



## Select Committee on Efficiency in Government 62nd Montana Legislature

### SENATE MEMBERS

JON SONJU--Chair  
EDWARD BUTTREY  
MARY CAFERRO  
JIM KEANE  
EDWARD WALKER  
DAVID WANZENRIED

### HOUSE MEMBERS

MARK BLASDEL  
RON EHLI  
GALEN HOLLENBAUGH  
PAT NOONAN  
SCOTT REICHNER  
KATHLEEN WILLIAMS

### COMMITTEE STAFF TEAM

DAVE BOHYER, Lead Staff  
DAVID NISS, Staff Attorney  
DAWN FIELD, Secretary  
SUE O'CONNELL, LSD, Health Care  
SONJA NOWAKOWSKI, LSD, Nat'l Res.  
QUINN HOLZER, LFD, Health Care  
TARYN PURDY, LFD, Budgeting Process  
BARBARA SMITH, LFD, Technology  
LOIS STEINBECK, LFD, Health Care

# MINUTES

October 6, 2011

Room 102, State Capitol  
Helena, Montana

Please note: These minutes provide abbreviated information about committee discussion, public testimony, action taken, and other activities. To the left of each section in these minutes is a time designation indicating the approximate amount of time in hours, minutes, and seconds that has elapsed since the start of the meeting. This time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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Hard copies of the exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.

### **COMMITTEE MEMBERS PRESENT**

Sen. Jon Sonju -- Chair  
Sen. Mary Caferro  
Sen. Jim Keane  
Sen. David Wanzenried

Rep. Mark Blasdel  
Rep. Ron Ehli  
Rep. Galen Hollenbaugh  
Rep. Pat Noonan  
Rep. Scott Reichner

### **COMMITTEE MEMBERS EXCUSED/ABSENT**

Sen. Edward Buttrey  
Sen. Edward Walker  
Rep. Kathleen Williams

## **STAFF PRESENT**

Dave Bohyer, Lead Staff  
Dawn Field, Secretary

## **AGENDA & VISITORS' LIST**

Agenda, Attachment #1.  
Visitors' list, Attachment #2.

## **COMMITTEE ACTION**

The Select Committee on Efficiency in Government took no executive actions.

## **CALL TO ORDER AND ROLL CALL**

00:00:02 SEN. SONJU called the meeting to order at 1:16 p.m. The secretary took roll, Rep. Williams, Sen. Buttrey, and Sen. Walker were excused (ATTACHMENT 3). SEN. SONJU asked the members to review the draft Mission, Goals, and Objectives statement approved by the Subcommittee and prepared by Mr. Bohyer (EXHIBIT 1).

## **REPORT FROM THE HEALTH CARE/MEDICAID SUBCOMMITTEE**

00:00:52 REP. NOONAN reported that Medicaid Subcommittee took public comment and suggestions on how to improve regulations and rules for mental health services in order to deliver services more efficiently. He listed a number of the concerns and suggestions.

00:04:58 SEN. CAFERRO said that providers, advocates, and ordinary citizens provided comment and all were very appreciative of the opportunity to do so.

00:05:39 SEN. WANZENRIED asked if similar opportunities will be given for other areas for services provided by Medicaid. SEN. SONJU said that there has been a great deal of interest expressed by other Medicaid providers and that the SCEG would discuss it further at the next day's meeting. He said REP. NOONAN has agreed to continue as chair, should more hearings be held.

## **MERITS OF PERFORMANCE-BASED CONTRACTING IN HUMAN SERVICES**

00:08:51 **Jani McCall, Yellowstone Boys and Girls Ranch (YBGR), Government Relations and Quality Assurance**, noted that Glen McFarlane, CEO, YBGR, and Jim Fitzgerald, CEO, Intermountain Children's Home were available to answer questions. Ms. McCall discussed a PowerPoint presentation on improving outcomes for children and families through performance based contracting (PBC) (EXHIBIT 2). The presentation included a definition of "performance based contracting", current PBC models, required components, and details regarding a Montana PBC pilot project, based on the Tennessee model, between the Department of Public Health and Human Services (DPHHS) and qualified providers.

## **Committee Questions**

00:38:56 SEN. WANZENRIED asked about the cost of a pilot project, specifically if there would be additional costs to the state; how quickly a pilot project could be started up, if approved; and how utilization review between the state and the contractor would be handled. Ms. McCall said that existing funds would be used but that there may be some additional start-up costs, that it took Tennessee about one year to get its

program operational, and that certain staffing and resource changes to the utilization review process would be necessary under the PBC model.

- 00:42:45 SEN. SONJU asked about incentives for providers under the PBC system. Ms. McCall said that in the Tennessee program, incentive funds come from the general fund, not Medicaid; and if a provider doesn't meet the requirements, it is required to pay back the incentive into the general fund. SEN. SONJU and Ms. McCall discussed how incentives are used and the benefits and flexibility they allow in working for the best outcome for the child and his family.
- 00:46:25 SEN. SONJU asked what the biggest obstacle is to better outcomes. **Glen McFarlane, CEO, YBGR**, said it is the lack of data. He discussed anecdotal instances of what is not working in Montana's system and said that the Tennessee model puts the responsibility on the providers and the state to make sure that the child meets success.
- 00:48:24 REP. EHLI said that he couldn't see how there would be an actual cost savings and asked where the true efficiency in dollars saved would be. Ms. McCall said that the efficiencies and cost savings would be found in several areas, such as integration of children's services, the potential for decreased staff numbers, and working smarter and operating more like a business. She said there would have to be accountability for providers and state government.
- 00:52:02 **Jim Fitzgerald, CEO, Intermountain Children's Home**, said the first step is to accept that the current system is not working. He discussed the benefits of a PBC program, saying that it would be an opportunity to demonstrate greater effectiveness for the child and greater efficiencies for the tax payer. He acknowledged that a PCB program would be a change from past practice and would take a collaborative effort but said that it would focus on outcomes and provide real data.
- 00:54:57 SEN. CAFERRO said testimony given at the Medicaid Subcommittee repeatedly mentioned burdensome paperwork and regulations which take time away from patients, and requests that the already heavy workload not be increased, should a PBC program be adopted. Ms. McCall said that she couldn't answer those concerns specifically but could say that the Tennessee model was the idea of a state agency which started small and was built up into a statewide system. She said she would find out more information. Mr. Fitzgerald commented that market forces would also impact the system because a bad contractor would not be awarded subsequent contracts.
- 00:58:53 SEN. CAFERRO said that before proceeding with a pilot project, Montana would need to look closely at all state and federal regulations. Ms. McCall agreed, saying that end goals would have to be identified and articulated, and then tested in the pilot project. Mr. Fitzgerald added that some states have requested waivers from certain federal rules as they have adopted PBC programs and that Montana could also consider that as an option. He said it is important that this be viewed as a partnership in which efficiencies are the goal but that the ultimate efficiency is an increase in positive outcomes for the kids.

- 01:01:43 REP. HOLLENBAUGH asked, if the DPHHS is directed to use existing resources to fund a pilot project, how can legislators be assured that existing services won't be affected negatively or that a "false positive" is the outcome, with no true improvement. Mr. Fitzgerald said that the design phase of the project is critical and suggested that experts be consulted to ensure that it is truly a demonstration project with solid outcome data. Mr. McFarlane said that Montana's current system has no way of measuring the impact of kids and families and that it is a measuring element that is being sought: to be able to compile numbers on who is served, what services are provided and the measurable effect of those services.
- 01:05:23 SEN. KEANE asked who will monitor the contractors and subcontractors and who would pay for the oversight. Ms. McCall said that unlike the managed care contract, the State of Montana would contract directly with the provider and that no in-between entity would be involved. She said that because the State would not be as involved in the day-to-day programs and services, it would have the time and resources to provide oversight and technical assistance.
- 01:10:09 SEN. SONJU asked if the YBGR subcontracts services now. Ms. McCall said it does. SEN. SONJU said that he appreciates SEN. KEANE's concerns but that subcontracting in government not new. SEN. SONJU said that state perspective would be heard at the next meeting.
- 01:12:44 SEN. SONJU recessed the SCEG for a brief break.  
**BREAK**
- 01:27:52 SEN. SONJU called the meeting back to order at 2:47 p.m.

#### **HEALTH CARE/MEDICAID PANEL**

- 01:28:34 SEN. WANZENRIED said that the panelists are from two different provider groups with two different perspectives and that they were asked to focus on the ideas they want to share. He said that the handouts include a summary of their comments and professional biographies.
- 01:31:05 **Rose Hughes, Executive Director, Montana Health Care Association**, discussed efficiency in the provision of Medicaid services, eligibility issues, quality of care issues, "do no harm" issues, effective of federal actions, and strategies. Her comments also included a number of recommendations (EXHIBIT 3).
- 01:42:16 **Jan Cahill, Executive Director, Montana Association of Community Disability Services (MACDS)**, said that the MACDS provides services to children and adults with developmental disabilities and that the current system is filled with inefficiencies, redundancies, and other problems. Mr. Cahill distributed and discussed a handout that listed twelve recommendations and suggestions supported by MACDS providers (EXHIBIT 4).
- 01:50:26 **John Chappius, former Deputy Director and state Medicaid Director, Department of Public Health and Human Services**, discussed core programs in the DPHHS that should be funded, oversight and regulation, the Medicaid Management Information System (MMIS), the Montana Medicaid expansion related

to the new national healthcare reforms, and Medicaid budgeting and forecasting. Mr. Chappius' discussion points included concerns and recommendations (EXHIBIT 5).

- 02:00:07 **Mary Dalton, Medicaid State Director, Montana**, briefly discussed eligibility requirement difficulties, saying that House Bills 130, 131, and 132, have helped as has a mental health services plan. Ms. Dalton distributed copies of *The Montana Medicaid Program biennial report for fiscal years 2009-2010* (EXHIBIT 6) and referred members to page 12 - mandatory and optional Medicaid services. Ms. Dalton noted that prescription outpatient drugs are the first listing under optional services. She distributed copies of a chart showing a detailed breakdown of all optional services (EXHIBIT 7). Ms. Dalton also discussed existing efficiencies in Montana, including numerous waivers (pages 15-18, EXHIBIT 6) and cost containment measures (page 31, EXHIBIT 6).
- 02:05:26 Mr. Chappius discussed his experience with Medicaid budgeting and forecasting. He said that the estimate process done during a legislative session is a very important part of the Medicaid program and is an important management tool.
- 02:07:24 SEN. WANZENRIED thanked the panelists for their presentations. He asked the members to study all of the handouts provided and suggested that Ms. Dalton's handout on Medicaid Optional Services (EXHIBIT 7) be discussed further at the next meeting in anticipation of identifying potential Medicare cuts. SEN. WANZENRIED said that Medicaid estimates/projections process will also be a topic for discussion.

#### **Questions from Committee**

- 02:09:32 SEN. SONJU asked Ms. Dalton to come to the next meeting to assist in the discussion. Ms. Dalton agreed.
- 02:09:50 SEN. CAFERRO asked Mr. Chappius to comment further on his concerns about block grants and why he thinks they can be dangerous for Montana. Mr. Chappius explained how Montana's low eligibility level allows little room to maneuver, should something adverse happen.
- 02:13:27 REP. REICHNER asked when a full audit or efficiency study was last done on the DPHHS. Mr. Chappius said to his knowledge it has never been done and that it would be a worthwhile undertaking. REP. REICHNER agreed, saying it was overdue. He asked what technology improvements are needed within the DPHHS. Ms. Dalton said she would update the SCEG on that issue at the next day's meeting.
- 02:16:43 SEN. SONJU asked Mr. Cahill to elaborate on his comments about transportation costs. Mr. Cahill said some providers are required to provide transportation and that the Medicaid reimbursement doesn't come close to covering the expense. He cited an example of a program in Big Sandy that is mandated to transport a patient to either Great Falls or Havre for medical services.
- 02:19:48 SEN. SONJU said that he asked SCEG staff to look at Washington State statutes, as discussed by Ms. Hughes, regarding transfer of assets and the potential for cost savings. He asked what the percentage of nursing homes are private pay versus

Medicaid. Ms. Hughes said that 62% are Medicaid, 10% are Medicare, and the balance is private pay.

- 02:20:54 REP. HOLLENBAUGH asked about using audits as a tool for catching waste, fraud, and abuse. Mr. Chappius said that the State has a great deal of information and tools to identify potential fraud or abuse but needs more people to handle the work load. He said the State is missing out on money because of the shortage in manpower. Ms. Dalton explained how the Department of Justice pursues fraud and abuse cases. Ms. Hughes added that because the ability to gather and analyze cost information is not there, the cost of services is not known.
- 02:29:06 REP. NOONAN and Ms. Dalton discussed the DPHHS' position regarding adoption of either an outcome based or performance based contract system. REP. NOONAN asked Ms. Dalton, considering the testimony given, if the DPHHS would still oppose moving to one of those systems. Ms. Dalton said "the devil is in the details" so she could not answer for the Department. She explained why the Department has opposed certain past proposals and the types of measures that would have to be in place before the Department could adopt a different operating system. REP. NOONAN said that he did not envision rewriting the entire system, but instead identify a specific number of legitimate outcomes that would be able to show trends that would help pick and choose how to use providers. He asked if the Department would be supportive of an approach like that. Ms. Dalton said she could not speak for the DPHHS but that it is interested in exploring how to measure outcomes.
- 02:41:08 SEN. WANZENRIED said it would be useful to discuss programs that are already cost-effective and look at how to expand them (page 12 of EXHIBIT 5). He asked to have that discussion as a future agenda item. SEN. SONJU agreed.

#### **PUBLIC COMMENT**

- 02:43:40 **Dan Aune, Executive Director, Mental Health America of Montana**, discussed four requests regarding Medicaid rules for Native American communities (EXHIBIT 8).
- 02:48:26 **Matt Kuntz, Executive Director, National Alliance on Mental Illness Montana (NAMI Montana)**, said that NAMI Montana is very appreciative of the work being done because streamlining regulations and moving towards a more effective and measurable outcome process will help mentally ill people and their families. He also discussed outcome measurement software created by Microsoft.
- 02:51:06 **Aart Dolman, Great Falls**, thanked the SCEG for its work and said he has learned a lot. He said, regarding the outcome issue, that there are two conflicting concepts that must be considered: the financial component and outcome measures. Mr. Dolman asked that the SCEG consider how the two concepts can conflict in its work.
- 02:52:51 Ms. McCall agreed with Ms. Dalton that outcomes are very difficult to define but said the pilot would be the first step in doing so. Regarding Ms. Dalton's comments about "wrap around services" for children, Ms. McCall said that is a key service that could be worked on with the DPHHS in the proposed pilot program.

### **COMMITTEE QUESTIONS**

02:54:19 REP. HOLLENBAUGH reminded the committee members to meet at the Mitchell Building at 8:15 a.m. for the Data Center tour. He said the tour will help set up the discussion for the Information Technology portion of the next day's meeting and will illustrate how the State provides information technology services to state agencies.

### **INSTRUCTIONS TO STAFF**

02:56:32 SEN. WANZENRIED asked that someone from the DPHHS be at the November meeting to assist the committee with a discussion of cost-containment programs. He said it is very important that the members understand not only how Medicaid programs work, but how reductions can affect other components of the Medicaid program. SEN. SONJU said Ms. Dalton will take the lead on SEN. WANZENRIED's request.

02:59:41 Mr. Bohyer reminded the committee that it is required to adopt a study plan. He said that he would work on the November agenda, as directed by the chair, and would obtain information regarding the Washington laws on transfer of assets.

03:01:05 SEN. SONJU asked if there was any interest of having more discussion about the June 2004 Medicaid Redesign. SEN. WANZENRIED said it may be helpful to read it because the ideas in it may compliment what's already being done. REP. NOONAN asked for a full copy. Mr. Bohyer said he would post it on the SCEG's webpage. SEN. KEANE asked for a paper copy.

### **ADJOURNMENT**

03:03:24 SEN. SONJU recessed the meeting at 4:22 p.m., to reconvene at 8:15 a.m. on October 7, 2011.

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