MINUTES LOG
September 13, 2018
Room 102, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides a notation of the time elapsed between the beginning of
the meeting and the time at which the item was presented or discussed, a motion was made, or a vote was taken.
The narrative presented here is provided only as a guide to the audio or video record of the meeting. The official
discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not
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Once on the page for Interim Committees, scroll down to the appropriate committee. The written Minutes Log, along
with the audio and video recordings, is listed by meeting date on the interim committee’s web page. Each of the
Exhibits is linked and can be viewed by clicking on the Exhibit of interest. All Exhibits are public information and may
be printed.

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COMMITTEE MEMBERS PRESENT

SEN. MARY CAFERRO, Chair
REP. DENNIS Lenz, Vice Chair

SEN. FREDERICK (ERIC) MOORE (by phone)
SEN. ALBERT OLSZEWSKI
SEN. DIANE SANDS

REP. KATHY KELKER (by phone)
REP. GORDON PIERSON

COMMITTEE MEMBERS EXCUSED

REP. JON KNOKEY

STAFF PRESENT

SUE O’CONNELL, Lead Staff
FONG HOM, Secretary
COMMITTEE ACTIONS
At its final meeting of the interim, the committee approved several bill drafts related to its study of community services for adults with developmental disabilities. The committee agreed to introduce the following bills as committee bills in the 2019 legislative session:

- LCCF01, requiring the use of standardized tools to assess the support needs of people with developmental disabilities;
- LCCF2a, requiring the executive budget to include an inflationary increase for providers of community-based developmental disabilities services so the Legislature can decide whether to appropriate the money needed to fund the increase;
- LCCF2b, appropriating money to increase wages by up to $3 an hour over the next two fiscal years for direct-care workers in the community developmental disabilities system;
- LCCF3a, requiring funds appropriated for community developmental disabilities services to be used only on those services or, if unspent, on a grant program for providers;
- LCCF3b, requiring the Department of Public Health and Human Services to reimburse residential habilitation services on a daily or monthly, rather than hourly, basis;
- LCCF4b, creating a tiered program of crisis response services using new and existing funding; and
- LCCF05, requiring a review of administrative rules, policies, and procedures related to community services.

The committee also:
- authorized the early drafting and pre-introduction of five DPHHS legislative proposals;
- received an explanation of the way in which DPHHS will use more than $30 million that was restored to the agency’s budget as a result of Senate Bill 9 from the November 2017 special session;
- heard updates on the implementation of the medical marijuana program and the status of autism services for children served by the Medicaid and Healthy Montana Kids Plan; and
- received several reports that DPHHS is required by law to provide to the committee, including reports on efforts to prevent and reduce the occurrence of suicide and child abuse and neglect.

CALL TO ORDER AND ROLL CALL
Sen. Caferro called the meeting to order at 10:34 p.m. The secretary called roll. Rep. Knokey was excused.

HJR 24 STUDY: DD SERVICES FOR ADULTS
Update on Agency-Provider Talks
Rebecca de Camara, Administrator, Developmental Services Division, Department of Public Health and Human Services
Josh Kendrick, Chief Executive Officer, Opportunity Resources, Inc.

Committee discussion
Rep. Kelker asked about the parameters of the new claims system replacing the Medicaid Management Information System (MMIS).
Ms. de Camara said she would send the committee more information on the new system.

Sen. Caferro asked about care management in the new system.

Marie Matthews, Medicaid and Health Services Branch Manager, DPHHS, explained the Montana Program for Automating and Transforming Healthcare (MPATH). She said that MPATH is the overall project for replacing the current Medicaid claims processing system.

**Bill Drafts and Staff Briefing Papers - Sue O'Connell, Research Analyst**

Ms. O'Connell (Exhibit 1)

LCCF01: Use of Standardized Assessment Tools

Ms. O'Connell (Exhibit 2)

LCCF2a: Inflationary Increase for Provider Rates

Ms. O'Connell (Exhibit 3)

LCCF2b: Direct-Care Worker Wages

Ms. O'Connell (Exhibit 4)

LCCF3a: Grant Program for Community Services

Ms. O'Connell (Exhibit 5)

LCCF3b: Daily Rates for Certain Services

Ms. O'Connell (Exhibit 6)

LCCF4a: Crisis Response Services -- Existing Funding

Ms. O'Connell (Exhibit 7)

LCCF4b: Crisis Response Services -- New Funding

Ms. O'Connell (Exhibit 8)

LCCF05: Review of Rules, Policies, and Procedures

Ms. O'Connell (Exhibit 9)

**Final Report: Conclusions and Recommendations - Sue O'Connell**

Ms. O'Connell discussed the proposed conclusions and recommendations of the final report on the HJR 24 Study.

Committee questions on LCCF01

Rep. Kelker said that she want to make it clear that the evaluation is intended to be multidisciplinary.

Rep. Lenz said that under section 1(a), the second sentence does say that the Department of Public Health and Human Services shall conduct the assessment using a multidisciplinary approach.

Committee questions on LCCF2a
Committee questions on LCCF2b

00:38:11 Sen. Sands asked if LCCF2b would go directly to Appropriations and how the money will flow.

00:39:00 Sen. Caferro said that in the past, it would go to the policy committee first, but being that it is an appropriations bill, it would be in the House and go to the Human Services to the floor and then down to Appropriations, so yes, it would be in Appropriations. The other things is that the analysis done by Ms. O'Connell says that direct care workers were receiving $1.50 an hour raise...currently we don't know that for sure.

Committee questions on LCCF3a


00:40:39 Sen. Caferro said that she is not sure how the people who self-direct their care will fit into the crisis bill.

Committee questions on LCCF3b

00:41:45 Sen. Caferro asked if the bill requires DPHHS to amend the Medicaid state plan.


Committee questions on LCCF4a

00:42:30 Rep. Kelker asked about the terminology for crisis services providers.

00:43:37 Ms. O'Connell

00:44:07 Rep. Pierson arrived at 11:17 a.m.

00:44:40 Sen. Caferro suggested clarifying the requirements for crisis service providers.

00:44:57 Rep. Kelker discussed the need for requiring the use of applied behavioral analysis.

00:46:11 Rep. Kelker said that the briefing paper provided some great points to think about. She noted that the New Mexico program started small and grew over the years, which could be a reasonable approach for Montana.

Committee questions on LCCF4b

None

Committee questions on LCCF05

None

Public Comment on the HJR 24 Study

00:48:41 Alicia Smith, Bozeman

00:49:38 Mike Mahoney, Executive Director, Family Outreach, and Board Member of Montana Association of Community Disability Services (MACDS)

01:01:04 Patrick Maddison, Chief Executive Officer, Little Bitterroot Services, Plains; Achievements, Libby; Ravalli Services, Hamilton; and Flathead Industries, Kalispell

01:05:42 Diane Reidelbach, Director, Job Connection, Billings
01:10:50 Fran Sadowski, Executive Director, Missoula Developmental Service Corporation, Missoula
01:15:52 Jean Morgan, WestMont, Helena
01:21:15 Beth Brenneman, Disability Rights Montana
01:22:48 Brooke Bartholomew, Executive Director, Developmental Educational Assistance Program

LUNCH (reconvened at 1:03 p.m.)

AGENCY OVERSIGHT: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

LEGISLATION

Purpose and Process of Committee Review - Sue O'Connell
02:29:36 Ms. O'Connell (Exhibit 10)
02:30:41 Sen. Sands explained the purpose and the process of reviewing agency legislation.

DPHHS Legislative Proposals - Sheila Hogan, Director
02:31:34 Director Hogan (Exhibit 11)

Committee questions of Director Hogan
02:33:34 Sen. Sands asked about the Child Care Act proposal.
02:36:40 Rep. Pierson explained the difference in testing for methamphetamine and for alcohol.
02:36:55 Rep. Kelker asked Rep. Pierson if it was unusual for a health care professional in the emergency room to test for meth or for alcohol and then refer that patient to another professional for treatment.
02:38:24 Rep. Pierson asked Director Hogan if having enough rehabilitation facilities would increase the number of people getting referrals in a timely manner.
02:39:35 Sen. Olszewski asked if this should be considered an emergency access, although it is not an emergency.
02:40:49 Sen. Olszewski commented on the possible unintended consequences, if it is only physicians in the emergency room who can make a referral because people who want to get into a substance abuse facility may be told to "go to the emergency room". That could increase the cost to the state because the emergency room is an expensive point of access.
02:41:32 Rep. Pierson asked if a primary care provider will be able to do referrals.
02:42:44 Sen. Sands asked about the proposed legislation on protection for vulnerable adults.

Motion/Vote
AGENCY OVERSIGHT: DPHHS BUDGET AND FUNDING RESTORATION
Erica Johnston, DPHHS Operations Services Branch Manager
Jon Arnold, Legislative Fiscal Division

02:46:33 Erica Johnston (Exhibit 12)

Committee questions of Ms. Johnston
02:56:23 Sen. Sands said that she would like to hear how the Department has used the budget crisis as an opportunity to restructure how it does business.
02:58:02 Sen. Caferro and Ms. Johnston discussed the funding in House Bill 638 and the pay raise for direct care workers.
03:04:51 Sen. Caferro asked Ms. Johnston if the Department has any plans on what to do with services that were cut and not restored.
03:10:01 Sen. Caferro asked for clarification on "increased value-based care for hospitals". The question was deferred to Marie Matthews, state Medicaid director.
03:11:15 Sen. Caferro asked about the percent of services that are being restored, and also asked for a report from the Department on the reductions and the cost plan for the Big Sky Waiver.
03:14:51 Ms. O'Connell distributed Ms. Johnston's document "Additional Budget Reduction Information" to the committee. (Exhibit 13)
03:15:44 Jon Arnold, Legislative Fiscal Division, discussed the Fiscal 2018 expenditures for DPHHS.

Committee questions of Mr. Arnold
03:18:43 Sen. Caferro asked about the $4.3 million that was transferred to the Montana State Hospital, the $13.9 million for child protective services, and the funding for the Vocational Rehabilitation program.

Public Comment on DPHHS Budget Matters
03:22:08 Brooke Bartholomew, Executive Director, Developmental Educational Assistance Program
03:27:06 Diane Reidelbach, Job Connection
03:28:15 Joel Peden, Montana Independent Living Project
03:39:35 Rose Hughes, Executive Director, Montana Healthcare Association

AGENCY OVERSIGHT: CHILD PROTECTIVE SERVICES
Child and Family Services Division Update - Laura Smith, Deputy Director

Caseload Report
Ms. Smith reported on the caseload of the Child and Family Services.

Strategic Plan for Reducing Child Abuse and Neglect (HB 517)
03:51:05 Ms. Smith *(Exhibit 14)*

Child Abuse and Neglect Review Commission Report (HB 303)
03:52:24 Ms. Smith

Family First Prevention Services Act
03:54:00 Ms. Smith

Committee questions
03:56:17 Sen. Sands asked about the issue of tribal consultation.
04:03:47 Ms. O'Connell relayed that Sen. Moore would like to know about the stabilization of children in care.
04:05:39 Sen. Sands asked how that number of children in care compares percentage-wise to surrounding states.
04:06:04 Rep. Kelker asked about the home visiting efforts and whether any of those efforts are on reservations.
04:08:29 Ms. Smith said that she will send Rep. Kelker information on home visiting programs on reservations.
04:09:23 Sen. Sands asked if the Department knows about the five children who died and asked what the Department is doing about it.
04:12:46 Sen. Sands discussed opioids and women giving birth to addicted babies. Given the high instances of those problems on reservations, she asked if the Department's home visiting programs are focused on that issue and whether there are treatment modalities or facilities to deal with a drug addicted mother and a baby.

Pew Results First-Child Protective Study
Josh Poulette, Legislative Fiscal Division (by phone)
Nick Dantzer, Pew Charitable Trusts (by phone)

04:27:33 Josh Poulette *(Exhibit 15)*

Public Comment on Child Protective Services
04:46:57 Brooke Bartholomew, Executive Director, Developmental Educational Assistance Program

BREAK (reconvened at 3:31 p.m.)

AGENCY OVERSIGHT: MONTANA MEDICAL MARIJUANA ACT
Members of the Revenue and Transportation Interim Committee joined the Committee for the medical marijuana presentations.

Registry Statistics - Sue O'Connell
04:58:17 Ms. O'Connell *(Exhibit 16)*
**DPHHS UPDATE - Erica Johnston, Operations Services Branch Manager**

04:59:12 Ms. Johnston introduced Darci Wiebe, Program Bureau Chief, Medical Marijuana Program. Ms. Johnston gave an update of the following:

04:59:52 The process of applying for a Medical Marijuana Card;

05:02:19 The implementation of the licensing system for the seed to sale tracking;

05:03:49 DPHHS receipt of physician complaints in terms of physicians meeting with people and issuing referrals to the system; and

05:04:25 DPHHS' biennial report on unannounced inspections of dispensaries, cultivation sites, chemical manufacturing sites, and labs.

05:11:19 Darci Wiebe gave a presentation on the Marijuana Enforcement Tracking Reporting & Compliance System (METRC). *(Exhibit 17)*

**Committee questions**

05:19:26 Sen. Caferro asked Ms. Wiebe about the testing labs, the inspections of the labs, the value of lab testing for patients' safety, and incentives for organic products.

05:23:00 Rep. Jacobson, Presiding Officer, Revenue and Transportation Interim Committee, asked Ms. Wiebe about licensing a provider who has multiple buildings, products being tested multiple times, and the costs of multiple testings.

05:26:51 Sen. Sands asked Ms. Johnston about any changes in statute that DPHHS might consider.

**Public Comment on Medical Marijuana Act Implementation**

05:30:08 Barbara Turner, Libby

05:35:07 Kate Cholewa, Montana Cannabis Information Association

05:48:11 Kendra Shaw, Billings

05:50:21 Tayln Lang

05:56:18 Doug Felt, Billings

06:07:07 Dr. Keith Erwin, Fidelity Diagnostic Lab, Missoula

06:08:33 Terry Lucky, Fat Hippie, Seeley Lake

**GENERAL PUBLIC COMMENT**

06:11:10 Nick Aemiseegger, attorney, commented on child welfare and trying to keep children safe and in the home.

06:22:49 Ms. O’Connell distributed the Legislative Finance Committee’s "Medicaid Monitoring Report and Montana HELP Act Medicaid Expansion Report" *(Exhibit 18)* and a data sheet, "DPHHS Restorations by Subclass" *(Exhibit 19)* to the committee members.

**RECESS**

06:23:46 Sen. Caferro recessed the meeting at 4:58 p.m. to reconvene at 8 a.m. on September 14, 2018.