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**CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM
COMMITTEE**
67th Montana Legislature

SENATE MEMBERS

John Esp
Mary McNally
Frederick (Eric) Moore
Albert Olszewski
Diane Sands

HOUSE MEMBERS

Barbara Bessette
Mary Caferro
Dennis Lenz
Gordon Pierson
Tom Welch

COMMITTEE STAFF

Sue O'Connell - Research Analyst
Alexis Sandru - Attorney
Fong Hom - Secretary

MINUTES LOG

January 16, 2020
Room 137, Capitol Building
Helena, Montana

Please note: This document is a Minutes Log and provides annotation 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 recording of the meeting. The official discussion, motion, or vote is available on the audio or video archive of this meeting. The Legislature does not prepare a transcript of the meeting activities. The time designation may be used to locate the referenced discussion on the audio or video recording of this meeting.

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ROLL CALL

Members Present:

Rep. Frederick (Eric) Moore, Chair
Sen. Diane Sands, Vice Chair
Rep. Barbara Bessette
Rep. Mary Caferro
Sen. John Esp
Rep. Dennis Lenz
Sen. Mary McNally
Sen. Albert Olszewski
Rep. Gordon Pierson
Rep. Tom Welch

Staff Present:

Sue O'Connell, Research Analyst
Alexis Sandru, Attorney
Fong Hom, Secretary

Visitors' List (Attachment 1)
Agenda (Attachment 2)

Committee Action

During its two-day meeting, the Committee heard presentations related to two of its studies and received an update from the Department of Public Health and Human Services about the current demographics of the Medicaid expansion population and the status of its waiver application to allow community engagement requirements and premium changes for the expansion population.

In matters related to interim studies, the committee:

- heard from senior and long-term care providers and participants in the Big Sky Waiver and other long-term care programs about barriers to accessing and providing services to the elderly and to physically disabled people, including recent policy changes by the state and workforce issues faced by providers;
- heard from parents involved in the child protective services system about ways parents could be better supported in efforts to obtain treatment and be reunified with their children; and
- learned about the significant changes the Family First Prevention Services Act aims to make in the child welfare system by allowing federal funding to be used for in-home prevention services for families and by tightening requirements for congregate care settings.

The committee agreed to set aside time at its March meeting to brainstorm ideas for the House Joint Resolution 50 study of senior and long-term care services, with assistance from the Legislative Fiscal Division in reviewing trends in financing for those services in recent years. Members also agreed to shorten their planned two-day meeting in March so they could hold a two-day meeting in May and travel to state facilities operated by DPHHS.

CALL TO ORDER/ROLL CALL

09:02:01 Sen. Eric Moore called the meeting to order at 9:02 a.m. The secretary called roll.

WORK SESSION: HJR 32 AND SB 202 STUDIES

09:04:20 Sue O'Connell, Staff Researcher, gave a summary of the HJR 32 Study to date.

Committee Questions

09:09:51 Sen. Sands said one of the goals in the Safe Harbor bill (Senate Bill 289) was to get people into treatment and to prevent removals of children from mothers. She asked if the Safe Harbor bill has been successful in keeping those families together.

SB 202: Uniform Guardianship Law

09:11:21 Alexis Sandru, Staff Attorney, provided a summary of the SB 202 Study to date.

Committee Questions

- 09:13:12 Sen. John Esp asked Ms. Sandru if she would be attending the meeting of the Working Interdisciplinary Network of Guardianship Stakeholders (WINGS).
- 09:13:35 Sen. Mary McNally asked Ms. Sandru to provide an update to the committee after the WINGS meeting.

Public Comment on the HJR 32 and SB 202 Studies

- 09:14:13 Mike Batista, AARP Montana, distributed a document from the Uniform Law Commission outlining guardianship laws. [\(Exhibit 1\)](#)
- 09:17:25 Adrienne Cotton, Montana Area Agencies on Aging Association, commented on the SB 202 Study.
- 09:18:37 Beth Brenneman, Disability Rights Montana, commented on the SB 202 Study.

Committee Discussion and Decisions

- 09:20:07 Sen. Sands said that the committee should go through, section by section, and try to understand the issues involved or if the committee should attend the WINGS meeting, but we need time to engage the real content of what the proposals are going to be in the Uniform Code. She doesn't know the time involved or how that would be structured.
- 09:21:48 Sen. Esp said that this is a Law and Justice issue and asked about the possibility of setting up a joint subcommittee to look at the guardianship laws in depth.
- Ms. O'Connell said that it would depend on how committed the committee was to this study. Forming a subcommittee would cost money because there would have to be meetings, and the Children and Families Committee's budget would have to be reviewed.
- Sen. Esp said that minimum work should be allocated to the SB 202 Study.
- Rep. Moore explained that part of the agenda for the next two days is to plan for the remainder of the interim.
- Sen. Sands said she will talk to the Law and Justice Committee to see how the members want to engage in the issue.
- Rep. Moore asked Sen. Sands to ask about the Law and Justice Committee's budget.
- Rep. Lenz said that it is hard to define the time involved in the study. He said he needs guidance from staff as he proceeds with the SB 202 study.
- Ms. Sandru suggested that the committee start with the information on the uniform guardianship law that she had provided to the committee at an earlier meeting.
- Sen. McNally said that Ms. Sandru's comparison was helpful and requested a comparison on the conservatorship side.

Ms. O'Connell reminded the committee that it had set aside two hours for this study in its work plan and one of the ideas that was discussed was whether Ms. Sandru should work with some of the stakeholders on the topic and report back, possibly developing a bill draft. It would be helpful for Ms. Sandru to receive further direction from the committee.

AGENCY OVERSIGHT: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES
Administrative Rule Review

09:30:00 Alexis Sandru ([Exhibit 2](#))

Statutorily Required Reports

09:30:47 Sue O'Connell gave a brief presentation on the Medical Marijuana Act Registry Statistics ([Exhibit 3](#)). Ms. O'Connell referred the committee to the Department of Public Health and Human Services' Quarterly Budget Update from the Legislative Fiscal Division ([Exhibit 4](#)).

Committee Questions

09:31:44 Rep. Welch asked Ms. O'Connell about the chronic pain statistics that are found in the Medical Marijuana Statistics and how Montana compares to other states.

DPHHS Data Portal

09:32:40 Erica Johnston, Operations Services Branch Manager, DPHHS, gave a presentation on the Agency Data Warehouse.

Committee Questions of Ms. Johnson

09:37:25 Rep. Moore asked if the Legislative Fiscal Division staff will be able to pull the information they need directly off the Data Portal.

Rep. Moore asked Ms. Johnston to update the committee on patient privacy.

Medicaid Expansion Update

09:41:30 Sue O'Connell gave a brief presentation on the status of House Bill 658 implementation. ([Exhibit 5](#))

Committee Questions

09:45:38 Rep. Caferro asked if the department has implemented rules for the exemptions from work activities.

Medicaid Waiver Application

09:46:21 Marie Matthews, State Medicaid Director, DPHHS, gave a presentation on the Medicaid waiver application for community engagement requirements and actions to date, as well as the statewide impacts from Medicaid expansion. ([Exhibit 6](#))

Committee Questions of Ms. Matthews

- 09:48:27 Rep. Moore asked when the current Medicaid expansion waiver expires.
- 09:58:04 Rep. Welch asked about a timeframe for implementing community engagement requirements if the Centers for Medicaid and Medicare Services (CMS) approved the waiver tomorrow.
- 09:59:38 Rep. Moore asked when CMS received the waiver application for community engagement requirements.
- 10:00:02 Rep. Moore asked whether CMS would approve the waiver as submitted or make changes to it and whether that affects the rulemaking process. Rep. Moore asked if DPHHS has implemented the new income verification provisions of House Bill 658.
- 10:03:53 Ms. Johnston responded to Rep. Moore's question regarding verification of income.

HELP Act Quarterly Report

- 10:05:50 Erica Johnston gave a presentation on the HELP Act (Medicaid expansion) Quarterly Report. ([Exhibit 7](#))

Committee Questions of Ms. Johnston

- 10:13:27 Rep. Welch asked about the people who are disenrolled from Medicaid for failure to pay premiums and whether they are able to reapply. Ms. Johnston referred Rep. Welch's question to Ms. Matthews.
- 10:13:55 Rep. Moore asked about turnover in the Medicaid expansion population.
- 10:16:04 Sen. Sands asked whether DPHHS has information on the impact Medicaid expansion has had in providing mental health treatment and whether Montana has adequate mental health resources to meet the need for services.
- 10:18:13 Rep. Caferro asked whether DPHHS could explain the interaction between children being removed from the home and their parents having access to health care, mental health services and substance use disorder treatment, and whether Medicaid expansion helps prevent children from being removed. Rep. Caferro asked several questions about the Medicaid eligibility verification process and the state's error rate.
- 10:25:50 Rep. Moore asked about the spike in premium collections for April 2019 but not the prior three years.

Department of Public Health and Human Services Director's Update

- 10:26:43 Sheila Hogan, Director of DPHHS, gave an update on the activities of the Department of Public Health and Human Services:
- 10:27:14 **Update on school health rules**
- 10:30:07 **Update on customer service improvements** made to both the public health assistance hotline and the child abuse hotline
- 10:33:41 **Family First Prevention Services Act**

Committee Questions of Director Hogan

- 10:34:22 Sen. Sands said that she recently had a call from a constituent provider who was having difficulty getting answers to some questions related to Medicaid billing. Director Hogan called that person and responded to her concerns. Sen. Sands said she appreciated the services that were provided for her constituent.
- 10:34:54 Rep. Moore asked if DPHHS should be asking school boards, school administrators, MEA/MFT, or education stakeholders other than the Office of Public Instruction about the school health rules implementation.

Report on Family First Prevention Services Act

- 10:35:26 Nikki Grossberg, Deputy Division Administrator, Child and Family Services, gave a presentation on the Family First Prevention Services Act. The DPHHS' Targeted Case Management for Youth with Severe Emotional Disturbances document was distributed to the committee. [\(Exhibit 8\)](#)

Report of Targeted Case Management

- 10:38:52 Meghan Peele, Children's Mental Health Bureau Chief, gave a presentation on the Department's efforts to improve targeted case management for youths with severe emotional disturbances. [\(Exhibit 9\)](#)

Serving Montana's Children and Families 2019 Report

- 10:43:50 Director Hogan discussed the Serving Montana's Children and Families Report. [\(Exhibit 10\)](#)

Committee Questions

- 10:47:23 Rep. Moore asked if the University of Montana's Bureau of Business and Economic Research planned to update its Medicaid expansion study.
- 10:47:56 Rep. Caferro commented on several aspects of the Serving Montana's Children and Families Report that discuss efforts to keep children safe and asked Director Hogan to highlight a couple of outcomes of the department's strategic plan for child protective services.
- 10:53:09 Sen. Sands asked Director Hogan to discuss the roles of methamphetamine use and of the criminal justice system in child protective services efforts.
- 10:58:32 Rep. Moore said he is concerned about the delay in the implementation of HB 658, the Medicaid expansion bill.

PUBLIC COMMENT on any non-study matter within the committee's jurisdiction

- 10:59:28 Traci Moseman, Administrator for Health Enhancement and Safety, Office of Public Instruction, commented on the next steps in implementation of the school health administrative rules.
- 11:02:19 Rebecca Hargis, Chair, Elevate Montana Helena Affiliate, spoke on a program called Handle With Care. [\(Exhibit 11\)](#)

- 11:07:29 Will Tedrow, HR Director, Youth Dynamics, discussed targeted case management.
- 11:09:52 Jeff Folsom, Center for Children, Families and Workforce Development at the University of Montana, commented on the DPHHS presentation on targeted case management.
- 11:13:51 Matt Furlong, Chair of the Local Advisory Council on Mental Health and President of the Montana Child Protection Alliance, commented on the need to provide services for children who have experienced a traumatic situation that required law enforcement involvement.
- 11:16:59 Mary Windecker, Executive Director, Behavioral Health Alliance of Montana ([Exhibit 12](#))
- 11:20:49 Rep. Mary Ann Dunwell asked the committee to consider moving forward with the Handle With Care program.
- 11:25:38 Devin McLean, high school student, commented on the Big Sky Waiver program.
- 11:29:04 Michelle McLean, parent of Devin MacLean, commented on the Big Sky Waiver program.
- 11:32:45 Robert Leach expressed concerns about accountability of the Department of Public Health and Human Services regarding children who are missing or have run away, murdered children, or children who commit suicide.

HJR 50 STUDY: SENIOR AND LONG-TERM CARE

Overview of Staff Reports

- 11:36:03 Ms. O'Connell gave an overview of the HJR 50 Study presentation. She referenced the three briefing papers in the committee packet: CFC and Assisted Living ([Exhibit 13](#)); Spending Down for Medicaid Coverage ([Exhibit 14](#)); and the Summary of Citations ([Exhibit 15](#)).

Home-Based Services: Participant Perspective

- 11:38:51 Robert Drazich (*by phone*)
- 11:42:40 Jenny Montgomery
- 11:54:05 Griff Davies

HJR 50 STUDY: SENIOR AND LONG-TERM CARE

Home-Based Services: Provider Perspective

- 13:02:58 Janessa White, Consumer Direct Care Network
- 13:04:36 Kelly Reynolds, former Executive Director, Always Caring Home Care
- 13:05:10 Inga Like, EPAGA Home Care

Provider Outline

- 13:06:10 The panelists discussed the following topics at the times noted. ([Exhibit 16](#))

13:06:14 **House Bill 638 funding for direct care workers.**

Committee Questions

13:12:52 Rep. Moore asked about the timeframe of the lookback period for direct care worker wage increases before the increase would be readjusted to account for extra people hired.

13:13:56 Sen. Olszewski asked about payment and hiring extra employees.

13:17:22 Sen. Esp asked whether there are different funding sources because of line items in House Bill 2 or because of other appropriations bills.

13:20:32 Sen. Sands asked about the range of direct care workers' wages.

13:21:38 **Medicaid Eligibility**

13:28:17 Sen. Sands asked about the Medically Needy, or Medicaid "spend down" program.

13:31:24 **Early and Periodic Screening, Diagnostic and Treatment (EPSDT) Services**

13:38:48 **Community First Choice Services**

13:49:14 **Waiver Services**

13:55:58 **Access to Care in Rural Areas**

14:00:07 **Hourly Reimbursement**

Senior and Long-Term Care Workforce Issues

14:08:04 Richard Agner, Vice President of Operations, Lantis Enterprises

14:15:57 Kristy Hoar, Montana Independent Living Project

14:21:20 David Trost, President and CEO, St. John's United ([Exhibit 17](#))

Committee Questions

14:31:27 Rep. Moore asked Mr. Agner if he has to have a minimum number of private pay vs. Medicaid patients in order to stay open and whether workforce shortages affect occupancy in the urban facilities vs. rural facilities.

14:35:52 Mr. Agner and Mr. Trost responded to Rep. Moore's questions.

14:36:18 Rep. Moore asked Mr. Trost to comment on the concept of tuition reimbursements from the 4-year institutions.

14:38:59 Sen. Sands asked about the suggestion for allowing more foreign workers to enter the United States to work in direct-care positions. She noted that people from other countries work in other health care professions and asked whether it should be easier for other types of workers to obtain work visas.

- 14:42:46 Rep. Esp asked Ms. Hoar about the increased number of caregivers expected by the year 2028.
- Sen. Sands commented that the number of older people in rural areas makes it difficult to have an adequate workforce in those areas.
- 14:46:58 Rep. Lenz asked Mr. Trost if bringing people into Montana communities will help Montana's ability to hire and retain the people in the workforce.

Review of the Policy Change Process

- 14:53:12 Barb Smith, DPHHS ([Exhibit 18](#))

Participant Perspective of Recent Policy Changes

- 15:16:38 Travis Hoffman, Advocacy Coordinator, Summit Independent Living Center ([Exhibit 19](#))

Public Comment on the HJR 50 Study

- 15:40:29 Gina Lytle spoke on her experience with the Big Sky Waiver program
- 15:49:27 Alice deChelley commented on her disability and her experience with the Big Sky Waiver program
- 15:53:30 Robin Homan ([Exhibit 20](#))
- 16:01:32 Amanda Hawley, A Plus Health Care ([Exhibit 21](#))
- 16:06:31 Paul Teagle, The Goodman Group, testified on senior care workforce issues.
- 16:11:37 Rose Hughes, Executive Director, Montana Healthcare Association
- 16:17:18 Karlie Woith, Director of Home and Community-Based Services, Benefis Spectrum Medical ([Exhibit 22](#))
- 16:19:34 Eve Franklin, Montana Healthcare Association
- 16:21:44 Adrienne Cotton, Director, Area Agencies on Aging Association
- 16:23:00 Lynn Mallowney Cabrera, Alzheimer's Association
- 16:26:05 Beth Brenneman, Disability Rights Montana
- 16:27:47 Joel Peden, Montana Independent Living Project

COMMITTEE WORK SESSION: AGENCY OVERSIGHT AND HJR 50 STUDY **Overview of March meeting plans**

- 16:34:01 Ms. O'Connell summarized the topics for the March meeting.
- 16:34:53 The committee discussed its plans for the March meeting.

ADJOURNMENT

16:46:33

Rep. Moore recessed the meeting at 4:46 p.m., to reconvene at 8:00 a.m. on January 17, 2020.

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