the idea that the issue is either to build community infrastructure or reduce the waiting list. MAP's position is that both could be done by funneling the money that is being spent unnecessarily in institutions on people whose treating professionals say do not need to be there into the community system for infrastructure.

MENTAL HEALTH MANAGED CARE OMBUDSMAN REPORT

Bonnie Adee, Mental Health Ombudsman, Office of the Governor, said that the Ombudsman's Office is averaging between 30 and 40 new contacts a month. Her clients major concerns are as follows:

- the inability to access services involving children and youth in need of mental health services who are not eligible for public assistance;
- CHIP is not a safety net because it does not increase eligibility, it has the same cap;

- difficulty in finding residential settings for children because of the lack of community services;
- inability to access child psychiatry in Montana, including the larger communities;
- inability to find appropriate services for children having dual diagnosis;
- inadequate placements for children who reach 18 years of age and are no longer eligible for children's services; and
- the role and involvement of the Child and Family Services Division in families and the threat of losing their children.

Rep. Soft asked how many children were not eligible for CHIP or Medicaid. Ms. Adee said that of the clients she hears from, 20 to 30 children are ineligible. Rep. Soft said that it appeared to him that there was the lack of willingness on the part of the DSD and the AMDD to work together and that potential providers were finding it difficult to get licensed by DSD to provide mental health services to developmentally disabled children. He asked for comment. Ms. Adee said that according to case managers, there are problems with which Division will pay for what services; problems with children who are not in the custody of the Division that is responsible for providing those specific services; and problems with finding facilities that have the capacity, service and training wise, to handle a dually diagnosed child concurrently--the developmental disabilities being long-standing and daily while the mental health issues tend to be more cyclical and crisis-oriented.

Sen. Waterman asked if income disregards were being considered by the Administration, through the EPP process, as a possible solution for the inability to access services because of income ineligibility. Ms. Adee was unsure, but from her perspective, yes, because these children have severe and acute needs and have long histories of needing those services. **Laurie Ekanger, Director, DPHHS**, added that the Department is discussing three areas in its EPP development: (1) unmet need; (2) infrastructure, wages, and access; and (3) the integration of a single, publically funded system so that there is not a variety of programs and more "buying in" of programs because people are either eligible, or if they earn a dollar over, completely ineligible. Income disregards have been discussed and the proposals will be sent to the OBPP on April 15. Sen. Waterman requested a summary of the Department's EPP proposals and that it be an agenda item for the May meeting.

Sen. Keenan commented said that there is also the problem with dual diagnosis and co-existing diagnosis--chemical dependency along with mental illness as well as a developmental disability along with a mental illness. He was unsure whether the terminology had been delineated.

HJ 35 SUBCOMMITTEE: MENTAL HEALTH MANAGED CARE PROGRESS REPORT

Lois Steinbeck, Legislative Fiscal Division, stated the following:

- A panel of providers stated that high-end services for mentally ill adults and children are full and it was very difficult to move them into community settings.
- The average length of stay for Deaconess Hospital is increasing compared to what it was when Magellan was running the managed care program.
- Residential psychiatric facilities and hospitals reported that they are seeing more people enter the system at the high end and without community services involvement first.
- Presentations were heard from a pilot program in Helena where local agencies, juvenile justice, foster care, and schools are combining to provide a "gatekeeper, wrap-around service model" for children who are served by those agencies. One of the gateways into this system is that children must be served by more than one agency.
- State agency leadership is needed to provide local cooperation mandates because the systems are serving some of the same families.
- Topics for the March 8, 2000, meeting will include discussions on: (1) Dr. Marlen's letter and how the case will be resolved, (2) the Montana Advocacy Program's jail survey of mentally ill persons being retained in county jails, (3) law enforcement training to recognize mentally ill persons and how to handle them, (4) the status of the State Hospital construction by the Department of Administration (DOAdmin), and (5) funding flexibility.
- The HJ 35 Subcommittee identified as its major topic area the development of appropriate community mental health services.
- The most flexible funding source is general fund but it is limited. The Subcommittee will review how to make Medicaid more flexible, how to free up more general fund, and how can funding sources be augmented to develop more appropriate community services. The Subcommittee will also identify how TANF and CHIP funds can be used to provide services, with the caveat that policy decisions will be needed.

Sen. Keenan commented that if the \$922 million of tobacco money were put toward the Medicaid match at the 70% and 30% levels, Montana would receive \$3 billion which would free up flexible general fund dollars. Ms. Steinbeck said that she would include the statement in a report that she was preparing for the Legislative Finance Committee on funding flexibility.

Sen. Waterman said that co-existing conditions are also becoming a big problem. Suggestions were made that county chemical dependency (CD) money and special education funds could be used as matches for Medicaid. Ms. Steinbeck said that the alcohol funds and a federal block grant are the two primary sources of CD funding. When the federal block grant was allocated, special consideration was not given to servicing mentally ill and CD people; and according to the CD community, they already had so many unmet needs that they needed the extra CD funding to serve adolescents. Counties and local governments receive alcohol funds directly from the Department of Revenue and the alcohol account within DPHHS. The Legislature appropriates money from the alcohol account and whatever remains is statutorily appropriated to counties. The Legislature has the prerogative to fully appropriate the alcohol account but the counties have commitments of those funds. Ms. Steinbeck said that the services for children are more broadly based and available than services for adults. The state's CD plan for Medicaid

reimbursement only reimburses out-patient programs related to in-patient hospitals. The Legislature could expand out-patient Medicaid funding to counties to generate Medicaid match. Another option would be to let the counties become Medicaid providers so that they could use the alcohol match to draw down federal funds through DPHHS, as was done by the school systems under Governor Stan Stephens. However, the schools found that becoming a Medicaid provider was much too complex. Sen. Waterman understood that the counties had more needs than they had funds. Her concern was finding a way to increase the size of the county funding pools while, at the same time, letting the counties feel that they have some direction over them.

Sen. Keenan provided suggested revisions to the vision and values for the Montana public mental health system which was presented to the Mental Health Oversight Advisory Committee. (EXHIBIT #8)

PROJECT ON THE UNINSURED AND THE ALPHA CENTER

Nancy Ellery, Administrator, Health Policy and Services Division, DPHHS, provided an overview of what state coverage initiatives (SCI) were and facts about Montana's uninsured. (EXHIBIT #9) She said that a working group is developing a "white paper" of options that includes reviewing the high-risk pool, small employer purchases of health insurance, tax credits, and the CHIP eligibility level. The paper would include advantages and disadvantages of the options, estimated costs, and demographics of the uninsured to raise public awareness of the problem.

MONTANA DENTAL ACCESS COALITION

Ms. Ellery provided a packet of information regarding the Montana Dental Access Coalition that was formed to review the problems with dental access. (EXHIBIT #10) Four work groups were appointed to review immediate and short- and long-term strategies to improve access to dental care.

Susan Fox, Legislative Services Division, informed the Committee that the immediate strategies are efforts that the workgroups and people in the dental world are currently working on before the 2001 Session, short-term strategies involve the Departments' EPP process and potentially the Committee as legislative proposals, and long-term strategies are proposals to be reviewed in the 2001 interim.

Ann Waikman, MT Dental Health Association, provided information on the data collection workgroup strategies. (EXHIBIT #11)

Rep. Squires said that her concern is that because of the access to dental care problem, children and adults are using the most costly systems to receive dental care--emergency rooms and clinics. She felt

that it was imperative to fine tune the mechanism by which emergency service information is extracted because it will result in a skewed picture of the problem and because emergency services, in her opinion, were the largest cost factor. She also suggested that the working group review the list of on-call dentists because, in many cases, dentists do not know that they are on call resulting in the client being referred to emergency services.

JoAnn Dotson, Bureau Chief, Family and Community Health, DPHHS, provided information on the public education workgroup strategies. (EXHIBIT #12)

Dr. James Aichlmayer, Dentist, East Helena, provided information on the finance and policy development workgroup strategies. (EXHIBIT #13)

She asked for clarification on the "no-show" issue. Dr. Aichlmayer said that in order to improve dental access the "no-show" issue must be addressed. He said that as a Medicaid provider, if he has 1-hour's worth of time, he can see 1-hour's worth of patient. During his volunteer time at the Cooperative Health Center, he spent the afternoon doing nothing because no one showed up for their treatment. The issue then becomes a value problem in that if something is given free, clients are not as interested in seeing it through.

Ms. Ellery added that currently, dentists charge clients in their regular practices if they do not show up for appointments. However, HCFA does not allow dentists to charge Medicaid clients if they do not show up for appointments. It is becoming a problem because it prevents dentists from participating in the program. Although the Department has raised the issue on many occasions, she suggested that a letter from the Committee to HCFA and Montana's Congressional delegation may have more influence than the Department has had. Sen. Waterman said that there should be an educational process between Medicaid clients and their case managers on access because clients are running into the same problems that other Medicaid clients run into--lack of transportation, child care, and not understanding the importance of good dental care. Ms. Ellery said that the Department does not have a case management component built into the program to make sure that clients get to their appointments. However, something may be done through the FAIM counselor or the local health departments and it could be written into the clients family investment agreement.

Sen. Waterman asked for clarification on the strategy to explore the feasibility of restoring dental benefits for TANF adults. Ms. Ellery said that under the FAIM waiver, Montana eliminated dental, visual, and other services for TANF adults in order to make the waiver cost effective. The only way an adult can

receive dental services is if the service is related to work. As a result, the Department is exploring the possibility of restoring dental benefits for adults as a potential EPP proposal. Sen. Waterman also commented that the question of why dentists who are already Medicaid providers are not automatically qualified to be CHIP providers has been raised many times.

Rep. Soft said that the reason that the Legislature approved the \$200 cap on the CHIP was that it was not looking to treat all dental problems only to provide basic dental care. He asked how many clients need dental work beyond the \$200 cap. Dr. Aichlmayer said that although he was told that he would be contacted by many people, he joined CHIP approximately one month ago and he has yet to see a CHIP client. He said that the major reasons why the majority of the dentists in the 5th District have not signed up for CHIP is because of the \$200 cap and the complexity of the application form. They choose to either see patients on a volunteer basis or see them at no cost.

Sen. Waterman commented that it was imperative to know how many children need dental services over the \$200 cap and whether that number is every child or 20% because the Legislature cannot make budget decisions based on anecdotal information. She said that the \$200 cap was implemented as a gatekeeper for fear that the state would not be able to afford the program. Sen. Waterman asked about the complexity of the CHIP application form and why the Medicaid form could not be used. She also asked if information was being collected on the number of dentists who are seeing clients under CHIP, how many CHIP clients were they seeing, and how many of the clients have dental problems exceeding the \$200 cap. **Mary Dalton, CHIP, DPHHS**, said that the CHIP application form is simplified from the Medicaid application form. The Department decided to use separate forms for CHIP applicants because a person who signs up for Medicaid could have done so several years ago and the information may not be current. The Department's fiscal intermediary wanted her to sign up all Medicaid dentists as CHIP dentist but the Department felt that dentists needed to have a choice. Dentists must sign some form in order to be certified but it may be made simpler than it is. Ms. Dalton said that there is currently not enough data to tell what the utilization of CHIP has been. The Department plans to survey dentists to see how many children they are serving under CHIP and go to the families who have been served under CHIP.

Mary Beth Frideres, Mt Primary Care Association, provided information on the workforce analysis workgroup strategies. (EXHIBIT #14)

Sen. Waterman requested information about dentist availability; how much time they had within their general practices to see Medicaid, CHIP, or low-income clients if the reimbursement was higher; and would dental access increase if reimbursement rates were increased.

Ms. Fox said that the four workgroups will meet by April 7 to refine the options. The planning group will meet April 21 and a legislative package will be available for review at the Committee's May meeting. The Department's EPP proposal will also be available.

In response to Rep. Squires' concern regarding emergency room service data collection, Ms. Fox said that a public health dentist who works for HRSA has done research in other states. The research shows that emergency room data shows up in some of the categories but it is not known what the unmet needs are because not enough information is available. Rep. Squires said that she did not want the issue to be glossed over.

Sen. Berry asked about Montana's reciprocity licensing for dentists. **Mary McCue, MT Dental Association**, said that Montana allows reciprocal licensing but out-of-state dentists must pass an examination that has requirements equivalent to Montana's. The Western States' Dental Examination is a difficult test but, for reciprocity purposes, it could be revisited. **David Hemion, MT Dental Association**, said that the problem with national licensing is one that dentistry has been confronting for a number of years and is actively reviewing. The western region includes 12 states except California and Texas. The Board of Dentistry approved a credential process and the western regional examining board uses it to validate whether the test that a dentist took in the past is comparable to what is required for Montana. Competency questions arise when dental specialists who have not performed any general dentistry in years apply for reciprocal licenses. Another validation problem is foreign-trained dentists.

Sen. Waterman asked about retired dentists and senior student dental residents. Ms. McCue said that the Board of Dentistry must approve a lesser level of license for retired dentists. The issue is not in a legislative package so the MT Dental Association may have to pursue the issue. Mr. Hemion said that he would provide information on the number of dentists who have applied for reciprocity licenses and how long it takes. He added that currently Montana does not allow for student dental residents. If there is a way to supervise a dental student within the proper process, it could go forward as legislation. Sen. Waterman suggested that the Committee consider student dental residents as part of its legislative proposals.

Ms. Fox introduced Christine Simonich, Carroll College Intern, who is helping the Dental Coalition work on a \$50,000 community integrated service system (CISS) grant. Letters were sent to Coalition and Association members requesting that they write a letter of support for the grant. She requested that the Committee also write a letter of support.

Sen. Waterman was concerned with the timing of the proposals and the Committee needed to see specifics and concrete legislative proposals as soon as possible. She also requested more information on allowing dentists to bill Medicaid clients if they do not show up for appointments before the Committee endorses a letter of support.

Rep. Squires **moved** that Committee staff write a letter on behalf of the Dental Coalition in support of its efforts to seek a community integrated service system (CISS) grant for dental access. Motion carried unanimously.

MT YOUTH RISK BEHAVIOR SURVEY

Rick Chiotti, MT Youth Risk Behavior Survey, OPI, provided a packet of information on and an overview of OPI's Youth Risk Behavior Survey. (EXHIBIT #15)

TOBACCO SETTLEMENT ISSUES

Rep. Soft provided a summary from Rep. Trudi Schmidt on the discussion topics of the Tobacco Settlement Subcommittee. (EXHIBIT #16) Rep. Soft added that discussions were also held on enforcing existing tobacco laws as they relate to access to minors and the possibility of tobacco-free indoor policies statewide. He added that although there was Native American representation on the Tobacco Settlement Advisory Council, the tribes felt that they were not represented as well as they should be. As a result, the MT-WY Tribal Leaders Council formed a subcommittee to address their own part of the tobacco settlement plan. Since Native Americans represent 7% of Montana's total population, a portion of the tribes' plan was a request to the Governor to receive 7% of the total tobacco settlement funds prior to any administrative reductions. There was also a discussion on how the funds would be allocated between the urban and reservation Indians. Rep. Soft will write a letter that discusses his recommendations on the issues to Governor Racicot.

Sen. Keenan asked about the difference between the cigarette taxes on and off the reservation. Ms. Ellery said that one tribe may pay taxes on cigarettes but the remaining tribes are all exempt from state taxes but not federal taxes. Ms. Fox added that the taxation issue is not a simple one because it depends upon who is purchasing the cigarettes and whether or not they are Native American.

Jim Ahrens, MT Hospital Association, provided a copy and overview of the proposed tobacco settlement initiative that would set aside 40% of the total tobacco settlement funds into a permanent trust fund. (EXHIBIT #17)

Ms. Ellery said that part of the Advisory Committee's report included a recommendation to advocate for an increased cigarette tax. However, it was changed to advocate for a change in the way cigarettes are taxed not an increase in the per-pack amount. The change would allow taxation on the percentage of wholesale value and; if the option is chosen, it should decrease consumption. The increase would also be revenue neutral.

Sen. Berry said that many people are looking toward the tobacco settlement funds to solve their problems. The Center for Disease Control recommends that states spend \$10 million of the funds a year. It will be difficult to sell to the Legislature if it has no concrete idea of where the funds are going to be spent. Because there is no concrete use, as yet, for the funds, the funds have not been spent. In addition, 15 local coalitions have been formed across the state to identify the areas where the tobacco funds could be spent. However, the coalitions are all located in urban areas and there are none located in the rural areas.

Sen. Waterman asked about the rumor of possible departmental cost overruns in foster care, prescriptions, and mental health and that a portion of the \$3.5 million of the tobacco prevention appropriation would be diverted to avoid a supplemental. Ms. Ellery said that Director Ekanger has given her full commitment that as much as possible of the \$3.5 million appropriation could be spent for tobacco prevention before any of the appropriation is moved.

Ms. Steinbeck clarified that projections from the most recent budget status report of the Department indicates \$2 million in unspent tobacco funds. The status report also indicates that the Department will underexpend its general fund budget by \$129,000. In order for the Department to achieve the reversion, it must spend \$2 million of the general fund tobacco prevention appropriation toward other shortfalls within the Department. If the money is not spent or if it is reverted to the general fund, the Department will incur a supplemental. (EXHIBIT #18)

Sen. Waterman asked if there were a special session, would some one ask for an expansion of the call to include the tobacco initiative so that it would be a referendum thereby avoiding the signature process. Mr. Ahrens said that if the Governor called a special session, the initiative would be a part of the expansion of the call.

Ms. Fox added that Sen. Doherty currently has a bill draft request in place if a special session is called. She added that nationally, although there has been a consumer price index (CPI) adjustment of plus 3%, the change in the volume of cigarettes produced for U.S. consumption has caused a 13% decrease in the states' tobacco allotments--a 10% decrease. She requested that the Committee keep in mind that there may not be as much money as there was supposed to be. In addition, a number of states are trying to calculate how best to manage and maximize the amount of money that they are to receive. For example, six states are considering securitization of the funds--selling bonds against future revenue--and others are proposing reserve funds to protect themselves from future reductions. She suggested that these ideas may be issues that the Tobacco Settlement Subcommittee may want to address. Further, there has been over 400 pieces of legislation on the tobacco settlement introduced during the 2000 Session across the nation. Some of the legislation proposes to expand Medicaid eligibility, to create high-risk insurance pools, to provide pharmaceutical assistance to the elderly and disabled, to provide children's health insurance, and to establish state-only, basis-benefit insurance programs for the working poor. In addition, K-12 education, childhood development, and after-school programs are likely to receive funds and biomedical health-care research is a growing category for tobacco settlement funding.

Rep. Lawson asked about the confusion in Section 4(3) of the proposed tobacco settlement initiative. Mr. Ahrens was working on the language and would contact Ms. Fox.

Referring to the quality assurance rules, Ms. Fox said that the Department formed a working group that has reviewed the first draft of the rules. The proposal notice will be sent to the Secretary of State in April and they should be adopted in September to meet the October 1, 2000, deadline.

PROJECT CHALLENGE UPDATE

Mike Royer, Director, Project Challenge, provided an overview of the Montana National Guard Youth Challenge Program. (EXHIBIT #19)

Rep. Lawson asked if there was a followup program to track the students after they leave the program. Mr. Royer said that after the 17 months is completed, there is a tracking network in place but the Youth Challenge Program is designed to track students only through the 12-month mentorship program. However, the National Guard Bureau tracks students on a longitudinal study past the 17 months.

Sen. Waterman asked how many Native Americans were on the Youth Challenge Program's staff. Mr. Royer said that there are no Native Americans on staff to date but the Program continues to search. However, it has a contract counselor involved who has had success with the Program's Native American

students. Sen. Waterman was concerned that of the number of Native American students who started the Program, only seven graduated from the first class and of the 56 Native American applicants for the second class, over one-half have already dropped out. She said that the profile of the students that the Program is targeting, Native Americans are over represented and the future direction of the Youth Challenge Program should include an expansion, if possible, to a locations on or near reservations. Sen. Waterman asked about the percentage of male and female students. Mr. Royer said that the Program is made up of approximately 35% female.

Rep. Soft asked about the Program's total budget. **Colonel Mike McCabe, Montana National Guard** said that the annual operating cost of the Program is \$2.8 million which includes in-kind and alcohol funding contributions. He provided a graph showing a breakdown of the Program cost per student per day. (EXHIBIT #20)

Sen. Waterman asked about the level of proposed funding and funding sources for the Program in the next biennium. Col. McCabe said that the tobacco funds were deposited in the general fund and the Legislature decided to use general fund money to fund the Program. As a result, the Program will request \$880,000 in state general fund with the remaining to be matched by federal money. It will be seen as a continuation of existing funding.

The Committee heard comments from Casie Agee, a graduate of the Youth Challenge Program.

FOSTER CARE ISSUES

Chuck Hunter, Administrator, Child and Family Services Division, DPHHS, provided the booklet WHAT HAPPENS NEXT: A Guide to the Child & Family Services Division and provided an overview of the issues and budget proposals related to the Child and Family Services Division. (EXHIBITS #21 and #22 respectively)

Rep. Soft asked if the training of foster care families was contracted services or in-house training. Mr. Hunter said that currently, all training is being conducted by the Department but it plans to increase the frequency of training by 50% which will likely result in additional contracted services.

Sen. Waterman asked about the Division's proposal to conduct family group conferences for Native American children. Mr. Hunter said that the Division is holding family group conferences on 10% to 15% of Native American families. He said that currently, most family group conferences are held in Lewis and Clark County and around the Flathead area. The majority of Native American children in custody are

in Yellowstone County, eastern Montana, and east of Great Falls. Staff in these areas have yet to be properly trained in family group conferencing.

Rep. Soft asked about the percentage of Native American children in foster care. Mr. Hunter said that in any given year, there are approximately 3,500 foster care children in the system of which 30% are Native American. Rep. Soft suggested that an addendum be added to the Department's WHAT HAPPENS NEXT: (See Exhibit #21) to include the qualifications and criteria of training for the people conducting the family investigations.

Sen. Waterman said that kinship-foster placement is the current Department policy. She asked what happens when family members do not want their children placed with other family members. Mr. Hunter said that the biological family does not necessarily have the right of refusal. The Department has always made placement decisions based on the best interest of the child. If the extended family is qualified and good relatives, the Department would place the child with them.

Sen. Waterman also requested that the citizen review board proposal that focus on limiting the scope of review to foster care cases entering the system, issues of permanency and what services a particular family and child needs, and opening citizen review deliberations be provided to the Committee for review.

Sen. Keenan asked how many FTE would the Department be requesting in the 2001 Session. Mr. Hunter said that the Department's major budget proposal will be to match workload with resources. It will ask for 35 additional FTE. along with a \$1 million increase for in-home services to keep children who would normally come into the system out of the system.

Rep. Soft asked if there was a connection between federal IV-E funds and school-based mental health services. Mr. Hunter said that federal IV-E funds are a 70% to 30% match that flow to the communities. Once the communities receive the IV-E funds, the funds lose their identity and communities can decide what they want to do with the money to support children's issues (i.e., more flexibility in how the funds are spent). Sen. Waterman clarified that services being provided to foster-care children in communities and schools are currently not being matched by federal funding, but they would be matchable as long as they were accounted for. Sen. Keenan asked if the IV-E funds could be used for in-home services, comprehensive family group conferencing, and visitation programs (See budget proposal #1). Mr. Hunter said that IV-E funds could be used for these services if local groups decide that those services are what they want to spend the funds for.

Sen. Waterman asked if, for example, a child was receiving chemical dependency counseling and treatment, are Medicaid dollars being used to pay for the services, is the county paying for the services, or would those funds be matchable. Mr. Hunter said that typically, the county would not be spending money on chemical dependency counseling and treatment. If the child is in the Department's system, the child would be on Medicaid and using federal dollars already, resulting in those funds not being matchable funds. Sen. Waterman said that in the last session, many legislators believed that if subsidized adoptions were funded and increasing, foster care cases should be decreasing. She asked if the Department would have data to reconcile the numbers. Mr. Hunter said that the Department will be able to show that every time a child enters into a sub-adoption, they are pulled from the foster care budget and show up in the sub-adopt budget. Because of the increase in the number of new foster care children entering the system, the numbers would not show a decrease in foster care cases.

Sen. Waterman said that there is a fear, particularly among the Native American communities, that Sen. Mike Halligan's new position is going to push children through the system much more quickly. She asked for comments. Mr. Hunter said that the focus of Sen. Halligan's position is to help County Attorneys get through the time-bound processes in statute. It was his opinion that tribes need not be concerned about termination because culturally, tribal areas have good family-kin placements and adoption is not a cultural option. Sen. Waterman commented that a group in Butte is concerned that the Child and Family Services Division is not moving children through the system fast enough and that more group homes were needed. The group has requested that the Committee schedule a meeting in Butte to discuss children who are being left in unsafe situations and who are not being placed in adequate and permanent group homes. Mr. Hunter said that the Department has met with the group and it wants the Child and Family Services Division to conduct removals far faster than what it is doing.

Sen. Keenan said that at the November meeting, Mr. Hunter stated that the Child and Family Services Division was approximately \$1 million over what was projected in its budget. He asked what the current status was. Mr. Hunter said the Division's operations budget is approximately \$300,000 to \$400,000 in general fund arrears and the benefit side (foster care) of the budget is showing an approximately \$1 to \$1.5 million deficit. However, after the first of the year, the Division received TANF and increased Title XX funds and general funding was taken away. Currently, the Division is retroactively reviewing cases to recalculate all of the money. According to predictions, the Division will have supplanted the TANF and Title XX funds by the end of the year and there should no longer be a problem on the benefit side of the budget. However, a small budget deficit will remain on the operations side.

Rep. Soft suggested that Department's goal should be to review national accreditation by the Council on Accreditation statewide.

PUBLIC TESTIMONY

Jane Ragsdale, League of Women Voters, provided written comments proposing that the tobacco settlement funds be devoted entirely to reducing the health problems of Montanans. (EXHIBIT #23)

Kate Cholewa, Women's Opportunity and Resource Development, Inc. (WORD) provided written comments and concerns about FAIM Phase II and its related community meetings. (EXHIBIT #24)

Derek Berney, Executive Director, Montana People's Action, expressed his concerns about the development of FAIM Phase II and its related community meetings by providing a letter from **Nina Cramer, Welfare Advocates of Montana**. (EXHIBIT #25)

Susan Kidd, Working Mother of Four and member of Working for Equality and Economic Liberation (WEEL), said that she currently receive some benefits but does not make enough money for the cost of living. She went to a FAIM Phase II community meeting. Because of the structure of the meeting, she was unable to give any comment until it was time for her to return to work. She said that people in her situation need to know that the people who can make a difference in their lives are listening to their comments and input.

John Myers, Missoula provided written comments regarding his concerns about the health care regulations proposed by DPHHS. (EXHIBIT #26)

Chuck Butler, MT Blue Cross Blue Shield, said that according to DPHHS testimony, 21% of Montana's population is uninsured and it was 19.5% at the beginning of the year. Although he was concerned that another 1.5% of Montana's population in the last two months have become uninsured, he was not surprised because the cost of care, medical services, hospitalization, and prescription drugs have skyrocketed. He encouraged the Committee to review information on prescription drugs because it is becoming a crisis throughout the nation. It is not just a problem for senior citizens who cannot afford prescription drugs; it is a serious problem for the rest of Montana's population and uninsured as well. Mr. Butler also predicted that the problem was going to get worse and there will be more uninsured Montanans one year from now.

Kate Kahan, Director, WEEL, provided information on WEEL's proactive recommendations for the use of TANF funds, WEEL's agenda and what it would like to see happening with FAIM Phase II in Montana, and a list of data sources regarding welfare issues. (EXHIBITS #27, #28, and #29 respectively)

Patty Bik, MT People's Action, requested that the Committee and the Legislature reconsider its actions regarding the structure of CHIP being administered by a third-party, private insurer. She said that combining it into a single extension of the Medicaid program would result in cost savings resulting in the coverage of more children. In addition, the concern about the stigma attached to Medicaid could be addressed by calling it the Montana Health Insurance Plan.

Rep. Soft commented that the reason why the CFHHS Committee in the last interim recommended that the CHIP provider be a third-party, private insurer was because it became very clear early on that if CHIP was considered a Medicaid expansion, it would never pass Legislative muster.

Sen. Waterman commented that the Committee and interested stakeholders have two critical issues to address: (1) individuals who remain on FAIM and who have other serious needs; and (2) coming up with a system that will allow individuals who are leaving FAIM to move into jobs that will support them rather than minimum wage jobs that do not. She urged the interested stakeholders to continue submitting their ideas to the Committee and the Department so that all parties could work together to resolve the issues.

OTHER BUSINESS

Ms. Fox provided a demonstration and overview of the new Committee and Legislative Branch websites. Information on the flexibility in TANF funding, the obligated and nonobligated TANF funds, and the unspent TANF funds will be provided at the next meeting along with an update on FAIM Phase II and the Department's EPP proposals.

David Niss, Staff Attorney, Legislative Services Division, commented that while some money is carried over to the next biennium, the Committee may be getting confused over the difference between FAIM Phase II funds which are available in the next biennium and the Department's current restrictions within HB 2 upon the current TANF block grant expenditures. He suggested that a clarification on this issue may be helpful to the Committee.

The Committee decided on exploring the possibility of a METNET conference for the May 12 meeting with a site in Browning to partially satisfy a request of Rep. Carol Juneau to hear specific concerns of the

Blackfeet Tribe on welfare reform and children's services and to invite the group from Butte to either of the next two meetings regarding its concerns with the Child and Family Services Division.

There being no further business, the meeting adjourned at 4:45 p.m.

CI2255 0081loxa.