

**MINUTES
of the
SEVENTH MEETING
of the
LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE**

**December 3-5, 2014
Room 307, State Capitol
Santa Fe**

D

The seventh meeting of the Legislative Health and Human Services Committee (LHHS) was called to order by Representative James Roger Madalena, chair, on Wednesday, December 3, 2014, at 9:30 a.m. in Room 307 at the State Capitol in Santa Fe.

Present

Rep. James Roger Madalena, Chair
Sen. Gerald Ortiz y Pino, Vice Chair
Sen. Benny Shendo, Jr. (12/5)
Rep. Elizabeth "Liz" Thomson*
Sen. Pat Woods (12/4, 12/5)†

Absent

Rep. Nora Espinoza
Rep. Doreen Y. Gallegos
Sen. Gay G. Kernan
Rep. Terry H. McMillan
Sen. Mark Moores

*appointed by the speaker of the house as a voting member for this meeting

†appointed by the president pro tempore of the senate as a voting member for this meeting

Advisory Members

Sen. Sue Wilson Beffort (12/4, 12/5)
Sen. Craig W. Brandt (12/3)
Sen. Jacob R. Candelaria (12/3, 12/5)
Rep. Miguel P. Garcia
Rep. Sandra D. Jeff (12/3, 12/4)
Sen. Linda M. Lopez (12/5)
Sen. Cisco McSorley (12/4, 12/5)
Sen. Bill B. O'Neill
Sen. Mary Kay Papen
Sen. Nancy Rodriguez (12/4, 12/5)
Rep. Edward C. Sandoval

Rep. Phillip M. Archuleta
Rep. Nathan "Nate" Cote
Sen. Daniel A. Ivey-Soto
Rep. Paul A. Pacheco
Rep. Vickie Perea
Sen. Sander Rue
Sen. William P. Soules

F

Guest Legislators

Rep. Gail Chasey (12/4)
Sen. Howie C. Morales (12/4)

T

(Attendance dates are noted for members not present for the entire meeting.)

Staff

Michael Hely, Staff Attorney, Legislative Council Service (LCS)
Shawn Mathis, Staff Attorney, LCS
Rebecca Griego, Records Officer, LCS
Nancy Ellis, LCS
Carolyn Peck, LCS

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written material are in the meeting file.

Wednesday, December 3**Welcome and Introductions**

Representative Madalena welcomed those assembled and asked committee members and staff to introduce themselves.

Report on the Interagency Benefits Advisory Committee

Maria Griego, program evaluator for the Legislative Finance Committee (LFC), provided a report (see handout) on oversight of public employee health benefit plans for the Interagency Benefits Advisory Committee (IBAC). The IBAC was created by the Health Care Purchasing Act and is composed of four self-funded entities that provide health care benefits for public employees in New Mexico: the Public School Insurance Authority, the Risk Management Division (RMD) of the General Services Department, the Retiree Health Care Authority (RHCA) and the Albuquerque Public School District (APS). The act requires member agencies to jointly go through a request for proposals (RFP) for services, but it does not require joint participation in contracted services, Ms. Griego explained.

The LFC evaluation found that IBAC agencies generally have done a poor job of controlling health care costs for public employees. Instead of focusing on cost-saving measures, the agencies have shifted costs on employees and employers through higher premiums, a practice that the report calls unsustainable. Merging the four entities would put the agencies in a better position to negotiate on cost and to implement cost-saving measures. The expansion of Medicaid and additional health coverage options available to public employees on the state's health insurance exchange will provide additional options to public employees. New fees and regulations arising from the federal Patient Protection and Affordable Care Act (ACA) will have to be taken into consideration in IBAC budgeting and plan design.

Ms. Griego described key recommendations for the legislature, including the creation of a consolidated health care finance entity to administer health benefits on behalf of governmental entities (state and local governments, school districts and institutions of higher education); to coordinate and consolidate purchasing; to oversee quality improvement and fraud and abuse

surveillance activities with Medicaid; and to investigate the possibility of warehousing data and claims processing using existing systems in Medicaid. Recommendations for the IBAC include more active participation in provider rate development, contractual reporting mandates for more detailed reporting on cost drivers and uniform reporting on outcome performance measures, and incentives and disincentives relating to changes in provider rates.

Mark Tyndall, co-chair of the IBAC and director of the RHCA, agreed that the desired outcome for everyone is higher-quality results at lower cost and that the claims system in use has not changed much over the past 40 years. Mr. Tyndall noted that the IBAC has been through four procurements and is becoming better with negotiations. The lack of health providers in the state makes negotiations more difficult, he said, and market consolidation of facilities and providers adds to that challenge, as does the high cost of specialty pharmaceuticals. Mr. Tyndall said he believes that fee-for-service is not the right way to go, and that cost-transparency tools would be very valuable. He cautioned that changes should be implemented in a responsible manner so as not to exacerbate the health care provider shortage.

Vera Dallas, director of employee benefits for APS, reiterated Mr. Tyndall's comments, noting the importance for APS of value-based purchasing and bundled payments and of continuing to focus on high-cost drivers. APS has had a progressive on-site wellness program for the past five years and does have data to examine its high-cost claims. Having timely access to physicians continues to be a problem, Ms. Dallas said. APS does support these recommendations. Anthony J. Forte, director of the RMD, said he also concurs with the recommendations in the LFC report. A committee member noted that the recommendations in a 2010 report were the same and asked if any were being implemented. Ms. Griego said there has been considerable conversation among the entities, but changes take time to implement; there have not yet been any quantitative benefits.

The IBAC is supportive of the push for transparency, Mr. Tyndall said, and of proposals that everyone pay the same amount for the same service, but the only way this could work would be if Medicaid pays more than it does. A committee member suggested the possibility of a joint memorial to set up a task force of stakeholders to determine how to implement the consolidated entity.

Managed Health Care Credentialing of Health Care Providers

Mr. Hely provided members with a copy of a proposed bill sponsored by Senator Cliff R. Pirtle to amend and enact sections of the Health Maintenance Organization Law to establish provider credentialing requirements and define "credentialing" and to repeal a section of the New Mexico Insurance Code (see handouts). Senator Pirtle was unable to attend the day's meeting, and Mr. Hely said he would provide information about the bill to the committee.

The bill seeks to require the superintendent of insurance to provide for a uniform and efficient credentialing process, to establish a universal credentialing application and to require that the application be processed within 45 calendar days of receipt. Notification of missing information must be given within 10 calendar days. The bill limits requirements for re-

credentialing to three years. If a carrier does not provide the applicant with a decision in writing within 45 days, the carrier must reimburse covered health care services to the provider in accordance with the provider's contracted reimbursement rate. On behalf of Senator Pirtle, Mr. Hely also provided a sheet with actual time lines for credentialing and contracting by carrier or plan (see handout), indicating that many are taking up to 160 days, and some as long as nine months, for this process.

Laura Hill, director of Independent Practice Association of Southern New Mexico, said she is grateful for the draft of this bill. While the 45-day time line is in current law, very few follow it, she said, and the problem has become much worse in the past few years as health maintenance organizations (HMOs) and other carriers have farmed out the credentialing process to other entities. She described the difficulty of recruiting into practice a physician who, because of a delay of eight months for credentialing, cannot bill for the patient the physician has seen. Verification of documents is very important, Ms. Hill said, but an independent physician cannot survive this length of time without pay.

Cody Dodson, office manager of Rio Pecos Medical Associates, Ltd., also spoke in favor of Senator Pirtle's bill. Rio Pecos had to pay the salaries of the last two physicians it hired for six months while they were unable to see patients; these losses were in the six figures, he said, and a smaller practice could not afford to do this. The issue is about patient care in rural areas, he said, and if the credentialing challenge is not met, businesses will fail.

Advance Care Planning in New Mexico

Mr. Hely began this discussion by providing a short, admittedly "unscientific" survey that he designed online and sent to members of the New Mexico Hospital Association, the New Mexico Nurses Association, the New Mexico Medical Society and the New Mexico Osteopathic Medical Association, asking five questions about health education and advance care planning conversations with patients. He received a total of 138 responses and shared the survey results with committee members.

Nancy Guinn, M.D., medical director of the Home and Transition Service Line for Presbyterian Healthcare Services and a specialist in family and palliative medicine, said that advanced care planning is a conversation that should include family members as well as the patient (see handout). In the best of circumstances, it will be more than a single conversation and will include the designation of a health care power of attorney and instructions on what type of care the patient may and may not want in the future. Dr. Guinn said she did not receive any training in medical school about advance care planning or end-of-life issues, and even today, when such discussions are required by law in hospitals, there has not been nearly enough provider education. She described a community-based steering committee that has developed an advance directive document for "medical orders for scope of treatment" (MOST) for New Mexicans, and she provided committee members with copies of a double-sided document printed on bright green paper so it will stand out in a folder or patient's file (see handout). It is a document that can translate into medical orders, Dr. Guinn said, and is now being used in

Albuquerque, Truth or Consequences and Santa Fe. Education and conversations about the MOST document is being conducted throughout the state.

Ellen Leitzer, Esq., executive director of the Senior Citizens' Law Office, Inc., provides representation and systemic advocacy, education and legal representation to older adults with the greatest economic and/or social needs in Bernalillo, Sandoval, Valencia and Torrance counties. Advance directives for health and finances have been a major focus for her nonprofit organization since 1983, when it drafted the first do-it-yourself statutory durable power of attorney, which was ultimately adopted by the legislature (see handouts). Her organization has held workshops throughout the region and has been able to recruit attorneys for home visits. Since 2009, the organization has prepared forms in both English and Spanish for more than 1,800 seniors, and these documents preserve an individual's autonomy, Ms. Leitzer said.

Stormy Ralstin, managing attorney of the Legal Resources for the Elderly Program (LREP), New Mexico State Bar Foundation, said LREP provides free legal help to individuals who are 55 and over, with no income restrictions and in dual-language format (see handout). LREP has provided legal services for advance directives to more than 1,700 clients since 2010, maintains a legal telephone help line and provides workshops, clinics, public education and systemic advocacy on many issues. It also provides referrals to private attorneys statewide. LREP attorneys handle approximately 4,500 cases a year involving consumer protection, long-term care, probate, social security, foreclosure, deeds, wills, trusts and many other issues. During the next year, LREP plans to create a practice manual and online site for attorneys, Ms. Ralstin said. Advance directives and power-of-attorney documents are critical for seniors, and very few attorneys in rural areas are willing to accept referrals. Feedback indicates that with guidance and training, more attorneys would be willing to take these cases.

On questioning by committee members, Dr. Guinn said she hopes that Medicaid soon will agree to pay for smaller services in a home setting. Her palliative care consultation team sees about 1,000 patients a year, most with an average life span of three months. About 30 percent of them already have advance directives in place, she said. Mr. Hely clarified for committee members that Medicare does not require a physician to have a discussion with patients about advance directives, but it is required in hospitals. The chair expressed concern about outreach of LREP workshops and clinics to Native Americans. Ms. Ralstin assured him the workshops are held at senior centers throughout the state, including on tribal lands.

Human Trafficking Task Force Report

Susan Loubet, executive director of New Mexico Women's Agenda, and Julianna Koob, New Mexico Coalition of Sexual Assault Programs, Inc., presented an update and findings from the Human Trafficking Task Force, which has been meeting monthly for the past year. After much discussion, group participants decided to focus on minors who are at risk for prosecution as prostitutes (see handout) and who should be treated as victims rather than as criminals. Task force members believe it is critical to address the myriad needs of exploited youth in New Mexico because they are at the highest risk of becoming victims of human trafficking. Screening for sexually exploited minors is better than a sweep, the members decided. More

training, with sensitivity to lesbian/gay/transgender issues, of law enforcement personnel, service providers and advocates is important. Providing services for victims is crucial. Child victims of prostitution require specialized recovery programs, Ms. Loubet said, and because there can be a lot of "churning" in and out of juvenile detention facilities or jail, programs need to be flexible to allow the victim a new start. The number of victims in New Mexico is highly speculative, the presenters said, partly because of the transitory nature of the crime. More training in law enforcement and community awareness is needed to help identify victims of human trafficking. The group identified current providers: LifeLink in Santa Fe, ENLACE in Albuquerque, Pathways at the University of New Mexico Health Sciences Center (UNMHSC) and Spoken For at Copper Pointe Church in Albuquerque. Future providers include Hope's Home in Moriarty, a grant-funded facility for girls that is a project of Beyond Borders Ministries, and a home for adult women in Tijeras to be opened in February with funding from the Weeks Family Foundation.

The task force examined promising efforts in other states to address human trafficking and found numerous recommendations for more services for victims, including job training and education and increased training for law enforcement. The presenters said the task force is not recommending any new laws, but it asks that the task force be continued for another year, making more of an effort to engage survivors in the process. The presenters asked for two memorials, one to encourage the Federal Bureau of Investigation in New Mexico to share data about sexual exploitation of minors and the other to encourage more education of local law enforcement, with training provided by criminal justice professionals. Finally, they said, task force members are asking for support with funding of more services for victims.

Recommendations of the Behavioral Health Subcommittee (BHS) of the LHHS

Representative Thomson, chair of the BHS, presented members with a list of seven legislative proposals recommended for endorsement, all previously presented to the subcommittee, that were determined to be both evidence-based and cost-effective. The BHS provided projected aggregate budget recommendations for the proposals and separate budgets for each project's recommended expenditures over a five-year period (see handouts). Many project presenters were on hand to answer questions from committee members.

Programs recommended for endorsement by the LHHS, with budgets for a five-year rollout, are as follows:

- (1) a \$3.5 million appropriation to develop a center of excellence to expand and replicate the FOCUS/Milagro integrated care model for pregnant/postpartum women with substance abuse issues (.198138.1);
- (2) a \$1,911,240 appropriation to establish and maintain a statewide behavioral health warm line and clearinghouse with a published current list of resources (.198139.1);
- (3) a \$12 million appropriation to use UNM's Project ECHO telehealth program to expand access to behavioral health and substance abuse disorder treatment through training and support of primary care workers in community clinics and in 20 new sites (.198144.1);
- (4) a \$16,625,000 appropriation to expand access to behavioral health treatment and services through new and existing school-based health centers statewide (.198153.1);

(5) a \$395,000 appropriation to increase the numbers of psychiatric mental health nurse practitioners who graduate from New Mexico State University (NMSU) and who remain in practice in New Mexico for at least three years (.198148.1);

(6) a \$10,950,000 appropriation to establish supportive housing initiatives, using the Heading Home collective impact model, in Las Cruces, Gallup, Farmington and Santa Fe (.198176.1); and

(7) a \$1,024,000 appropriation for in-state transitional living and recovery services for New Mexico adolescents with substance abuse issues (.198177.1).

D Mr. Hely referred to .197818.1, a bill to establish parity between behavioral health benefits and other benefits, including but not limited to residential treatment. This bill has not yet been reviewed by the Office of Superintendent of Insurance (OSI), Mr. Hely said. A committee member pointed out that this bill would help to close the "medically necessary" loophole that is often used by insurers to deny coverage for residential treatment.

Public Comment

Ellen Pinnes, an attorney and health policy consultant who is a member of the ethics committee at Christus St. Vincent Regional Medical Center, spoke about advance directives. These come into play when a patient is unable to make his or her own health care decisions, she said. Advance planning is a process and a conversation that takes place with family and loved ones. Advance directives often are made years in advance and provide guidance toward an individual's wishes. Putting advance directives in place can be a complicated process, Ms. Pinnes said, and this is only part of the broader issues of end-of-life care.

Jim Jackson, executive director of Disability Rights New Mexico, spoke briefly about limited resources and the importance of determining priorities among the day's proposals. Mr. Jackson said he feels they all have merit, but his priority would be for supportive housing, which is one of the state's most challenging issues and consumes a lot of resources in hospitals and jails. He also recommended priority status for school-based mental health services.

Melissa Beery spoke about her grandson, who came to live with her at age four after suffering years of abuse. He is now in Sequoyah Adolescent Treatment Center in Albuquerque, where he has experienced what she described as chaotic treatment and violent outbursts. He is nearing a six-month deadline for discharge, even though he is not doing better, she said. Her grandson needs therapeutic interventions, with hands-on training for families. What she sees is very little program and a lot of babysitting, she said, noting that New Mexico is spending a lot of money at Sequoyah, but the program is unsuccessful. She asked committee members to help find a better way.

Henry Gardner, Ph.D., a clinical psychologist and a former long-time director of Sequoyah, said he has no direct information about the current operation of the facility other than Ms. Beery's report. It appears that Sequoyah is not taking the hardest core cases, Dr. Gardner said, and its census has been below capacity for two years now. The tough children are being sent out of state at great expense or are being held in correctional facilities.

A committee member said he may sponsor a bill to have the UNMHSC Department of Psychiatry take over the program at Sequoyah. Another member asked if the committee could get a breakdown from the LFC of severance tax bond funding to see where these funds are going.

A committee member expressed disappointment in the lack of attendees at the day's meeting and asked that members be polled to see if there will be a quorum. Another member offered to convey this concern to the speaker and ask for the appointment of additional voting members.

D Recess

The meeting recessed at 4:10 p.m.

Thursday, December 4

Welcome and Introductions

Representative Madalena reconvened the meeting at 9:45 a.m., welcomed those assembled and asked committee members and staff to introduce themselves.

Poverty in New Mexico

Adelamar N. Alcantara, Ph.D., director of geospatial and population studies at UNM, provided a series of charts and graphs relating to the persistence of poverty in New Mexico (see handout). No matter what happens to the economy, Dr. Alcantara said, New Mexico remains among the top 10 states with a high rate of poverty. Poverty is clustered in the state, and it is "gendered", she said; women have a higher likelihood of being poor. Education has always been seen as a tool of upward mobility, Dr. Alcantara explained, but this is not a very straightforward measurement, especially among Native Americans. Her statistics show that the most highly educated individuals tend to leave the state. The nature of poverty is very complex, Dr. Alcantara said, and measures such as federal income guidelines do not take into account quality of life.

Because the impact of intervention programs funded by the state is not really known, Dr. Alcantara proposed launching a multiyear research project that would link census microdatabases so that individuals could be followed over their lives, and the impact of public assistance offered to them could be assessed. She asked whether intervention programs in education have any impact on poverty and how population dynamics and economic policies shape future poverty patterns. Dr. Alcantara also proposed that projecting the burden of poverty at different geographic levels would be particularly useful for planning and policy development.

On questioning by committee members, Dr. Alcantara described problems with the United States census, with as many as 10 million uncounted individuals nationwide. Her division challenged the census after her staff found 130,000 uncounted households statewide. Using Google maps, her division was able to show census representatives 17,000 homes that the representatives maintained did not exist. Data collection needs to have a longer view, she said,

describing continuing frustration with Workforce Solutions Department wage statistics that are deleted after just five years.

Understanding how poverty interacts with other factors is very important to lawmakers, a committee member asserted. Another member recalled the year 2000, when the legislature essentially "bailed out" the gas and oil industry, providing everything it asked for. The member asked if the impact is known on poverty of that policy decision. Dr. Alcantara said the legislature could require greater data collection on many of its projects and funding decisions. Members discussed cultural differences in the definition of poverty, especially among Hispanic and Native American communities. Poverty is a complex issue, the chair noted, adding that poverty attracts tourists to New Mexico. He said he encouraged his own children to become educated so that they can straddle both worlds, and stated he that he is proud of his poverty.

Health Security Act

Senator Morales presented legislation to enact the Health Security Act (.198019.2). He was accompanied by Mary Feldblum, executive director of the Health Security for New Mexicans Campaign. Cost containment will be a primary benefit of the Health Security Act, Senator Morales said, noting that the ACA drafters recognized that states could create their own waivers for innovation. Ms. Feldblum said she has worked for 20 years on this project, which has wide support all across the state and has been endorsed by more than 150 organizations. She described the plan as being like a cooperative, with freedom of choice of doctors, no networks and a comprehensive benefit package. The health plan would be run by a citizens board, would replace the New Mexico Health Insurance Exchange (NMHIX) and would be paid for with existing health care dollars, she said. The role of private insurers would shift from primary to supplementary, much like when Medicare was enacted many years ago. The first year appropriation of \$250,000 would go to the LFC to undertake a detailed fiscal analysis, and it is this analysis that Senator Morales believes will garner the support of skeptics.

On questioning of the presenters, a committee member asked about estimates of potential savings for the state. Once the fiscal analysis is conducted, agencies will be able to see the benefit, Senator Morales said, estimating that savings over the next five to seven years could be in the hundreds of millions, if not billions, of dollars. The plan will provide savings for the state and for local governments and will allow higher reimbursement rates for providers — a big benefit for local communities.

NurseAdvice NM

Connie Fiorenzio, R.N., program director for NurseAdvice NM, described the ninth year of operation for this statewide health advice line, which is staffed 24/7 by 45 registered nurses on a rotating basis (see handout). It is estimated that the 15,000 calls that come into the help line per month save between \$3.5 million and \$5 million annually in health care costs by preventing unnecessary hospital visits and diverting individuals to more appropriate, less costly services. While no caller is ever turned down, the nonprofit NurseAdvice NM is funded primarily by partnerships with the Department of Health, Indian Health Service units in Santa Fe and Albuquerque, UNMHSC, New Mexico Health Connections, Presbyterian Health Plan and

multiple other private practice groups, clinics and hospitals. Ms. Fiorenzio said NurseAdvice NM is experiencing a drop in utilization; one major HMO has informed NurseAdvice NM of its intention to implement its own nurse advice line. Other HMOs use an out-of-state corporate help line. NurseAdvice NM also has an increasing number of calls that come from individuals who do not have health plans that reimburse NurseAdvice NM for its services. These factors threaten the viability of the New Mexico model, Ms. Fiorenzio said.

After further discussion of funding issues, a committee member asked LCS staff to prepare a bill requiring any entity that bills Medicaid to subscribe to the NurseAdvice NM line.

Expansion of First Choice Community Healthcare Services

First Choice Community Healthcare, Inc., is a federally qualified health center with two sites in Valencia County, one site in Santa Fe and a fourth site in Albuquerque's South Valley. It has been providing primary care services since 1972. Employing 75 full-time-equivalent positions, First Choice provided primary health care, behavioral health services, dental services and federal Women, Infants and Children services to approximately 56,000 individuals in 2013, according to Bob DeFelice, its chief executive officer (CEO). Recognizing that individual health is closely linked to community health, First Choice has engaged partners to develop a broad plan at its South Valley Family Health Commons to address multiple factors that determine health, Mr. DeFelice said. These include early childhood education, high school graduation, work force training, jobs, health education and availability of affordable local healthy food (see handouts).

First Choice is planning expansion of its South Valley commons to include a permanent campus for Health Leadership High School, a model early childhood development center, a wellness center, administrative space, a community garden and a farm-to-table restaurant, Mr. DeFelice said. Project plans are now in phase 2, involving the acquisition of seven acres of land. First Choice has applied for \$3.2 million in grants for phase 3 and is now asking legislators for \$1.2 million in capital outlay funds to complete final planning and design. Michelle Melendez, development director for First Choice, noted the importance of the organization in training primary care physicians and other providers, 75 percent of whom remain in the state. The economic impact of the expanded South Valley campus is estimated to be a minimum of 100 new jobs and more than \$24 million into the economy, she said.

A committee member suggested to Mr. DeFelice that he talk to the governor about including this funding in her package and emphasizing the regional impact of the project. First Choice could come to individual legislators for capital outlay as a fallback position. Another member suggested that Bernalillo County could be a recipient of the funds if the governor would give half, then individual legislators could come up with the other half. A member noted that First Choice has the largest number of providers in the state who can prescribe Suboxone to help treat heroin addiction and dependence on other opiates.

Pregnant Worker Accommodation and Parental Leave

Pamelya Herndon, an attorney and executive director of Southwest Women's Law Center (SWWLC), described legislation creating the Pregnant Worker Accommodation Act (PWAA),

(.197761.3). This law ends discrimination on the basis of pregnancy, childbirth or a related condition, requires that employers make reasonable accommodations and provides for a grievance procedure and penalties. The state law is needed because of disparities in federal law. Ms. Herndon said that 56 percent of women in New Mexico who give birth continue to work, and their participation is essential to the economy.

Susan Scott, M.D., who is on the board of directors of the SWWLC, said that, currently, there are as many reports to the federal Equal Employment Opportunity Commission regarding pregnancy discrimination as there are for sexual harassment. Dr. Scott has been a practicing physician for 40 years and a mother for 30 years. She stated that women have always worked through pregnancy, and forced unpaid maternity leave is a huge burden on them that often comes with loss of their health insurance coverage. There are lifelong negative risks and health problems that can occur when babies are born early, Dr. Scott said, noting the potential effects of long periods of standing and physical exertion that should be altered for a pregnant worker.

Representative Chasey, sponsor of the PWAA, clarified for members that it is not a paid leave act. Rather, it ensures that a woman cannot be terminated because of pregnancy or related issues and that insurance coverage will stay in place.

With a quorum established, committee members voted to endorse this legislation and a related memorial, .197678.3, also sponsored by Representative Chasey. This memorial requests UNM's Bureau of Business and Economic Research to convene a work group to make findings and develop recommendations for establishing a publicly managed parenting workers' leave fund.

Recess

The committee recessed at 3:45 p.m.

Friday, December 5

Welcome and Introductions

Representative Madalena reconvened the meeting at 9:10 a.m., welcomed those assembled and asked committee members and staff to introduce themselves.

Health Insurance Exchange Update; Integrated Medicaid and Qualified Health Plan Enrollment

Sean Pearson, acting deputy secretary, Human Services Department (HSD), described a phone call from the Centers for Medicare and Medicaid Services (CMS) approximately one month ago informing him of a required change in the state's previously approved "no wrong door" path to health care coverage. The CMS now wants a "single door" approach that uses federal tax returns and other information stored in a federal data services hub (see handout). The CMS said that state funding would be threatened if these changes are not initiated. Additional development and testing will be required, Mr. Pearson said, and will result in a longer period before rollout of the state's platform. The NMHIX will become more dependent on the HSD's

eligibility system, and additional short- and long-term costs will add risk to expanded Medicaid integration, he said. On the plus side, it will present an opportunity to expand the portal to other social services programs across state government and allow for more sharing of information. Responding to a member's question about why the CMS does not like the "no wrong door" policy, Mr. Pearson said that a CMS survey of other states found too many problems with this approach, and the CMS wanted a more unified approach.

Amy Dowd, CEO of the NMHIX, described the kickoff of open enrollment for health insurance on November 15, 2014, which runs through February 15, 2015 (see handout). She provided a list of 14 different organizations that trained more than 300 enrollment counselors statewide and described Native American outreach efforts as well as the appointment of a Native American liaison, Scott Atole. Ms. Dowd also addressed the financial sustainability of the NMHIX, which was built using federal grant funds. BeWellNM, the name of the NMHIX, will need to be fully financially self-sustaining by the time federal grants end on December 31, 2015. To this end, the NMHIX board of directors is putting forth a proposal to adopt a marketwide assessment of specific health insurance issuer premiums based on each issuer's current market share. Issuers subject to the proposed assessment would include those offering major medical plans on and off the exchange and dental issuers offering products on the exchange.

The NMHIX plan offers two options for premiums to be assessed: (1) major medical, Medicaid and dental premiums; or (2) all premiums in item (1) plus vision, life, Medicare supplement, long-term care, disability income, specified disease, accident-only and hospital indemnity policies. Ms. Dowd said that the NMHIX, for which the web site is www.BeWellNM.com, is currently facilitating a collaborative and transparent process to include input on this proposal from a variety of voices across the state. The official public comment period on the NMHIX plan of operations began November 26 and continues through December 19, when public comment on the plan will be heard at an NMHIX board meeting open to the public. That meeting will begin at 8:30 a.m. at the Marriott Courtyard in Santa Fe.

Ms. Dowd also updated committee members on efforts to work in close partnership with the HSD to implement by the fall of 2015 a CMS-compliant and integrated, consumer-friendly individual marketplace technology system that has been fully tested and allows for an easy renewal process. A project steering team with representation from BeWellNM, the HSD, the OSI and insurance carriers will vet key exchange design and policy decisions, and a team of representatives from each of the stakeholders will evaluate vendor proposals. She provided a date of mid-January for presentation of the final design documents.

On questioning, Ms. Dowd and committee members discussed the following topics.

Updated marketing strategy. Ms. Dowd said that review of previous marketing efforts found that presentations were not as effective as face-to-face counseling conducted at local schools, libraries and community events emphasizing free enrollment services. The Healthcare.gov web site seems to be working well this year, she said. The NMHIX has hired an

outreach director, Linda Ledeen, who was is in attendance, and is currently seeking to hire a manager of broker relations.

Involvement of the OSI. Health insurers must file their plans with the OSI a year in advance, Ms. Dowd said. The OSI reviews the plans to make sure that they meet minimum essentials and that administrative costs are in line, and it also examines provider network adequacy. The NMHIX essentially blesses what has been approved by the OSI. The NMHIX does not set rates, but it does help to inform consumers regarding rates. Ms. Dowd suggested that the LHHS might want to invite the OSI to give a presentation with the NMHIX during the next interim.

Grant funds remaining after December. The NMHIX can use approved leftover grant money for design and implementation but not for operations, Ms. Dowd said.

What numbers this year would be considered a success? Ms. Dowd said it is too early for speculation, but the updated BeWellNM web site has received more than 12,000 new visitors in dual languages. Re-enrollment is critical, she said, and 50 percent to 80 percent of enrollees are expected to renew. The exchange is continually surveying and polling during this period to adjust outreach efforts and is urging all consumers to update their data. Premiums can change, with some expected to be lower, Ms. Dowd said, but everyone should try to make sure they are in the best position.

Issues with lack of tribal consultation. The chair noted that the HSD has not done a good job with tribal consultation, and it is undiplomatic for the department to go to the CMS with state decisions that were made without tribal consultation. It is good to have meetings on tribal lands, but that does not constitute consultation, he continued. He said that the HSD needs to go before tribal governments throughout the state — one-on-one, government-to-government. It may be time-consuming for the HSD, but everyone needs to work together.

Citizens Substitute Care Review

Prior to the beginning of testimony, Vicente Vargas, Office of Government Relations at NMSU, informed committee members that because a lawsuit has been filed, neither Shelly Bucher, senior programs operations director for NMSU's Southwest Institute for Family & Child Advocacy, nor Jared Rounsville, director of the Children, Youth and Family Department's (CYFD's) Protective Services Division, will be testifying today.

The Honorable Petra Jimenez Maes, justice of the New Mexico Supreme Court, said she spent many years as a trial judge handling abuse and neglect juvenile cases and has worked extensively with the citizens review board (CRB) in her district. Within the last several years, major problems have arisen with CRB reports submitted to the court; they are not timely, they are late or they do not comply with court rules, she said. Because statute requires these reports to become a permanent part of the record, the summary was helpful, but the recommendations were not. Judges with whom she spoke recently about these reports indicated that CRB volunteers need to become better educated on legal processes. Justice Maes said that she is

concerned about the reviews. To be useful, all members of a team should be present. New Mexico statute requires every case to be reviewed, she said, but CRBs are not equipped to handle this. Justice Maes stressed that she believes the CRB concept is a good one; her criticism has to do with the way New Mexico has implemented it. She has examined other states, noting that Colorado and Arizona have panels that meet quarterly to evaluate data. It is time for New Mexico to look at this issue more closely, she concluded.

Dede McCrary, former chair and current member of the State Advisory Committee (SAC), told LHHS members that 80 percent of New Mexico's children in foster care are being deprived of their right to an independent review (see handout). She recommends that the legality of the current contract with NMSU, which was never put out for an RFP, be examined and, hopefully, rescinded. In the 15 years prior to this contract, the cases of all children in foster care were reviewed annually; in 2014, only 245 "selected" cases were reviewed by the current contractor. She described a lack of consensus by members of the SAC, conflicts with the Department of Finance and Administration (DFA), which oversees the SAC, and conflicts of interest for the SAC chair. Now, the CYFD is engaged in selecting the cases to be reviewed, and the report to the court comes from a contractor who was not present at the meeting and not from the CRB. The proposed changes to statute presented at the day's meeting were developed by the SAC chair, a contractor and a representative of the DFA. Ms. McCrary provided numerous recommendations, and she concluded that an impartial assessment of the current foster care review system is highly warranted.

Linda Kennedy, a former employee of a CRB for eight years, said many judges feel the reports are important, but they are frustrated by receiving them late or not at all. The judges told her that they have only a few minutes before each hearing to review a case, and often they do not read beyond the second page. Ms. Kennedy provided a series of typical excuses as to why CRBs are not reviewing all children in foster care (see handout), and cited three issues that have contributed to the current dysfunction of the system: (1) weak leadership that is unwilling to change; (2) lack of a strong partnership between the CRB and the CYFD; and (3) lack of administrative support for volunteers. All children in state custody need the CRB's vigilant and timely support, she concluded, and whoever holds the contract must have the passion, resolve and ability to get the job done.

Jack Carpenter, a licensed foster parent who has had more than 100 foster children in his home over 26 years, is currently chair of the SAC. He provided a history of the Citizen Substitute Care Review Act and described the review process as a way to report back to the legislature on ways to improve the system and to present to the courts an independent review of children in the care of the state (see handout). Currently, the review boards agree with the CYFD's recommendations 80 percent of the time. The SAC is proposing legislative changes to the statutes in the upcoming session, Mr. Carpenter said, and he provided a spreadsheet with the recommended changes and the rationale for each (see handout). He described recent changes to the makeup of the committee that would strengthen its ability to develop data from local board reviews, seek out research and experience from around the country and better distill information for the courts, the legislature and the CYFD.

A committee member cited a past lawsuit that may have set the troubled course for the SAC, along with the decision to move the contract to the DFA, which does not have appropriate expertise. When the Senate Public Affairs Committee begins meeting in January, the member would like to see an afternoon session devoted to CRBs with all stakeholders present and an attempt to draft legislation to address the issues. Several members said they found Justice Maes' testimony disturbing. Another noted that it would have been better to have heard this testimony earlier in the interim.

Public Comment

DJane Ronca Washburn has served on a CRB for many years. Under the current contractor, the number of cases has declined, and she feels this is because each party is called in separately, increasing the time involved. This change was initiated by the contractor against the wishes of 75 percent of the committee members, she said. Her reports may have been changed or edited by the contractor, and this makes it a report from the contractor, not from the chair of the CRB.

Karen Foote of Las Cruces said the reports that are getting to the judges are written by the contractor, who was not even present at the meeting. The prior contractor reviewed several thousand cases per year and did not need millions of dollars to do this. The current contractor changed the way the process works, Ms. Foote said. Now, the CYFD office in each district picks four cases for review.

Review of 2015 Legislation for Committee Endorsement

One member suggested that the committee prioritize these recommendations, noting that everyone is fighting for the same dollars. It is almost like going to the casino, the chair commented. Another member disagreed with prioritizing, saying this comprehensive list will give members a chance to educate fellow legislators about important issues. He then exhorted them to "go to the casino". Mr. Hely and Ms. Mathis presented each committee member with a large binder containing legislation for review and action.

Adjournment

There being no further business before the committee, the seventh and final meeting of the LHHS for the 2014 interim was adjourned at 5:05 p.m.