



Children, Families, Health, and Human Services Interim Committee

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59th Montana Legislature

SENATE MEMBERS

TRUDI SCHMIDT--Chair
JOHN ESP
JERRY O'NEIL
DAN WEINBERG

HOUSE MEMBERS

BILL WARDEN--Vice Chair
EMELIE EATON
EVE FRANKLIN
DON ROBERTS

COMMITTEE STAFF

SUSAN FOX, Lead Staff
DAVID NISS, Staff Attorney
FONG HOM, Secretary

MINUTES

Please note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of the document.**

March 31, 2006

Capitol Building, Room 137
Helena, Montana

COMMITTEE MEMBERS PRESENT

SEN. TRUDI SCHMIDT, Chair
REP. BILL WARDEN, Vice Chair

SEN. JOHN ESP
SEN. JERRY O'NEIL
SEN. DAN WEINBERG

REP. EMELIE EATON
REP. EVE FRANKLIN
REP. DON ROBERTS

STAFF PRESENT

SUSAN FOX, Lead Staff
DAVID NISS, Staff Attorney
FONG HOM, Secretary

Visitors

Visitors' list, [Attachment #1](#).

COMMITTEE ACTION

- Minutes from the January 26 and 27, 2006 meeting were approved and adopted.

TAPE 6B

CALL TO ORDER AND ROLL CALL

SEN. SCHMIDT called the meeting to order at 8:00 a.m. Secretary noted the roll.

CONSIDERATIONS FOR CRISIS SERVICES

SUSAN FOX, Research Analyst, LSD

MS. FOX gave a presentation of her research in mental health crises response (**EXHIBIT 1**).

TAPE 7A

QUESTIONS AND COMMENTS

REP. FRANKLIN said that she wanted to see if videoconferencing was allowed for psychiatric hearings and how much latitude was given to them for second hearings. MS. FOX said that they put hearings for a mental health commitment on their list of allowable. REP. FRANKLIN said that she wanted to look at the community commitment policy to see whether or not it is working, if it targets the wrong thing, or if it is a question of resources that is not used.

SEN. ESP wanted to know if they are using community commitments and which judges are using them and why.

REP. ROBERTS said that he wanted to see how the mental health community feels about the current hospitalization rules.

SEN. WEINBERG discussed several issues of concern to him:

- how does the insurance industry operate compared to for-profits, and if they operate similarly, where does the money go; would like to see an analysis of comparing non-profit insurance with for-profit insurance; compare non-profit hospitals with for-profit hospitals.
- the need to work smarter through tele-mental and other technologies; learn how to work smarter and bring in new technology that people are not accustomed to.
- consider the use of free resources, most specifically the SAAs in the use of peer counseling, peer support, and transportation.
- having more authority for commitment, raise the training level and licensure.
- how to establish which diagnoses are covered and which are not. If only accepting certain diagnosis and not others, we run the risk of having practitioners cater to where the money is, and diagnose to where the money is.

SEN. O'NEIL said that he is interested in community commitment and telemental; what works, and what changes are needed.

REP. WARDEN said that he wanted to know what training is being done for first responders in crisis intervention; concerned that local entities are doing their own thing and no collaboration is being done statewide; continues to be concerned when talking about telemental issues, how do we bring those together in event this is workable proposition, how do we get it to communities, are other agencies doing that already; how do we pull those groups together to make sure they are trying to do the same thing.

REP. EATON said that she supported community commitment and wanted to know whether or not a community commitment also meant that that particular community or a community nearby needs to have a facility to hold that individual.

SEN. SCHMIDT said that she is interested in the parity issue; do we believe in providing parity for mental health illness; how are we going to deal with mental health coverage?

PUBLIC COMMENT

ANDREA DELIGHDISH, Great Falls, said that if you look at which judges do community commitment and which ones don't, most of them are in larger areas where the resources are. She commented on mental health professionals who can receive certification by phone in order to have authority to commit individuals to mental health facilities.

COLLEEN MURPHY, Executive Director, Montana Chapter of NASW, addressed Sen. Weinberg's concern of diagnoses. She said that nine years ago, the Legislature chose the seven diagnoses mentioned in Ms. Fox's presentation because they were considered brain disorders. She said that NAMI was the driving force behind that. She said that things have changed since then regarding brain disorders.

BOB OLSEN, Montana Hospital Association, said that his organization is doing a survey of all hospital members to find out about crisis intervention services, what is their existing capacity, what resources do they have, what kinds of resources would they need in order to improve services in the local communities, how tele-medicine might work. He said that when the survey is completed, he is willing to share that information with the Committee. He said that they are working with the Department and Joan Daly, Chair of the Crisis Intervention Services portion of the Mental Health Oversight Advisory Council.

SEN. WEINBERG asked Mr. Olsen what it would look like if we compared the non-profit hospitals to for-profit hospitals in other states. MR. OLSEN said that if you were to look at the offering of services in our hospitals in Montana to hospitals that are in Bismarck, North Dakota, or Cheyenne, Wyoming, or other communities that are comparable, you will find the services offerings to be essentially the same. But in communities like Terry or Ekalaka, you will find very limited mental health services in their emergency rooms and very limited in-patient capacity to provide care. He said that the issue of getting people into mental health care delivered by

mental health professionals is not a Montana issue and doesn't have to do with your tax exemption; it has to do with your mental health staff complement and the services that you can offer and can economically afford to offer.

SEN. WEINBERG asked if we compared non-profit status hospitals with for-profit hospitals in other states, and if we looked at costs to the patients, the amount of charity care, overhead, the financials, what would that comparison look like. MR. OLSEN said that the data that is accumulated around the country show that for-profit hospitals and not-for-profit hospitals provide about the same amount of charity care, that you won't find tax exempt hospitals providing extraordinary higher amounts of charity care or suffering from extraordinarily higher incident of bad debt. The difference for tax exemption is that the profits that you might make on operating your facility are retained by the community and don't go into a shareholder's pocket.

TAPE 7B

ADMINISTRATIVE RULE REVIEW

David Niss, Staff Attorney, LSD

MR. NISS gave a status report on the three rulemaking issues:

- Day care licensure. Roy Kemp told Mr. Niss via email that the Department will strike the controversial requirements for after-school care that the Committee heard testimony on at the last meeting. Mr. Kemp said that it would take a couple of days to get the rules through legal review within the Department of Public Health. Russ Cater, Department's Chief Legal Counsel, said that task will be delayed as much as 30 days because the program people within the daycare licensing program have not yet signed off on those rules.
- Out Patient Crisis Response Facilities. The Committee approved a motion to monitor the situation developing with the facility that will be in Billings so that the Committee would be able to question the managers of that facility as to whether the proposed 24-hour period of care was sufficient time. Those rules have not yet been adopted so they can or cannot revisit that issue depending upon the Committee's choice.

SEN. WEINBERG said that the Committee talked about regarding the Billings facility was to consider not only whether or not to require them to have a 72-hour facility but giving them the option of holding people for 72 hours. MR. NISS said that at this point in time, that option doesn't exist under the rule and that is now the issue before the Committee.

REP. FRANKLIN asked where they are in the rulemaking process, if the rules have already been noticed, passed, and closed. MR. NISS said that they have been noticed, a hearing has been held, testimony has been taken, adoption was delayed pending any committee action, and those rules are still not yet adopted.

MS. FOX said that the facility presented documents on what their protocols were. The facility did not want the 72-hour because it not only had to deal with state licensure but with other considerations. Ms. Fox said that the Committee was going to monitor that over time and if by August, the Committee had enough information to decide if that was an issue or not. She suggested not taking any action because there was not enough information.

DAVID NISS said that option is not now available under the rules. He said that what he meant was a requirement that 72-hour hold be made available would take a change in that 24-hour maximum period that is now the limitation in the proposed rules.

- Foster Care Rules. Upon request of the Committee, the Department suspended the adoption of foster care rules; those rules were suspended until the end of the 6-month maximum time period that agencies have to adopt the rules before they re-notice the proposal. Sen. Schmidt requested that both Montana Children's Initiative and the Department get together and come to an agreement as to what the rules should look like. If the Committee does nothing today, the suspension will be lifted and the Department may then adopt the rules per their agreement with the Montana Children's Initiative after this Committee adjourns today. If the Committee feels that there is a need to suspend that rulemaking period, then members would have to take an affirmative vote on that issue.

RESPONSE FROM DEPARTMENT

JANI MCCALL, Executive Director for Montana Children's Initiative Provider Association, said that the Committee intervened and allowed them the time to review the rules process and delve into some of the rules that they had concerns with. She said that the Montana Children's Initiative Provider Association is here to report that they have made excellent progress. MCI had concern with approximately 20 rules that were being proposed or changed in the new rules. They were able to agree upon, modify or tweak approximately all of them, including some important ones to foster parents and therapeutic foster parents. Those included the clothing allowance, documentation, training requirements, and high risk activities. They had two conference calls and two face-to-face meetings with representatives of both foster parents and therapeutic foster parents to come up with a resolution.

Ms. McCall said that there are some rules which have not been resolved, but there is a commitment from the Department that they are going to continue that process. Those rules are: Rule 22, No.1, criminal background check for anyone living on foster care property; Rule 35, which includes all environmental and safety requirements. Rule 35 contains three requirements which are cumbersome: 1) the verifying of water supply safety for an individual foster care home; 2) exposure to lead; and 3) the legal and financial responsibility for the actions in any

resulting injuries that may be caused by any animal allowed in or around the foster home.

BRUCE DEITLE, Program Bureau Chief for Child Family Services Division, said that many of the rules that were brought up during this review were not actually requests for change but rather requests for clarification about what the rule was stating.

- Rule 22, criminal background checks states that satisfactory criminal background, motor vehicle, and child and adult protective services check is required for each person living in the household or on the foster home property. One example given was if one of the foster parents owned a campground with clientele moving on and off the property every day, how would you conduct criminal background check on each of those people. In situations where you have someone renting a trailer or a home on that property, their rights of privacy come into play.
- Under the environmental safety requirements, the home's water supply, if it is not provided by municipal system, the foster home must arrange to, at a minimum, have a basic water screen test conducted annually through DPHHS' Public Health and Safety Division to ensure the water supply remains safe for human consumption. Documentation and test results must be provided to the licensing worker. The difficulty where you have a situation where a foster home has a cistern, their water supply changes constantly, and we are trying to resolve that.
- No. 10 of that rule, "children shall not be exposed to paint containing dangerous hazardous levels of lead in excess of .06%" and many people live in older homes. There's possible exposure through paint in those homes and they have yet to resolve that issue.
- Foster parents are legally and financially responsible for the actions and any resulting injuries that may be caused by any animal allowed in or around the foster home. This is not a change, foster parents had that liability. There currently is not a liability policy that would cover foster parents in this type of situation. They plan to work with tort claims and develop some type of policy whether it be the cost burden for the foster parents or not.

KIM KRADOFFER, Legal Counsel for the Department, said that the Department is ready to draft language and make the changes so that they can forward the rules if the Committee releases the rules today.

JANI MCCALL said that recruitment and retention of foster homes is critical because they provide the major foundation of care and treatment for at-risk youths. The liability issue is of some importance in terms of retaining foster parents and needs to be addressed. She said that the division has been responsive in saying yes, but they do need to look at possibly a group plan where foster families could purchase insurance, or the agency that they are working with would want to purchase insurance for therapeutic foster families. The other issue is funding for the care of the child, not for those who care for the child. That is something that they need to

continue to address.

BRUCE DEITLE said that they currently have a liability policy that covers any damage that a child might do. In the past, as part of the foster care training, they have pointed out that foster parents need to have some type of homeowner coverage. The problem with that is that the foster parents are reluctant to do that because it would raise their rates or possibly cancel their rates. MS. MCCALL said that that policy is available for regular foster parents and not for therapeutic foster parents.

REP. EATON asked for clarification as a committee member, when the Department wanted to release the rules so that they can continue to work on that, does the Committee get an opportunity to review those rewritten rules, and would there be another opportunity for public comment. DAVID NISS said that it depends on how willing the Department would be outside of the suspension period that was imposed pursuant to 2-4-305(9) that provides, only in the event the committee continues the objection by affirmative vote will the suspension remain in place. If the committee doesn't do that, then it would be appropriate to ask the Department whether they would provide to the committee a copy of the rules that will be adopted, if the suspension is not continued.

SUSAN FOX said that the Committee can work with the Department to get copies of the rules when they are either adopted or when they get to a new level. She suggested that the Committee follow Mr. Niss' advice and fulfill their statutory obligations.

SEN. WEINBERG moved that when the Department of Public Health and Human Services has completed their task, the Committee receives all the rules and then the Committee will take a vote via email to approve the rules and set a number of days to do that.

TAPE 8A

SEN. ESP asked Mr. Niss if we can do this by email and is that a legal maneuver on our part. MR. NISS said that under the motion as Sen. Weinberg has phrased it, the Department will be able to proceed at the end of this meeting with the adoption of the rule, send out the proposed language by email to the committee members before they adopt them. Mr. Niss said that if the objection is not made again, then it expires at the end of this committee meeting and the Department may legally adopt those rules at anytime after today's meeting adjourns.

SEN. WEINBERG withdrew his previous motion and moved that the Committee continue their objection to the adoption of the rules until the Committee receives clarification on the final two points that were suggested by the panelists and at which time the Committee will be given five days to respond to the Committee Chair by email as to whether the Committee withdraws their objection to the adoption of the rules.

MR. NISS said that the statute states, once the committee has objected and the rulemaking proceeding is suspended, it is lifted if the committee meets again and does not continue the objection. SEN. ESP said that he did not feel that the Committee is served well by this motion and the Committee should provide a reason and allow the Department to go ahead and work toward the solution. He said that he would object to this motion and urge a no vote.

REP. EATON seconded the motion. After some consideration of what Mr. Niss said, **Sen. Weinberg withdrew his motion but asked for cooperation of getting the information to the Committee as soon as possible.**

- DAVID NISS said that in Issue 4 of the Administrative Register, the Department has proposed an amendment to the rules governing the mental health services plan for the state. There is a nationwide pharmaceutical service adopted as part D of the federal regulations governing Medicaid. He said that the Department is proposing that people who are now covered by the mental health services plan for reimbursement for most psychiatric drugs be required to enroll in the federal medicare subpart D program. The Department would save \$750,000 of state money by shifting that burden to the new subpart D reimbursement program. The hearing has not been held, so adoption is still a month or two in the future.

SEN. WEINBERG asked if they would have assurance that Part D will pick it up. MR. NISS said that not in terms of the written assurance from the Department, but if those persons are eligible and they submit a provable application, the drugs would be covered.

MS. FOX said that she asked Mr. Niss to bring this up is because John Chappuis has been keeping them apprised of the program and status of Medicare Part D. She said that she wanted this raised because they had intended on doing this on January 1 when the Medicare Part D was supposed to be in and the Department chose not to transfer them at that time.

COMMUNITY HEALTH CENTERS AND THE HEALTH CARE SAFETY NET

Mary Beth Frideres, Montana Primary Care Association

MARY BETH FRIDERES gave a presentation on Montana Community Health Centers (**EXHIBIT 2**). Ms. Friederes said that community health centers are growing and becoming a very important part of our health care delivery system in Montana. They are part of the Montana mental health delivery system. They are not eligible to be reimbursed by the Mental Health Access Plan. CHCs can provide the physical and mental health connection. She asked that CHCs be considered not as a default care system, but as true partners who bring resources to

the table and could be of assistance when developing a solution.

TAPE 8B

QUESTIONS

SEN. O'NEIL asked if the Community Health Centers had employee requirements under state law or federal law. MS. FRIDERES said that they would have to be licensed in the state of Montana because they practice within the state.

SEN. ESP asked if the community health partners contract with doctors and would the federal malpractice take care of that part of their practice? MS. FRIDERES said that it does for the community health center patients.

SEN. SCHMIDT asked if they had any planned legislation for the upcoming session. MS. FRIDERES said that they are working on a bill to create what has been termed in other states a "CHC incubator" program. They are also asking for some state funds to expand the existing community health centers, having new satellites into more rural areas, more dental offertories to see dental students, more providers to see more patients, more mental health providers. She said that the incubator program is about helping our communities become more competitive on the national arena with their community health center applications.

MONITORING DPHHS

JOAN MILES, Director of DPHHS, and JOHN CHAPPUIS, Deputy Director, gave updates:

- DPHHS' request to the Legislative Finance Committee for a supplemental to help with their budget crisis and some of the steps they are taking to minimize the request for the supplemental.
- DPHHS General Fund Shortfall, FY 2206 (**EXHIBIT 3**).
- Scott Sim, Office of Budget & Finance memo to John Chappuis, DPHHS, regarding January FY2006 Budget Status Report (**EXHIBIT 4**) that shows by division, where the shortfalls are estimated to hit.
- A copy of a letter from David Ewer, OPBB, to Clayton Schenck, LFD, regarding LFC Review and Comment on a Fiscal Year Transfer Supplemental Appropriation (**EXHIBIT 5**). Mr. Chappuis talked about the potential areas that are to be reviewed for reduction and the disadvantages if implementing those reductions. DPHHS is trying to speed up the adult mental health waiver, Home and Community Based Services Waiver.

QUESTIONS

SEN. O'NEIL asked if increasing the numbers of community health centers would help. MR. CHAPPUIS said that it would help, but wouldn't save a lot of money or fix the problems. SEN. O'NEIL asked how much would be gained if we eliminated physician visits and everything would

be picked up by the community health centers. MR. CHAPPUIS said that he couldn't give a figure, but he didn't think that that would save a lot of money going that route. He said that we can't eliminate physician services because that is a mandatory service, but if we cut the rates they may choose to quit participating in the Medicaid program.

SEN. O'NEIL asked if most of the options were done, would health care still be provided at government expense? MR. CHAPPUIS said that some could get some services there, but don't assume that if you cut all optional adult services that CHCs could pick that up; they would pick up some crucial services. MS. MILES said that the benefit they get from the CHCs is that they offers early access to people, preventive health care and avoid expensive, uncompensated care. If you cut or impact provider rates, it would severely damage the health centers as well.

SEN. ESP asked if the new programs that were to be funded by tobacco tax money are housed in the Department or some other agency and if they have looked at those dollars. MR. CHAPPUIS said discussions are going on regarding those and they are looking at using I-149 money when possible. He said that part of the problem is that when that was put through, both in terms of the initiatives themselves and with some of the appropriations, they were restricted and they cannot use them to cover ongoing Medicaid costs.

REP. FRANKLIN asked for elaboration on the actions the Finance Committee took. MR. CHAPPUIS said that the reason they reported early and reported a worse case scenario was to give the Finance Committee the 90 days to comment.

REP. EATON asked if the I-149 programs were running and providing services. MR. CHAPPUIS said that most are up and running. He said that Big Sky Rx is running but is not fully funded and using the money. He said that the provider rates are not there yet. CHIP is not fully funded but has some tobacco money in it. The provider rates in Medicaid are implemented. He said that they are returning I-149 money back.

MEDICAID

MR. CHAPPUIS reported on some anomalies of Medicaid in terms of billing behaviors. He said that they expected a 4.4% increase in Medicaid from last year to this year. They are actually seeing several percentages higher. Every percentage change is about \$7.5M. When that is higher than expected, it becomes a problem because 30% of that is General Fund. They are showing a \$4M problem in Medicaid in terms of caseload. He said that they are down around 2,000 people since last year; but their costs are running 3% higher than expected. He distributed a chart showing Medicaid eligibles (**EXHIBIT 6**).

TAPE 9A

QUESTIONS

SEN. WEINBERG asked if the Governor can use revenues to cover that as a supplemental. MR. CHAPPUIS said that it is possible for them to bring that to the Legislature next time but that is a question for OBPP. They are going through this process in terms of reporting the shortfall appropriately. MS. MILES reiterated that what Mr. Chappuis pointed out in the memo in terms of possible options to make up the shortfall, DPHHS is obligated to present that to the Legislative Finance Committee, but they are not supporting any of those options. For the short term money that you would save by some of those cuts, they would end up costing more down the road.

HIFA WAIVER UPDATE

JOAN MILES said that the public comment period is over; they have prepared responses to all of the comments to be submitted to the Governor's Office. She said that if the Governor's Office is satisfied that they have answered the comments, they will then proceed to make some amendments to the concept paper that they will be sending to CMS by early May. If it is submitted, it will be several months before they hear from CMS whether or not that is approved. They hope to have some of those programs implemented by next July.

CHIP OUTREACH AND FEASIBILITY STUDY

MARY DALTON, Health Resource Division Administrator, passed out information on the monthly enrollment for CHIP (**EXHIBIT 7**). She said that their media campaign ended on the 10th of March and they are still seeing some increase in applications. Ms. Dalton discussed their outreach efforts where they have 83 new partners in the state that are helping to distribute funds. She said the Native Americans can receive CHIP services off the reservations with other providers. They are planning on doing initiatives with people to see if they can do some hands on work to get there.

QUESTIONS

SEN. O'NEIL asked if the increase of people on CHIP have any relationship to the DPHHS' General Fund shortfall. MS. DALTON said that no, that they are underspent in the CHIP budget. SEN. O'NEIL asked if having more children on CHIP would mean less shortfall, or is that part of the Medicaid increase having some children come off of CHIP and go on Medicaid. MR. CHAPPUIS said that if those children on CHIP are eligible for Medicaid, federal law requires that they have to be transferred to Medicaid, so that is not an option for DPHHS' discretion.

REP. WARDEN asked Ms. Dalton what her expectations were in the advertising campaign and how did that turned out? MS. DALTON said that she had hoped that they would get a better boost in the advertising campaign than they did. She said that their income limit is capped at 150%. She said that Montana is the second lowest in the nation for CHIP eligibility; North Dakota is at 146% and Montana is at 150%. Most states are at 175% and more are at 200% of

poverty. REP. WARDEN asked what remaining slots are unfilled. MS. DALTON said that they were budgeted at 13,900 and they have about 1,400 open slots. The Legislature passed a law that started in July, the asset test for children goes from \$3,000 to \$15,000. They do expect to see the 3,000 children roll off of CHIP and into Medicaid over the next year and that will affect their numbers.

MEDICARE PART D

JOAN MILES distributed a handout on Medicare Part D (**EXHIBIT 8**). She said that there are between 77,000 and 79,000 Montanans who are on some kind of prescription drug plan under Part D and that is only half of the eligible senior citizens who are eligible for something under Part D. She said their concern is that there are a lot of eligible seniors who need to decide if they want to sign up for prescription drug plans before the May 15 deadline. There has been a lot of work out in the field through their SHIP counselors, senior citizen agencies, and in their office dealing with the problems that are coming in. She said they owe a lot of thanks to the pharmacists in the state for what they have done during this process.

QUESTIONS

REP. FRANKLIN asked Mr. Chappuis if he has heard if the Administration would extend the May 15 deadline. MR. CHAPPUIS said that they have been adamant that they are not going to do that and he hasn't heard anything that would lead him to believe that they would change.

REP. WARDEN asked Ms. Briese-Zimmer what the status is on the Big Sky Rx. A handout regarding Big Sky Rx (**EXHIBIT 9**) was distributed by Gail Briese-Zimmer. DUANE PRESHINGER said that the Big Sky Rx outreach and people's participation was better than they anticipated. The program was functional on January 1; their total enrollment was 1,617 people. There are 950 people who have applied and have met income requirements but they have not yet received their information from either the Prescription Drug Plan or from Social Security regarding their application for low income subsidy.

SUSAN FOX asked if this is the only program or is there funding for a supplemental program. MR. PRESHINGER said that there are two components; one, a pharmacy discount program with two different funding reimbursement levels. The program would pass on Medicaid pricing methodology for those consumers who apply up to 250% of poverty. In the second component, the Department will negotiate with manufacturers first for supplemental rebates of the program and will pass on those rebate savings in the form of paying a percent of the prescription drugs.

DUANE PRESHINGER said that they started a media campaign on March 19 for the Big Sky Rx Program that will run for six weeks to enroll people interested in the program. They are also waiting for a tape from CMS that will give them the list of people in Montana who have applied for the low income subsidy and they can match that against their program and send out specific mailings to get them on board.

REP. EATON asked Mr. Preshinger to explain the pharmacy discount program. MR. PRESHINGER said that their pharmacy discount program uses ACSS as their Medicaid fiscal payment system that processes their Medicaid claims. He said that they were going to use ACSS for pricing of the Medicaid claims. He said they pay pharmacists using an online point of sale system where they process the claim; they tell the pharmacists how much they are going to pay them and if the drug is covered. He said that that contract is out for bid and they are reluctant to start down the path of working with ACSS to set up that payment methodology when they might have a new contractor to process their Medicaid claims.

REP. EATON asked if there will be any rulemaking procedure along with any of the I-149. MR. PRESHINGER said that they will have a rulemaking process for the pharmacy discount program that outlines the parameters for the program.

PUBLIC COMMENT

No one came forth for public comment.

ADOPTION OF THE JANUARY 26 AND 27, 2006 MINUTES

SEN. ESP moved to accept minutes as presented. MOTION CARRIED.

TAPE 9B

WORK SESSION

PROMOTING ECONOMIC SUCCESS FOR MONTANA FAMILIES

SUSAN FOX said that there is a follow up meeting on Promoting Economic Success for Montana Families in Denver, Colorado, in June. She said that they would like to know what issues people are interested in. She reminded them that the topics were: economic development, financial services, education, entrepreneurship, housing, human services, work force development, budget and tax issues.

SEN. SCHMIDT said that the Committee should be looking at work force development. She would like more information on IDAs. SEN. O'NEIL said that he would like to go to Denver. A topic which Sen. O'Neil would like to discuss is repeal the minimum wage on Indian Reservations.

SEN. ESP asked if either federal or state minimum wage laws apply on reservations. DAVID NISS said that the federal minimum wage would, and if it does, then the reverse would be true for the state minimum wage.

24-HOUR VS 72-HOUR ISSUE

SEN. WEINBERG moved to send a letter to DPHHS asking them to do the following: if a

provider wishes to extend the 24-hour limit to 72 hours for a community crisis center, that DPHHS shall work with the provider to establish rules and licensing requirements to accommodate that change. SEN. O'NEIL seconded. MOTION CARRIED UNANIMOUSLY.

OTHER DISCUSSIONS

SEN. ESP asked if pregnant mothers on meth and fetal alcohol will be on next agenda. REP. FRANKLIN said that in order to make a policy decision, rather than having people come and talk about the social costs, she would like to have people talk about what the science is. When and at what point is alcohol and meth, and cocaine teratogenic, creating a general anomaly. SEN. ESP said that it is his understanding is that it is well documented with alcohol but a little sketchier with meth because it's a newer phenomenon and they haven't done enough long term study to be able to pin all those things down. SEN. SCHMIDT said that we could get some people from the medical community and someone from Shodair to talk about birth anomalies.

REP. ROBERTS said that during the last interim session they were talking about having different groups evaluate their protocols on a result-based outcome to see where they are at. He said that he would like feedback on what they are finding with the treatment of meth.

REP. EATON said that there was a request for material regarding the occupancy number in the State Hospital. She said that she doesn't know if we have gotten an answer to that. SUSAN FOX said that the response that the Department gave was that they started that but they didn't have enough staff to do that. She said that they could tell you about the 18,000 people who are in the system, but they can't tell you where they came from. She said that she could pursue it and ask the division what kind of resources they think they would need to do that. Ms. Fox added that the Legislative Audit Division did have a blanket audit request on the mental health management care contract. That may be something to think about in the future. She said that we are not going to get the data anytime soon, but if we want that seriously then we should consider various forms of what kind of resources we could put to it or requests that we can make to get that information.

REP. WARDEN said that the Committee was given information in the packet regarding a conference that is going to take place in Great Falls on June 10 and in Billings on June 17 on Grandparents Raising Grandchildren. He said that grandparents from a legal standpoint have no standing. Legislation is being passed in other states giving permission for medical care and enrolling grandchildren in school. He said that the Committee should look at legislation doing those things. He said that he would suggest that the Staff Attorney move forward on that and in addition to that, the people doing the conference would like an opportunity to speak to the Committee.

SEN. O'NEIL asked Rep. Warden would consider having staff attorney say that if the meth mother came back to take the child away, that the grandparents can say that they can't have

them. DAVID NISS said that the Montana Supreme Court has spoken very clearly that it is the right of the parent to control the health care that is given to a child, where a child goes to school, the persons with whom their child associates, how their child dresses, all manner and form of things concerning their child's life and lifestyle. Mr. Niss said that, if in a limited factual situation there is no parent because either the parent is off in the woods stirring his/her pot of meth, or the parent is present but so under the influence of the stuff that it is like having no parent, then the grandparents in that limited instance would have some standing to make that choice.

REP. WARDEN moved for draft legislation giving grandparents taking care of grandchildren when the parents cannot, the authority to provide medical care and to enroll a child in school; and to have staff legal counsel look into providing limited legal standing of grandparents. MOTION SECONDED, CARRIED UNANIMOUSLY.

SEN. WEINBERG said that at a past meeting there was talk about suicide and there were suggestions made that the Department make an effort in collecting statistics so that we can know where the system failed for suicides; did they seek help; were they successful in getting any help; what kind of help did they get; did they get help more than once? He said that these are the kinds of questions that we need answered if we are going to fix it and bring down the suicide rate. SUSAN FOX said that it didn't go anywhere. It is still on her list of things to do. SEN. WEINBERG said that he would like guidance on the most efficient way to get there from here, whether through this committee, a bill, or through the Appropriation Subcommittee.

TAPE 10A

SEN. ESP moved to send a letter to the Department of Public Health and Human Services asking them to make a better effort in collecting statistics on suicides so that we can know where the system failed; did they seek help; were they successful in getting any help; what kind of help did they get; did they get help more than once. MOTION was seconded and CARRIED UNANIMOUSLY.

SEN. SCHMIDT asked about the Model Public Health Act. SUSAN FOX said that they are working on that and that was another item that the Committee had planned for June. The Department will be presenting their EPP proposals in June. She said that it will be the framework of their legislative package.

SUSAN FOX said that the State Health Planning Grant would like to give a report in June. She said that they were the people who gave us information about the uninsured in Montana.

SEN. ESP asked Mr. Niss if it was mandatory that phone book publishers print 9-1-1 in the front of the book and other emergency numbers. DAVID NISS said that there are a set of statutes concerning the organization of the phone companies for 9-1-1 purposes, but there is no

statutory requirement for publication of that number.

SEN. SCHMIDT talked about an article on a 1999 study conducted by the University of Washington and Harborview Medical Center about hospitals intervening in alcohol and drug cases, a different approach. She said that Susan will send this article to the members of the committee and she would appreciate it if they would read it and see what they thought of it. She said that another issue that she has been pursuing is Prescription Drug Monitoring Programs. The Drug Monitoring Program allows doctors, pharmacists, and occupational licensing officials access to database showing prescriptions filled by people and how many times. She said that 21 states operate the monitoring programs and 18 states are actively pursuing these programs. She said that she understands that DPHHS and the Department of Justice turned down a federal grant to pursue or investigate the programs because they didn't have personnel available to do that. She said that she thinks that we need to look into this or possibly have legislation in the next session that addresses that.

SEN. SCHMIDT said that she had received an email from Ms. Fox regarding unlicensed, unregulated residential treatment facility for minors. SUSAN FOX said that she had called Cindy Reichenbad, Department of Labor staffer for the Board, and she said that the bill didn't go for licensure but at this point they were going to do registration and come back with a recommendation. She said that 19 of the 40 programs are registered. They sent out a survey to the 40 programs and at last count, fourteen had sent in their completed survey. Site visits will begin in April, and their next meeting will be a conference call meeting on April 6.

SEN O'NEIL asked Mr. Niss if grandparents have standing for petition to adopt a grandchild. DAVID NISS said he didn't think so. SEN. O'NEIL asked if it would be difficult to give a grandparent standing to petition for adoption. He said that he would like to pursue this to have Mr. Niss study it and report back to the Committee, whether the Committee does a bill to allow a grandparent to petition for adoption, showing the best interest of the child. REP. WARDEN said that he would like to hear on a personal level from that group in terms of where they want to go because the group may not want to go in that direction, and to hold off until the June meeting.

SUSAN FOX said that IMH's board met and decided that given complexity and magnitude of the mental health care crisis, they lacked the resources, both personnel and fiscal, to mount an effort that would be adequate but that they will continue to seek opportunities to sponsor educational offerings that address mental health care issues.

DAVID NISS talked about the rules that concerns one of the committee's studies. He said that in the 59th Session, the Legislature gave the DPHHS \$3M to use only for additional reimbursement for providers of children's mental health services. He said that there are 18 separate institutional providers and over 700 individuals who would be eligible for these payments.

ANNOUNCEMENTS

Wheeler Meth Conference on May 15 and 16, in Helena

Next meeting is June 8 and 9, 2006

Supreme Court Summit is August 29 and 30, 2006

ADJOURNMENT

SEN. SCHMIDT adjourned the meeting at 2:16 p.m.

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