



CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE

67th Montana Legislature

SENATE MEMBERS

Chris Friedel
Jen Gross
Theresa Manzella
Mary McNally

HOUSE MEMBERS

Ed Stafman, Chair
Dennis Lenz, Vice Chair
Mary Caferro
Jennifer Carlson
Jane Gillette
Danny Tenenbaum

COMMITTEE STAFF

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

MINUTES LOG

July 6, 2021

Zoom Conference Meeting, Room 137
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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MEMBERS PRESENT VIA ZOOM:

Rep. Dennis Lenz, Vice Chair (R)
Rep. Mary Caferro (D)
Rep. Jennifer Carlson (R)
Sen. Chris Friedel (R)
Rep. Jane Gillette (R)
Sen. Jen Gross (D)
Sen. Theresa Manzella (R)
Sen. Mary McNally (D)

MEMBERS EXCUSED:

Rep. Ed Stafman, Chair (D)
Rep. Danny Tenenbaum (D)

STAFF PRESENT:

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

AGENDA ([Attachment 1](#))

NO VISITORS' LIST

COMMITTEE ACTION

The Committee held a videoconference meeting to discuss two proposed administrative rules related to provider rate increases: MAR Notice No. 37-944 and MAR Notice No. 37-949. After hearing a presentation by State Medicaid Director Marie Matthews, the committee voted to informally object to:

- MAR Notice No. 37-949, pertaining to reimbursement rates for providers of services to people with developmental disabilities; and
- the physician rate and policy adjuster provisions of MAR Notice No. 37-944, pertaining to provider rate increases for a variety of Medicaid and non-Medicaid providers.

CALL TO ORDER/ROLL CALL

13:34:22 Rep. Dennis Lenz called the meeting to order at 1:34 p.m. The committee secretary took roll.

13:35:37 Rep. Lenz gave opening remarks.

AGENCY OVERSIGHT: ADMINISTRATIVE RULE NOTICES 37-944 AND 37-949

Overview of Interim Committee Administrative Rule Review Process

13:36:42 Alexis Sandru, Committee Attorney, discussed the MAPA Requirements and Timelines document. ([Exhibit 1](#))

Committee Questions

13:45:54 Rep. Caferro asked Ms. Sandru to explain how legislative intent is determined when the language is actually in an amendment to a budget bill. Rep. Caferro also asked about authority delegated by the Legislature and if that is another way to say "legislative intent".

13:47:23 Rep. Carlson asked for further explanation of the emergency rules that were adopted on July 2 with no public comment and no chance for committee review and asked what recourse the Legislature has if it disagrees with the reason for the rules.

13:50:35 Rep. Gillette asked what point in time is used to calculate the start of the 6-month delay that would be created through an informal objection.

Explanation of Proposed Administrative Rules by DPHHS

MAR Notice No. 37-944

13:53:16 Marie Matthews discussed MAR Notice No. 37-944 pertaining to updating Medicaid and non-Medicaid provider rates. ([Exhibit 2](#))

Committee Questions

14:00:28 Rep. Lenz asked if the amendments to the proposed rule change the implementation date for the full rule.

14:01:06 Rep. Gillette asked what component of the policy adjuster is being changed in the amended version of the rule.

14:05:28 Rep. Caferro asked if proposed rates for office visits and maternity services align with the statutory requirements for the rates. Rep. Caferro also asked why the department would choose to do any decreases in Medicaid at this time.

MAR Notice No. 37-949

14:15:44 Ms. Matthews discussed MAR Notice No. 37-949 pertaining to developmental disabilities program provider rates. [\(Exhibit 3\)](#)

Committee Questions

14:19:24 Rep. Gillette asked Rep. Caferro about the 24-cent rate increase for direct care workers.

14:20:54 Rep. Caferro asked Ms. Matthews about the retention and recruitment bonuses, and if Ms. Matthews could explain why the rate manual and rule list different rates for some of the services.

Public Comment on MAR Notice Nos. 37-944 and 37-949

14:27:15 Jean Branscum, CEO, Montana Medical Association

14:33:15 Duane Preshinger, Senior Vice-President, Montana Hospital Association

14:34:47 Beth Brenneman, Disability Rights Montana

Additional Committee Questions

14:38:54 Sen. McNally said she is reluctant to pass a rule if the committee doesn't understand the content. She said she would like a better accounting of the legislative intent behind the proposed rule.

14:40:43 Sen. Manzella discussed the letter from Rep. Matt Regier inviting the committee to participate in a Legislative Finance Section B meeting.

14:41:44 Rep. Lenz asked Ms. O'Connell if she had the budget subcommittee's meeting schedule.

Motion to informally object to MAR Notice No. 37-944

14:42:19 Sen. McNally moved to informally object to MAR Notice No. 37-944.

Discussion on the Motion

14:43:26 Rep. Lenz and Rep. Gillette both stated why they supported Sen. McNally's motion.

14:44:57 Rep. Lenz asked if the committee needs to object to the amended version of the proposed rule or just object to the original rule.

14:46:18 Rep. Gillette said that the main focus of concern is the physician reimbursement rate and she would like to segregate that piece and let the rest of the rule be adopted.

14:47:10 Sen. McNally said she would like to have more time to understand the impacts of decreasing the maternity rates.

14:48:05 Rep. Lenz discussed renewing the objection and narrowing it down.

14:48:59 Rep. Carlson commented about the adoption of the emergency rules and the need for that process.

Substitute Motion

14:50:19 Rep. Caferro made a substitute motion to segregate the physician rate and policy adjuster provisions of MAR Notice No. 37-944 and object only to those provisions.

Discussion on the Motion

14:51:22 Sen. McNally supported Rep. Caferro's substitute motion.

Vote

14:51:50 The substitute motion passed 8-2, on a roll call vote with Senators Friedel, Gross, and McNally and Representatives Caferro, Gillette, Lenz, Stafman, and Tenenbaum voting yes. Sen. Manzella and Rep. Carlson voted no. Representatives Stafman and Tenenbaum voted by proxy.

14:54:00 Sen. McNally asked about the timeframe on 37-944 and 37-949.

Motion to object to MAR Notice No. 37-949

14:58:15 Rep. Caferro moved to informally object to MAR Notice No. 37-949.

Discussion on the Motion

14:58:35 Rep. Gillette supported the motion.

Vote

14:58:57 The motion passed unanimously on a roll call vote with Rep. Stafman and Rep. Tenenbaum voting aye by proxy.

COMMITTEE WORK PLAN AND RULES

15:01:00 Ms. O'Connell discussed the following documents:

15:01:36 Proxy Voting ([Exhibit 4](#))

15:02:23 Allocation of Committee Time ([Exhibit 5](#))

15:02:28 Statutorily Required Advisory Councils ([Exhibit 6](#))

15:02:39 Study Assignments and Tasks: Revised Study Activities ([Exhibit 7](#))

Committee Questions

15:05:54 Rep. Gillette asked if the time spent discussing the two proposed rules at this meeting was part of the total time allocation for administrative rule review.

15:06:17 Rep. Carlson said that she reviewed the time allocation for the HJR 35 study and does not want to eliminate time for preventive services discussion as proposed.

15:08:19 Sen. Friedel asked about undertaking the mental health studies and child protective services studies during different time periods.

PUBLIC COMMENT on items within the committee's jurisdiction

15:11:37 Mary Windecker, Behavioral Health Alliance of Montana, discussed the Alliance's submission of suggestions to the commission reviewing uses of federal COVID funding for health purposes and the Workforce Stability

- Commission. Ms. Windecker also discussed the Comprehensive School and Community Treatment Program (CSCT).
- 15:18:19 Beth Brenneman, Disability Rights Montana, discussed the CSCT program.
- 15:21:17 Jean Branscum, Montana Medical Association, commented on the CSCT program.
- 15:23:34 Denise Johnson, Montana Child Protection Alliance, offered the organization's assistance as the committee moves forward with the studies.

FURTHER COMMITTEE DIRECTION TO STAFF

- 15:24:56 Sen. Manzella asked Ms. O'Connell if a bill required the transfer of the CSCT program from the Department of Public Health and Human Services (DPHHS) to the Office of Public Instruction (OPI).
- 15:26:58 Sen. Gross asked if the committee and staff would be like to invite OPI and DPHHS to participate on a panel for the HJR 35 study at the September meeting.
- 15:29:44 Sen. McNally asked Ms. O'Connell how the CSCT program got transferred out of the department.
- 15:31:04 Rep. Gillette asked about participating in the Request for Proposal (RFP) process for the \$3 million that was allocated to DPHHS for the purposes of evaluating provider rates.
- 15:34:57 Rep. Lenz asked Ms. Sandru about the best approach to take on the RFP request.
- 15:36:35 Sen. Friedel said it appears the state has already sent out the RFP on the provider rate study.

ADJOURNMENT

- 15:38:42 Rep. Lenz adjourned the meeting at 3:38 p.m.