



CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES INTERIM COMMITTEE

67th Montana Legislature

SENATE MEMBERS

Chris Friedel
Jen Gross
Theresa Manzella
Mary McNally

HOUSE MEMBERS

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

COMMITTEE STAFF

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

MINUTES LOG

September 22, 2021
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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MEMBERS PRESENT:

Rep. Ed Stafman, Chair (D)
Rep. Dennis Lenz, Vice Chair (R)
Rep. Jennifer Carlson (R)
Sen. Chris Friedel (R)
Rep. Jane Gillette (R)
Sen. Mary McNally (D)
Rep. Danny Tenenbaum (D)

MEMBERS EXCUSED:

Sen. Jen Gross (D)
Sen. Theresa Manzella (R)
Rep. Mary Caferro (D)

STAFF PRESENT:

Sue O'Connell, Research Analyst
Cori Hach, Staff Attorney
Nadine Spencer, Secretary

AGENDA ([Attachment 1](#))

VISITORS' LIST ([Attachment 2](#))

COMMITTEE ACTION

The committee began work on its three mental health studies – of the publicly funded adult and children's mental health systems and of the involuntary commitment of people with dementia – by hearing presentations from state agencies that administer the programs.

The committee also received information about judicial pilot projects involving child abuse and neglect proceedings and about two administrative rules on Medicaid provider rates to which the committee had previously informally objected.

The committee:

- agreed to create a working group to look at how the judicial pilot projects could be expanded to other child abuse and neglect cases around the state;
- continued its objection to the optometry rates contained in MAR Notice No. 37-944 but removed its previous objection to maternity rates; and
- did not renew its objection to MAR Notice No. 37-949, involving reimbursement rates for developmental disability services. Committee members noted that recently published amendments to the proposed rule alleviated the concerns they had raised.

CALL TO ORDER/ROLL CALL

08:02:43 Rep. Ed Stafman, Presiding Officer, called the meeting to order at 8:02 a.m. The committee secretary called roll. ([Attachment 3](#))

08:04:20 Rep. Stafman gave opening remarks.

SJR 14 STUDY: ADULT MENTAL HEALTH SYSTEM

Eligibility, Services, Enrollment, and Costs

08:05:41 Sue O'Connell, committee researcher, Legislative Services Division, gave a presentation on Eligibility for Services ([Exhibit 1](#)) and Funding Fluctuations in the 2019 Biennium ([Exhibit 2](#)).

08:17:00 Sen. McNally thanked Ms. O'Connell for her presentations.

Department of Public Health and Human Services Presentation

08:17:49 Zoe Barnard, Administrator, DPHHS Addictive and Mental Disorders Division, gave a presentation on the number of people served in the adult mental health system and the services covered by Medicaid ([Exhibit 3](#)), and current Montana Medicaid numbers ([Exhibit 4](#)).

Public Comment on the SJR 14 Study

08:41:36 Mary Windecker, Behavioral Health Alliance of Montana

08:45:46 Katherine Buckley-Patton, Beaverhead County Mental Health Local Advisory Council
08:49:10 *Sen. Manzella joined the meeting.*

Committee Questions

08:50:46 Rep. Gillette asked Ms. O'Connell whether the study was limited to publicly funded mental health services.
08:51:32 Rep. Gillette asked Ms. Barnard if the numbers she provided would count someone twice if the person received services through multiple providers.
08:52:42 Rep. Gillette asked Ms. Barnard about the work that the Behavioral Health Alliance of Montana is doing with outcome measures and how that integrates with the data within Medicaid.
08:55:44 Rep. Carlson asked Ms. Barnard to discuss the qualifications for waiver services, and if AWARE is administering the Severe and Disabling Mental Illness (SDMI) waiver.
09:01:27 Rep. Carlson asked Ms. Barnard to address Ms. Buckley-Patton's comments about the Beaverhead County situation.
09:03:13 Rep. Lenz asked Ms. Barnard about the costs per patient at mental health centers compared to other providers and whether mental health centers are the best source of treatment.
09:08:33 Sen. McNally asked Ms. Barnard about rural areas having access to services.
09:11:39 Rep. Stafman asked Ms. Barnard about the number of people participating in the SDMI waiver program and if the program has a waiting list and about a proposed rule changing the criteria for SDMI designation. He asked if Ms. Barnard could instigate three new policies, what would those policies look like.
09:16:18 Rep. Carlson asked Ms. Barnard if AWARE is determining eligibility for people who are applying for the SDMI waiver.

HJR 39 STUDY: COMMITMENT OF PERSONS WITH DEMENTIA

Overview of the Involuntary Commitment Process

09:18:10 Ms. O'Connell gave an overview of laws governing the involuntary commitment process for people with mental illness. ([Exhibit 5](#))

Commitment Statistics for State Facilities

09:21:33 Ms. Barnard gave a presentation on the commitment of people with dementia to state facilities. ([Exhibit 6](#))

Public Comment on the HJR 39 Study

09:35:21 Denise Smith, Executive Director, Montana Chapter of the Alzheimer's Association

Committee Questions

09:38:27 Rep. Lenz asked Rep. Tenenbaum to comment on the direction he wants for the study. Rep. Tenenbaum sponsored HJR 39.

09:38:33 Rep. Tenenbaum echoed the comments from Ms. Smith that the State Hospital is designed for people with severe mental illness and not dementia, that people with dementia may be isolated or restrained, and that staff may not have knowledge of dementia. He is interested in hearing the department's response to those findings by the Alzheimer's Association.

09:40:22 Rep. Lenz asked Rep. Tenenbaum about the need to clarify how mental illness and dementia are considered in the use of involuntary commitment.

09:42:04 Rep. Stafman asked Ms. Barnard if she would respond to Rep. Tenenbaum's comments.

09:44:16 Rep. Tenenbaum said that simply disallowing commitments to the State Hospital is not enough to solve the problem and that alternative settings are needed.

09:46:08 Rep. Lenz asked Ms. Barnard if more people with dementia are served at the Mental Health Nursing Care Center in Lewistown or at the State Hospital.

09:46:47 Rep. Gillette said that it might be helpful for the committee to hear about the reasons nursing homes are not accepting these patients.

09:48:27 Rep. Gillette said that it may be helpful to have more information about the primary diagnosis for the people with dementia who are being involuntarily committed.

AGENCY OVERSIGHT: COMMITTEE OBJECTIONS TO MAR NOTICES 37-944 AND 37-949

Explanation of Reimbursement Methodologies

09:50:38 Marie Matthews , Medicaid and Health Services Branch Manager, Department of Public Health and Human Services, gave a presentation on the resource-based relative value scale (RBRVS) methodology that is used to reimburse services in the Medicaid program and then discussed the specific rates subject to the committee's informal objection.

09:52:10 Optometry Rates

09:53:57 Maternity Rates

09:55:21 Developmental Disability Services Rates

Public Comment on Optometry Rates

09:58:17 Abigail St. Lawrence, Montana Optometric Association

10:01:20 Ron Benner, Laurel, Montana

Public Comment on Maternity Rates

10:05:23 Jean Branscum, CEO, Montana Medical Association

Public Comment on Developmental Disability Services Rates

10:06:51 Beth Brenneman, Disability Rights Montana

Committee Questions on Optometry Rates

- 10:07:46 Rep. Stafman asked Ms. Matthews to respond to the comments by Ms. St. Lawrence and Dr. Benner.
- 10:10:23 Rep. Stafman asked if Ms. Matthews has met with representatives of the optometrists to discuss the rates.
- 10:11:53 Sen. McNally said that the department should be a lot closer to reconciling this issue and she would like to see that happen.
- 10:13:09 Rep. Gillette asked Ms. Matthews about a lawsuit that has been filed against the department by the optometrists.
- 10:13:42 Sen. Freidel asked if the department hasn't had a conversation with the optometrists because of the ongoing litigation.
- 10:14:33 Sen. Friedel asked if it would be beneficial for the committee to continue the objection and to allow the department to have a conversation with the optometrist group.

Committee Questions on Maternity Rates

- 10:16:04 Rep. Stafman asked Ms. Matthews to clarify the rates that physicians in general would receive under the rule and how the rates for maternity care would differ.
- 10:18:08 Rep. Stafman asked Ms. Matthews if DPHHS has met with representatives of physicians who provide maternity care to discuss the proposed rule.
- 10:19:34 Rep. Stafman asked Ms. Matthews if physicians who solely provide maternity services will experience a rate decrease under the proposed rule.

Committee Questions on the Developmental Disability Services Rate

None.

BREAK (reconvened at 10:45 a.m.)

HB 39 STUDY: JUDICIAL PILOT PROJECTS

Scope and Results of Prehearing Conferences and Early Show-Cause Hearings

- 10:46:02 Rep. Stafman gave an overview of the HB 39 Study.
- 10:47:35 *Rep. Caferro joined the meeting.*
- 10:47:56 *Sen. Manzella left the meeting.*
- 10:48:21 Beth McLaughlin, Supreme Court Administrator, referred the committee to the document "Montana Pre-Hearing Conference Study" that reviewed the pre-hearing conference results to date but did not discuss it. [\(Exhibit 7\)](#)
- 10:49:51 Ms. McLaughlin discussed the pre-hearing conference project.
- 10:58:44 Judge Jessica Fehr, Thirteenth Judicial District (Yellowstone County) discussed the Emergency Protective Services (EPS) Pilot Court in Yellowstone County. [\(Exhibit 8\)](#)
- 11:06:00 Judge Luke Berger, Fifth Judicial District (Madison, Beaverhead, and Jefferson Counties) gave background information on how the Fifth Judicial District prepared for and began holding EPS hearings.

- 11:14:59 Marti Vining, Division Administrator, DPHHS Child and Family Services Division, discussed the department's experience with the pilot projects.
- 11:17:25 Brian Smith, Administrator, Public Defender Division, Office of the State Public Defender, discussed the office's experiences with the pilot projects.

Public Comment on the HB 39 Study

- 11:20:58 Nanette Gilbertson, Montana County Attorneys' Association
- 11:23:44 Scott Pederson, Chief Deputy County Attorney, Yellowstone County
- 11:27:38 Kelsie Harwood, Blaine County Attorney, Chinook, Montana

Committee Questions

- 11:34:12 Rep. Carlson asked Mr. Pederson about his comment that parents don't have legal representation at the initial hearing.
- 11:35:14 Rep. Carlson asked if there was any data on the total number of removals from the home, the number of children who are never returned to their parents, and the number of parents charged with a crime related to the removal of the children.
- 11:36:57 Rep. Gillette asked Judge Berger about the show cause or pre-conference hearing where a judge decides that a removal of the child wasn't warranted and the child is returned. She also asked about opportunities to use remote hearings more often.
- 11:41:51 *Rep. Caferro left the meeting.*
- 11:41:59 Rep. Tenenbaum asked Judge Fehr how pre-hearing conferences work in concert with the EPS hearings in her court.
- 11:47:51 Rep. Tenenbaum asked Mr. Smith about parents having access to the affidavit with the allegations of abuse or neglect.
- 11:49:28 Rep. Carlson asked Ms. McLaughlin about cases where the children are returned to their parents sooner than the average of 429 days.
- 11:51:20 Rep. Stafman asked Judge Fehr whether she thinks more specific requirements for the hearings should be put in statute.
- 11:56:12 Ms. McLaughlin discussed training standards for the PHC facilitators and the set of standards issues that are to be addressed at those conferences.

Committee Work Session on HB 39

- 11:57:22 Rep. Lenz explained the legislative history behind House Bill 39.
- 12:00:26 Rep. Carlson asked Rep. Stafman if the committee is discussing whether or not to form a work group. She volunteered to be on the work group.
- 12:01:13 Rep. Lenz discussed the tasks spelled out in HB 39 for the work group.
- 12:01:55 Rep. Stafman said that the work group will report back to the full committee with recommendations.

Motion

12:02:28 Rep. Carlson moved to form a House Bill 39 Work Group.

Discussion on the Motion

12:02:48 Sen. Friedel said he would like to be on the work group as one of the majority party member.

12:03:43 Rep. Lenz said that since he carried the bill, he would like to be the majority party member and that Rep. Tenenbaum would be the minority party member.

12:04:26 The committee discussed who the participants in the work group would be.

12:06:35 Rep. Stafman said he would announce the work group members at the end of the day.

Vote

12:08:01 The motion passed on a voice vote with Senators Gross, Caferro, and Manzella voting aye by proxy.

AGENCY OVERSIGHT: DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES

Administrative Rule Review

12:08:43 Cori Hach, legal staff, discussed the Administrative Rule Report. ([Exhibit 9](#))

Committee Questions

12:10:09 Rep. Carlson asked Ms. Hach where the public comments and the DPHHS responses to the comments regarding the birth certificate rule could be found and where the rules will be published.

12:11:47 Ms. O'Connell referred the committee to page 4 of the Administrative Rule Report, MAR Notice Number 37-956.

12:12:17 Ms. Hach said that responses to comments in MAR Notice 37-956 will be in the Notice of Adoption.

12:12:41 Rep. Carlson asked about having time to comment before the rule is officially adopted.

12:13:01 Ms. O'Connell said deadline for written public comment was September 3 and the period for public comment was closed.

12:13:45 Rep. Stafman asked the committee if the members had concerns over rules in the future to notify staff so the item could be put on the next meeting's agenda.

12:15:30 Rep. Gillette discussed her concern regarding the timeline for rules that could be proposed, heard, and adopted before the committee has its regularly scheduled meeting.

12:16:37 Rep. Stafman discuss holding meetings remotely when there is an objection to administrative rules.

12:17:07 Ms. O'Connell explained the process of objecting to rules.

12:17:58 Rep. Gillette asked Ms. O'Connell to walk her through the process.

12:19:46 Ms. Hach answered Rep. Gillette's question.

Required Reports: TANF Parents as Scholars, MDC Client Outcomes, Medicaid Expansion Demographics

12:20:47 Ms. O'Connell gave an overview of the statutorily required reports that DPHHS provided for this meeting: the TANF Parents as Scholars report ([Exhibit 10](#)); the MDC Client Outcomes report ([Exhibit 11](#)), and the Medicaid Expansion Quarterly Report ([Exhibit 12](#)).

BREAK (reconvened at 12:30 p.m.)

DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES UPDATE

Required Report: Medicaid-Funded Abortions

12:28:57 Adam Meier, Director, gave a presentation on the statutorily required report on Medicaid-funded abortions. ([Exhibit 13](#))

12:33:44 Director Meier discussed the Physician Certification for Abortion Services form. ([Exhibit 14](#))

Committee Questions

12:37:48 Rep. Gillette asked about including a utilization review in the report as well as the reasons for denials.

12:39:36 Rep. Stafman gave opening remarks for the next presentation.

Department of Public Health and Human Services' Update

Director Meier gave an update on the following items:

12:40:44 the status of the Section 1115 waiver applications for the HEART Initiative and the HELP and WASP waiver amendments;

12:42:34 the RFP for the provider rate study;

12:43:38 the COVID response at the Montana State Hospital and other DPHHS-run facilities;

12:45:07 the emergency rule on school mask requirements;

12:46:47 the COVID vaccination efforts;

12:50:40 efforts to address mental health care provider shortages;

12:51:44 the SNAP program and the expiration of COVID-related benefits; and

12:54:07 the impacts of unvaccinated COVID patients in Montana hospitals.

DPHHS Reorganization

13:02:29 Director Meier discussed the August 9, 2021, letter regarding the organizational health assessment of the agency ([Exhibit 15](#)) and the three versions of the DPHHS organizational chart that he distributed ([Exhibit 16](#)).

Committee Questions of Director Meier

- 13:12:38 Rep. Carlson asked what the department intended when it included language in the emergency mask rule that schools should “demonstrate consideration” of parental concerns before adopting a mask mandate. She also asked him to explain the definition of an unvaccinated patient and what the federal cap on monoclonal antibody allotments for the state is.
- 13:17:39 Rep. Carlson said that she would like to see the rule implementing HB 334 (protect post-secondary students with religious and medical exemptions), and asked if any rule changes are planned based on the passage of HB 702. She also asked about the emergency rule extension concerning background checks for different providers.
- 13:23:11 Sen. Friedel asked about the disparity in the numbers regarding school related COVID cases that were put out by DPHHS and School District #2.
- 13:25:54 Rep. Tenenbaum asked about the rise in the COVID cases per capita in Montana.
- 13:30:20 Rep. Gillette asked about the reports of bed capacity in hospitals across Montana.
- 13:34:06 Sen. McNally asked why the state isn't doing more to infuse additional financial resources to help alleviate the COVID crisis in the health institutions.
- 13:40:18 Sen. McNally asked about other funding sources that could be made available to other organizations.
- 13:42:37 Rep. Stafman asked about the department's dashboard dealing with available beds in hospitals.
- 13:44:19 Rep. Stafman asked about proposed solutions waiving rules on health care professionals.
- 13:50:06 Rep. Stafman read the statement in Director Meier's August 9th letter (see Exhibit 12), "Another key position is the Faith and Community-Based Services Coordinator role. One area of focus will be to help increase recruitment of more foster parents from the faith-based community..." He asked for an assurance that this statement would not focus on one particular religion or prohibit LGBT families from having foster children.
- 13:53:45 Rep. Stafman asked for information on the scientists and physicians who were involved in developing the emergency mask rule, how the rule originated, and what process was used by DPHHS to develop the rule.
- 13:56:33 Rep. Lenz wanted to go on record that Rep. Stafman's question came late in the question period.
- 13:56:50 Director Meier
- 13:59:39 Rep. Stafman asked which DPHHS scientists and doctors signed off on the conclusions in the emergency rule.
- 14:00:31 Sen. Friedel asked if the director has looked into working with universities and colleges that offer an internship with health care students to help the health care shortage.

BREAK (Reconvened at 2:15 p.m.)

GENERAL PUBLIC COMMENT

- 14:16:18 Judy Erickson discussed her issues with case management services.
- 14:20:30 Matt Furlong, Montana Child Protection Alliance and the Central Service Area Authority, distributed the Montana Code Annotated on Service Area Authorities guidelines [\(Exhibit 17\)](#). Mr. Furlong also distributed an invitation to committee members to attend the Central Service Area Authority 2021 Annual Congress [\(Exhibit 18\)](#).
- 14:23:56 Jean Branscum, Chief Executive Officer, Montana Medical Association, distributed a copy of House Bill 495 and discussed the task force working on HB 495 activities. [\(Exhibit 19\)](#) She expressed her concerns over the vaccination messaging for the youth or educating parents about the possibility of having their children vaccinated.
- 14:29:12 Jennifer Hensley, PacificSource Health Plans, commented on PacificSource providing coverage for COVID testing.
- 14:30:22 Rep. Mary Ann Dunwell, House District 84, commented on Judy Erickson's testimony.
- 14:33:02 Keri Yoder, Long-term Care Ombudsman, Area IV Agency on Aging, commented on the SDMI waiver program.
- 14:35:15 Rep. Stafman asked Ms. O'Connell to keep the committee updated on the contract with AWARE Inc., for SMDI waiver services.
- 14:35:57 Andrea McEwen, Administrator, Sharon's Sunshine Care Assisted Living, Helena, commented on care management services with SDMI.

HJR 35: CHILDREN'S MENTAL HEALTH SYSTEM

Eligibility, Enrollment, Services, and Costs

- 14:37:41 Sue O'Connell referred the committee to the document "Eligibility for Services" but did not discuss it. [\(Exhibit 20\)](#)
- 14:38:47 Meghan Peel, Children's Mental Health Bureau Chief, Developmental Services Division, DPHHS, gave a presentation on Medicaid expenditures for children's mental health [\(Exhibit 21\)](#), Children's Mental Health Bureau Medicaid Services Continuum of Care [\(Exhibit 22\)](#), and the Child and Adolescent Service Intensity Instrument (CASII) [\(Exhibit 23\)](#).
- 14:45:54 Marti Vining, Division Administrator, DPHHS Child and Family Services Division, gave a presentation on foster care children's eligibility for mental health services.
- 14:47:44 Tom Billteen, Youth Court Services Bureau Chief, Office of Court Administrators, gave a presentation on Youth Court At-a-Glance. [\(Exhibit 24\)](#)
- 14:50:39 Tracy Moseman, Chief Program Officer, discussed the document "Student Mental Wellbeing in Schools". [\(Exhibit 25 \)](#)
- 14:55:03 Darci Wiebe, Health Resources Division Administrator, gave a presentation on mental health and substance use disorder services offered through the Healthy Montana Kids Plan, formerly known as CHIP. [\(Exhibit 26\)](#)

FY2018-2019 Budget Cuts and Restorations - DPHHS

15:00:59 Rebecca de Camara, Administrator, DPHHS Developmental Services Division, discussed the 2019 Biennium budget changes in the Children's Mental Health Bureau.

Children's Mental Health Outcomes

15:15:44 Ms. de Camara gave a presentation on the statutorily required report regarding outcomes for youth who are receiving children's mental health targeted case management services as required by House Bill 583. [\(Exhibit 27\)](#)

15:18:48 *Rep. Tenenbaum left the meeting.*

Out-of-State Placement of High-Risk Children

15:24:18 Meghan Peel, Children's Mental Health Bureau Chief, discussed the statutorily required report on the Out-of-State Placement of High-Risk Children. [\(Exhibit 28\)](#)

Committee Questions

15:36:24 Rep. Gillette asked Ms. Peel about the reimbursement rates for in-state and out-of-state residential treatment.

15:38:53 Rep. Gillette asked Ms. Peel to explain why the state pays more for children to go out-of-state.

15:40:41 Rep. Stafman asked Ms. Peel about targeted case management.

15:44:17 Rep. Carlson asked Ms. Peel about the licensing of the out-of-state facilities that the state is using.

15:48:15 Sen. Friedel asked Ms. Peel about the reasons that Acadia, the Butte-based psychiatric residential treatment facility, closed.

15:51:54 Rep. Stafman asked Ms. Peel to discuss her main idea to for improving children's mental health services.

BREAK (reconvened at 4:05 p.m.)

16:05:15 *Rep. Tenenbaum re-joined the meeting.*

Comprehensive School and Community Treatment (CSCT) Program Transition

16:07:00 Ms. O'Connell discussed the document "CSCT Overview". [\(Exhibit 29\)](#)

16:08:32 Rebecca de Camara gave an update on the transition of the Comprehensive School and Community Treatment (CSCT) program from DPHHS to the Office of Public Instruction. [\(Exhibit 30\)](#)

16:15:12 Jay Phillips, Senior Manager of the Office of Public Instruction, gave opening remarks.

16:15:37 Sharyl Allen, Deputy Superintendent of Public Instruction, discussed the communication with the school districts about changes to the CSCT program.

16:17:35 Mr. Phillips gave a presentation on the CSCT Accounting Document.
(Exhibit 31)

Public Comment on the HJR 35 Study

16:19:30 Mary Windecker, Behavior Health Alliance of Montana
16:24:59 Katherine Buckley-Patton, Beaverhead County Mental Health Local Advisory Council
16:29:17 Beth Brenneman, Disability Rights Montana

Committee Questions

16:32:29 Rep. Stafman asked about school districts being able to justify their 35% match with the various direct costs that were outlined by the speakers.
16:36:26 Rep. Stafman asked Mr. Phillips about the timeline for school districts complying with the changes.
16:38:55 Rep. Stafman asked Mr. Phillips to keep the committee apprised of the status of the program and the transition.
16:39:57 Rep. Carlson said she recalled that the committee turned the oversight of this program over to the education interim committee.
16:42:34 Rep. Stafman asked whether the department is working with other school districts on school-based health centers.
16:45:11 Ms. O'Connell said those centers are being funded through the Montana Health Care Foundation grant program and she can provide more information at a future meeting.

INTERIM COMMITTEE COLLABORATION: MEMBER UPDATES

16:46:04 Sen. McNally provided an update on the Section B Interim Budget Committee meeting held on September 15, 2021.

Committee Questions of Sen. McNally

16:48:30 Rep. Lenz asked if the Section B meetings will be held in conjunction with the Children and Families Committee meetings moving forward.
16:49:20 Sen. McNally and Ms. O'Connell discussed the meeting schedule for the Section B Interim Budget Committee.

COMMITTEE WORK SESSION

16:50:16 Rep. Stafman appointed the following people to the HB 39 Work Group: Rep. Lenz as presiding officer, Rep. Tenenbaum as vice presiding officer; Yellowstone County District Judge Jessica Fehr as the district judge representative; Blaine County Attorney Kelsie Harwood as the county attorney representative; Marti Vining as the DPHHS representative; Brian Smith as the Office of Public Defender representative; Youth Court Director Tom Billteen as the Court Improvement Program representative; Kiersta Sullivan of Front Range CASA/GAL as the CASA representative; and Matt Furlong of the Montana

Children's Protection Alliance as the public member. The appointment of a member with knowledge of the Indian Child Welfare Act remained pending.
16:54:32 Rep. Gillette asked to be included in the meetings.

MAR Notices No. 37-944 and 37-949

16:55:40 Rep. Stafman asked for any discussion or motions for MAR Notice No. 37-944.

Motion

16:56:02 Sen. McNally moved to continue the existing objection to the optometry rates in MAR Notice 37-944.

Discussion on Objecting to MAR Notice No. 37-944

16:57:12 Sen. Friedel said he doesn't know if this will be solved in a month or if this will continue to perpetuate or fester between the two groups.

16:58:07 Rep. Gillette reminded the members that they are segregating out the optometrists but also holding up the rate increases for other providers.

17:00:36 Rep. Carlson said she will vote no on continuing the objection.

17:01:32 Sen. Friedel asked if there was a way to segregate just that portion of the rule and let everything else pass.

17:01:49 Sen. McNally requested a legal comment on segregating the optometrists.

17:02:33 Cori Hach, staff attorney

17:02:52 Ms. O'Connell said that Ms. Matthews had e-mailed her that the department would need to amend this rule to limit it and issue a new rule proposal to adopt the rates for the other providers.

17:04:33 Ms. Hach said that Ms. Sandru, the regular legislative attorney for the committee, had communicated with her electronically and agreed with Ms. O'Connell's assessment.

17:04:50 Sen. McNally asked about a motion to have the department amend out this section on the rule.

17:05:10 Ms. O'Connell said that a motion to ask the department to do something would allow the objection to expire.

17:05:45 Rep. Stafman discussed his concern that the committee had objected to this at the last meeting.

17:07:43 Rep. Carlson said that she voted against the objection because the committee was told that it could not segregate this objection and that it would be holding up other provider rates.

17:08:52 Rep. Gillette asked Ms. O'Connell if the department could write another rule if the committee decides not to extend the objection.

17:10:51 Ms. O'Connell said the committee could send a letter to DPHHS asking them to do so and it would be the department's choice whether or not to do that.

17:11:09 Sen. McNally said she is concerned that if the committee drops this objection, the department could choose not to make any changes. She felt it was important to continue the objection.

17:12:54 Ms. Hach relayed information from Ms. Sandru that the department could amend out the optometrist rate and proceed with adopting the rest of the rule and the department would have to propose a new rule for the optometrist rate.

BREAK (reconvened at 5:20 p.m.)

17:24:00 Ms. Hach discussed options for committee action.

Roll Call Vote

17:25:49 The motion to continue the objection to the optometry rates passed on a roll call vote, 6–4, with Sen. Freidel, Sen. McNally, Rep. Stafman, and Rep. Tenenbaum voting yes, and Sen. Gross and Rep. Caferro voting aye by proxy. Rep. Carlson, Rep. Lenz, and Rep. Gillette voted no, with Sen. Manzella voting no by proxy.

17:27:00 Rep. Stafman said that he had heard that there wasn't any interest in continuing the objection to maternity rates or rates for developmental disability services. He asked if there were any comments or motions.

17:27:26 Rep. Carlson commented that the maternity provider rate increase is in the rule with the optometrists and other providers and questioned whether those providers would receive their increase.

17:27:47 Sen. McNally said the department can exempt just the optometrists and the rule could go through.

17:28:02 Ms. O'Connell asked Sen. McNally if her motion was to continue the objection to both the optometry and maternity rates or just the optometry rates. Sen. McNally said it was just the optometry rates.

17:28:26 Rep. Carlson and Rep. Stafman discussed the effects the objection to optometry rates in MAR Notice No. 37-944 would have on the other rates included in that rule.

17:29:57 Rep. Lenz commented on the effects of the objection.

17:30:44 Rep. Stafman asked if anyone wanted to make a motion with respect to the proposed rules for maternity rates in MAR Notice 37-944, or the rates for developmental disability services in MAR Notice 37-949. There was no motion.

November Meeting Plans

17:31:06 Ms. O'Connell gave an overview of planned agenda items for the November meeting. She discussed the timeframe for the two additional studies that the committee needs to start.

Rep. Gillette said she would like the committee to focus on the mental health studies in the first part of the interim and take up the foster care studies later in the interim. She suggested having Scott Malloy from the Montana Healthcare Foundation present information for the mental health studies.

Sen. McNally, Sen. Friedel, and Rep. Lenz agreed with Rep. Gillette's suggestion to focus on the mental health studies before undertaking the foster care studies.

ADJOURNMENT

17:36:29 Rep. Stafman adjourned the meeting at 5:36 p.m.