

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

**July 6-8, 2009  
Pueblo of Laguna and Gallup, NM**

The second meeting of the Legislative Health and Human Services Committee (LHHS) was called to order at 9:30 a.m. by Representative Danice Picraux, chair.

**Present**

Rep. Danice Picraux, Chair  
Sen. Dede Feldman, Vice-Chair  
Sen. Rod Adair (7/6 and 7/7)  
Rep. Nora Espinoza (7/6 and 7/7)  
Sen. Linda M. Lopez (7/8)  
Sen. Gerald Ortiz y Pino

**Absent**

Rep. Joni Marie Gutierrez  
Rep. Antonio Lujan

**Advisory Members**

Sen. Sue Wilson Beffort (7/8)  
Rep. Ray Begaye (7/8)  
Rep. Nathan P. Cote  
Rep. Miguel P. Garcia (7/8)  
Rep. Keith J. Gardner  
Rep. Dennis J. Kintigh  
Rep. James Roger Madalena (7/6)  
Sen. Cisco McSorley (7/8)  
Rep. Bill B. O'Neill (7/6, 7/7)  
Sen. Mary Kay Papen (7/8)  
Sen. David Ulibarri  
Rep. Gloria C. Vaughn

Rep. Jose A. Campos  
Rep. Eleanor Chavez  
Sen. Clinton D. Harden, Jr.  
Rep. John A. Heaton  
Sen. Gay G. Kernan  
Rep. Rodolpho "Rudy" S. Martinez  
Sen. Nancy Rodriguez  
Sen. Sander Rue  
Rep. Jeff Steinborn  
Rep. Mimi Stewart

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

**Staff**

Karen Wells  
Jennie Lusk  
Mark Harben

**Guests**

The guest list is in the meeting file.

## **Handouts**

Handouts are in the meeting file.

## **Monday, July 6**

### **Welcome and Introductions**

The chair invited members of the committee and staff to introduce themselves and acknowledged and thanked Pueblo of Laguna Governor John Antonio. The chairs also acknowledged the passing of Mr. Vaughn, and members expressed condolences to Representative Vaughn. Governor Antonio opened with a prayer.

### **Report from Pueblo of Laguna**

Governor Antonio mentioned challenges that result from a shrinking Indian health service (IHS) budget. However, the Pueblos of Acoma and Laguna have agreed to work jointly to improve health care and have created a joint commission on health care that includes the governors or their designees and that is focused on minimizing duplication of efforts so that all health care dollars are efficiently used.

### **Minutes**

The minutes of the previous meeting were unanimously approved.

### **Federal Health Reform Overview**

Senator Feldman talked about being called to the White House for intergovernmental cooperation on health care reform. Some 22 legislators met with Kathleen Sebelius, the secretary of the federal Health and Human Services Department. The meeting caused Senator Feldman to miss her first LHHS meeting in 13 years.

Senator Feldman was invited as one of 700 persons who signed a letter urging reform of health care at the federal level. Representatives from states that have tried various forms of health care reform and have considered a range of options discussed their experiences as the administration listened. There were certain themes repeated as priorities, including using primary care efficiently, creating medical homes, cutting costs and reimbursing Medicaid efficiently based on outcomes. The senator said President Obama's basic priorities are to preserve choice and include a public health care option nationally. The administration wants a strong bill out of Congress by mid-August. Senator Feldman encouraged other committee members to sign on to the letter supporting a national solution for health care coverage.

### **American Recovery and Reinvestment Act of 2009 (ARRA) Update**

Legislative Council Service (LCS) staff member Karen Wells gave an update of the federal stimulus package known as ARRA, as promised for each agenda in this interim.

She reported that federal medical assistance percentages (FMAPs) have increased beginning last October under the provisions of ARRA, an increase that will continue through September 2010. She reviewed "attestations" required by the federal government of state

agencies that receive the funding, including that the Human Services Department (HSD) will have to guarantee that the money is not being placed in any "rainy day" fund, noting that House Bill 920, passed last session, segregates the ARRA funds from the state's general fund.

Ms. Wells reviewed other pertinent provisions of ARRA, including cost-sharing arrangements with Native American tribes, nations and pueblos; increases in FMAP for increases in unemployment; construction costs for a new veterans' long-term care facility; rescinding of school-based administrative costs for students with disabilities; and changes in approved benefits for services provided at an outpatient hospital or clinical service benefit.

### **Medicaid and State Coverage Insurance Budget; Coordinated Long-Term Services Enrollment and Reimbursement Update; Transparency and Reporting**

Secretary Pamela S. Hyde, HSD, reviewed the Medicaid and State Coverage Insurance (SCI) budgets and noted that enrollment has continued to rise and, therefore, projections for costs have changed. Children's numbers in particular have risen every month, both because of the economy and the department's outreach efforts.

The department's challenge is to "draw down" the maximum number of federal dollars through getting and using enough state general fund money as a match for the federal dollars. The caseload per income support worker is now at 737, up from 600 when Secretary Hyde came to the HSD.

Although the HSD's entire computer system overhaul is still two or three years into the future, the department does have a web-based application screening tool called "Yes NM", which will be online by the fall. The department is redesigning the recertification process and is considering reinstating continuous eligibility. The problem caused when the federal government began requiring documents that many tribal people did not have has been solved for the moment, and tribal people can be on Medicaid for 90 days while they compile the required documents.

The stimulus funds are awarded, she said, on the basis of guarantees that a state will spend the funds right away. The state has used the federal stimulus funds to replace general fund money and has created through House Bill 920 a fund to hold the general fund money no longer required for Medicaid. Some \$120 million in general fund money saved will be used for fiscal year 2011, she said, when the federal stimulus money is no longer available. She declined to characterize the general fund arrangement as a "reserve" prohibited by ARRA and said she had consulted with attorneys at the Legislative Finance Committee (LFC), the LCS and the HSD. The department still has not heard from the Centers for Medicare and Medicaid Services (CMS) about its definition of a "reserve" fund.

To contain costs, she said, ARRA prohibits reductions ineligibility. The department can, however, slow its aggressive outreach. Thus far, the department has not taken steps to slow the outreach.



The secretary promised legislators that they would hear more regarding behavioral health on the third day of this meeting, when LHHS members will be meeting with members of the LFC. Nonetheless, Secretary Hyde noted that the department is beginning fiscal year 2010 with a new behavioral health "single entity" contractor, Optum Health. The contract will be \$378 million, \$10 million more than the previous years.

Carolyn Ingram, director, Medical Assistance Division, HSD, mentioned that the HSD is working with the Aging and Long-Term Services Department (ALTSD) to do coordinated long-term services (CoLTS). The services, now available statewide to 36,000 persons, are higher in costs than expected, she said.

Questions and comments from legislators focused on:

- why services were not available to a client in Roswell;
- chronic abuse of emergency room facilities;
- projected enrollment of children;
- why some persons have to transfer from "Mi Via" to CoLTS;
- problems getting enough general fund money to draw down all potential federal dollars for SCI;
- problems with the state getting enough credit for increasing its enrollment;
- the adequacy of the Native American liaison program of the HSD to meet the growth of enrollment of Native American clients;
- citizenship certification; and
- Pueblo of Zuni and Navajo Nation temporary assistance for needy families (TANF).

Ms. Ingram, reviewed her handout and noted that the SCI program has an enrollment of 32,000; that childless adults will be moved from the federal Children's Health Insurance Program Reauthorization Act (CHIPRA) to Medicaid; and that the department is trying to keep benefits among programs comparable. The average group size of the 1,295 employer groups on SCI is 4.7 employees. The department is currently negotiating contracts for both Salud! and SCI providers and is focusing on ensuring that premiums are being spent on direct services rather than administration.

### **Children's Health Insurance Program Reauthorization Act and Its Impact on the State Coverage Insurance Program**

Chuck Milligan, executive director of The Hilltop Institute at the University of Maryland, Baltimore campus, refreshed the memories of legislators as to the history of the creation of CHIPRA. Leftover funds from SCHIP led to the creation of SCI, which uses unspent SCHIP money to cover uninsured adults in New Mexico. When SCHIP was reauthorized, its name was changed to CHIPRA. States must quit covering childless adults under CHIPRA, but may cover them under Medicaid. However, the Medicaid match to the state is less beneficial than the CHIPRA match. Currently, only three states cover childless adults with CHIPRA money — New Mexico, Michigan and Idaho.

The base dollar allocation for CHIPRA block grants will be based on the amount spent on childless adults in the federal fiscal year 2009. The dollar amount will change next year but will not be changed thereafter.

Mr. Milligan and Ms. Ingram discussed a study funded by the Robert Wood Johnson Foundation that is gathering more information regarding employers' participation in SCI. The study looked at employers that wanted more information on SCI, but did not join, and employers whose employees are in the program. The two also talked about the current national debate on providing insurance for people on Medicaid and other programs, noting that part of the health coverage debate centers on whether "connectors" that put clients in touch with appropriate programs for coverage will be organized on a local, regional or national basis. Further, because eligibility for federal programs changes with life events of clients — as their income changes, their children grow and they become elderly — it is important to keep coverage current.

Questions from the legislators included:

- the number of childless adults under 200% of the federal poverty level (FPL) that are enrolled;
- whether employers are reluctant to acknowledge that their employees earn less than the FPL and are therefore eligible for the state coverage; and
- whether "connectors" will be established on a state, regional or federal basis to help people choose their coverage plans under the new Obama health coverage plan.

### **Maximizing Health Care Opportunities Under CHIPRA**

Bill Jordan, policy director, New Mexico Voices for Children, and Sireesha Manne, staff attorney, New Mexico Center on Law and Poverty, urged legislators to press the HSD to make absolutely sure that every federal penny available for covering children in New Mexico be used, leaving "no federal dollars behind" through leveraging matching dollars. They said that maximizing the number of clients on SCI and Medicaid helps to stimulate the local economy, as such programs more than match state dollars, with the federal government putting in 80% of every local Medicaid recipient's benefits. Mr. Jordan cautioned that the state must use all of its remaining funds or return them in October 2010 to be redistributed; funds returned to the federal government will cause the overall level of federal support to be reduced in future years.

Ms. Manne said that it is likely that the state will leave \$100 million behind in fiscal 2011, according to her organization's calculation. To make up \$100 million, the state would need to invest only \$25 million in state funds. At a 20% matching rate, the state would pay only \$640 per child per year and \$1,560 per adult per year.

In a recent LFC report, she said, the HSD estimated a current enrollment of 13,000 children and 41,000 adults. If this is accurate and the numbers remain steady, New Mexico will have lost an estimated \$100 million. On the other hand, she noted, the HSD just today estimated that figure at \$27 million — a significant difference from earlier estimates. While she was glad to hear that the HSD expects to lose fewer federal dollars, she hoped that the department would explain the wide fluctuation in its estimates.

The center proposed that legislators continue to monitor the spending of dollars for children's programs by asking the HSD to return to testify before the LHHS. To get the higher dollar amount, the state would need to cover a total of an additional 18,000 children, according to the center.

Ms. Manne also said that the HSD should make children continuously eligible, regardless of fluctuations of family income. The department is already doing this for SCI enrollees, she said, and reduced interruptions for health coverage have helped to maintain New Mexico's federal funding. With automatic renewal, the department can presume that persons are eligible and automatically renew them until it finds otherwise as to eligibility. There is a higher federal match for language interpretation services, she continued, which can be as high as 75% for Medicaid and 85% for CHIPRA for Medicaid services.

Mr. Jordan reminded committee members that it was a year ago that the governor called a special session, in part to ensure that children were covered under state medical insurance. The governor called \$20 million for children allocated during that session as a "down payment" for covering all children. However, that \$20 million was the first item to be cut in the regular session. Now, the state government has broken its promise to the children. He asked that now, when coverage is less expensive than ever because of federal matching dollars, the state make good on its promise to children by reconsidering the cut. The state continues to run forty-ninth in the nation for the rate of uninsured children. The federal match is nine to one, but the state is still insisting that it does not have enough money for a match, even at that rate. The state is not taking advantage of enrollment opportunities, he said. Over the next year or two, as health care reform rolls out, there will be more federal incentives to cover all citizens. SCHIP was a test drive, he said, and New Mexico has crashed.

Mr. Jordan also stated that Native American enrollment is not increasing much, even though Medicaid enrollment has increased.

Secretary Hyde was asked about coverage by the state versus by the IHS, and she answered that the state covers Native American children that are enrolled in Medicaid, regardless of whether or not they are covered by IHS.

Other questions and topics included:

- problems in making sure that the state Medicaid match is adequate to leverage all the federal dollars available and that the HSD's outreach is aggressive enough to enroll adequate numbers of clients to warrant the federal match and the state dollars;
- the rate of new enrollment, which is estimated at 4,000 per month;
- examining tax breaks the state has given to decide whether the breaks are earning the state money, especially if the state is due to lose money if it does not increase Medicaid enrollment;
- how to get people that no longer need Medicaid off the Medicaid rolls;

- the importance of reaffirming that it makes good economic sense to invest in child coverage in the current budget, then provide a supplemental appropriation later so that the administration would be less likely to feel a need to cut back on outreach measures; and
- whether private funders have stepped up to help in enrollment efforts.

### **Public Comment**

Ana Otero-Hatanaka spoke to committee members to emphasize that health care reform is vital to agencies that provide services to persons with disabilities. Many small nonprofits have lost the ability to offer health care for their staff.

### **Barriers to Obtaining Health Insurance Among Native Americans in New Mexico**

Colinda Garcia, Native American liaison for the Medical Assistance Division of the HSD, presented information on a survey on resistance to enrollment in health insurance plans among persons in Native American communities. A focus group was formed after statistics in 2006 indicated that Native Americans are disproportionately uninsured in New Mexico. The study was the first of its kind in the nation and was funded by the Robert Wood Johnson Foundation.

Ms. Garcia reviewed the findings of the study, which included not only financial and bureaucratic obstacles to enrollment but also cultural resistance. Many persons answered that they had health insurance since they were covered by the IHS. However, if a Native American client is not near an IHS facility, that person is treated as "uninsured".

Ms. Garcia has been working with the IHS to talk about Medicaid and Medicare enrollment and has done eligibility training with the IHS, too. She has partnered with physical health and long-term services providers to educate the Navajo Nation bureaucracy on what managed care organizations in New Mexico can do. The HSD has stationed income support workers in eight Native American communities to accept enrollment, the HSD has opened its own office at the Pueblo of Zuni.

Outreach in Native American communities was made possible by a special appropriation, Ms. Garcia said. March 2009 figures indicate that 80,980 Native American clients are enrolled in the HSD's programs — representing 18% of total Medicaid enrollment. According to Ms. Garcia, 82% of eligible Native Americans are already enrolled.

### **Pueblos of Acoma and Laguna Joint Health Care Work Group**

Richard Luarkie, former member of the Pueblo of Laguna Tribal Council, asked Governor Antonio to join him for a presentation on the health work being undertaken by the Pueblo of Laguna in conjunction with the Pueblo of Acoma. The governor reported that the Pueblo of Laguna hospital got some cosmetic improvements through the IHS although, with over 550 federally recognized tribes, it had a good deal of competition. The state needs to help improve the hospital, he said, and the pueblo is asking for state help. He noted that health care expenditures for prisoners in the United States is higher than that for Native American people.

The pueblo is working with the University of New Mexico (UNM) Hospital and Presbyterian Hospital to examine "P.L. 90-638" — the federal contracting process for IHS health care. The pueblo is attempting to find ways it can partner with UNM, Lovelace and Presbyterian to decide whether it is advantageous for the pueblo to purchase insurance for its people.

Mr. Luarkie noted that the number of members of each pueblo is shrinking, creating a complex set of problems in providing coverage and affording coverage. Together the pueblos have created a joint health care commission to examine regional health care issues and avoid duplication of services and expenses.

Committee members asked several questions. Among them were whether the current behavioral health collaborative organization was working well for the Pueblos of Laguna and Acoma; and whether tribal members seem to have an interest in pursuing medical careers — to which the answer was that family members are in dental school and four students from New Mexico pueblos are in the BA-MD program at UNM. One tribal member just finished a residency at the UNM school of Medicine and the Pueblo of Laguna has its first dentist.

The governor was also asked about prospects for an improved IHS budget, especially as IHS had \$17 million in arrears to New Mexico hospitals and Grants-Cibola county hospitals are reluctant to accept new IHS patients because of the arrearages. The governor responded that he is hopeful that with reauthorization of IHS, there will be more funding. He and others have met with New Mexico's congressional delegation.

### **Pueblo of The Pueblo of Laguna Health and Wellness Priorities**

Paul Pino, mental health counselor, Department of Community Wellness, Pueblo of Laguna, reported to the committee. A mental health counselor for approximately 30 years, Mr. Pino met with the tribal council regarding the pueblo's top five priorities, of which health care is number two. The goal is to create a state-of-the-art health care system for the Pueblo of Laguna, perhaps with a regional health services model. Ideally, the system will generate revenue. The pueblo, he said, sees itself as part of a larger area along the I-40 corridor, with the ability to supply fire and rescue services, transportation, health insurance and long-term services, among other services. Currently, there is no nearby program to address cancer or give women mammograms, although the impact of uranium mining on health is great and likely to be profound because of the Jack mine near the Pueblo of Laguna. The pueblo lacks foster homes — currently there are only four foster care families — so the community is working to develop Title IV to support families interested in foster care. As to behavioral health services, there are no long-term programs, and for most people, 28 days of treatment is all that is possible. There are not enough inpatient mental illness services for depression and suicide, as most are for a maximum of two weeks. These programs will not pay for persons under the influence of alcohol or drugs. The pueblo does have a decent domestic violence shelter and has had it for 30 years.

Questions included:

- programs for newborns and expectant mothers and for smoking cessation;

- the mechanics of getting services from and getting paid by the new single entity for behavioral health services; and
- suicide statistics and ways to slow the growth in suicide rates.

### **Public Comment**

Joe Cordova, co-chair of the Behavioral Collaborative Local 17, said that transparency is still lacking in the new single entity. It is still difficult to get information on the amount of funding and its percentage compared with total behavioral health funding for Native American behavioral health. Mr. Cordova said he would get a copy of the behavioral health contract for committee members to examine.

### **Tuesday, July 7 — Gallup Cancer Center**

The committee reconvened at 9:30 a.m. in Gallup. Ms. Wells presented the committee with information on its subcommittees and social plans. The work plan was approved by the New Mexico Legislative Council, she said, and the council created a subcommittee on disabilities concerns, even though the committee had not asked for its creation. In addition, the council appointed a subcommittee to attend a joint meeting with the LFC on health care reform. Committee members volunteered for each of the two subcommittees.

Paul Sanchez, director of the New Mexico Cancer Center, welcomed committee members and talked about how important it is for the center to provide cancer treatment near homes. He thanked Senator Feldman for helping the center get a commitment for funding during the most recent session.

### **ARRA Update: Early Childhood, Hunger and Work Force**

Ms. Lusk presented a summary sheet on federal stimulus funds devoted to the areas of early childhood, hunger and work force. See the committee file for that information.

### **Nurse Home Visitation Program; Bernalillo County Proposal**

Leigh Mason, coordinator, Bernalillo County Health Commission, joined school health advocate Janet Mason, YWCA Director Donna Odette and College of Nursing Dean Nancy Ridenour, to talk about the importance of doing home visits by nurses as part of a complete early childhood education.

The presenters shared various stories of success and distributed handouts documenting stories in which success in early childhood programs can be predicted as a result of careful home visits by nurses. A little bit of intervention and critical information can make the difference in whether children are raised in a nurturing environment or are emotionally abandoned. Early experiences can make a difference in IQ scores as well as in emotional health.

Ms. Odette talked about the Pregnancy Task Force, which she chairs, working with the nurse-family partnership. Pregnant teens form the focus of the task force, which is backed with 37 years of research. Dr. Ridenour, the new dean at UNM College of Nursing, emphasized the importance of focusing on prevention, early intervention and collaboration. She noted that even

keeping two newborns out of the intensive care unit of a hospital would pay for the entirety of the program.

The program is the number one priority of the Bernalillo County health council.

While the nurse home visiting program is not universally followed in New Mexico, the proponents saw it documented as effective. The First Born program used elsewhere in the state is effective but does not offer such well-documented results. Dorian Dodson, secretary of children, youth and families, who was in the audience, said she would cover the varieties of early childhood programs in her later presentation.

### **Early Childhood and Child Protective Services — Initiatives and Trends**

Secretary Dodson, Bill Dunbar, deputy secretary, and Jared Rounsville, acting protective services director all of the Children, Youth and Families Department (CYFD), gave a presentation on initiatives and trends in early childhood education.

The department has received stimulus money to establish the Early Childhood Education and Care Advisory Council and is implementing the recommendations of the home visiting task force. The department has allotted some "formula" funds based on participation in early childhood programs and some competitive grants. One staff person is assigned to find and use every federal dollar available to the department through the stimulus package. The department, with the help of Mr. Dunbar, is also supporting agencies and community organizations that are eligible for federal stimulus money to apply for that money, lending letters of support to the initiatives for which federal funds are requested. The department received \$17.8 million in child care development block grant money under the federal stimulus package for child care assistance and quality. The CYFD is using \$13.9 million in fiscal year 2010 and the first quarter of fiscal year 2011. The funds must be spent by September 30, 2010. According to Secretary Dodson, the department will make available another 200 slots for child care services for children whose families make below 200% of the FPL.

The secretary also reported on infant deaths resulting from "unwilling caretaker" situations in which infants were left in the care of neglectful or violent family members or friends. She said, based on very accurate previous predictions, that the department can anticipate more of these sorts of tragedies if money for child care is not provided continuously and children are left with persons that do not want to be there. It is possible that persons that have received state-subsidized child care could be cut or put on waiting lists if funding is not consistent, but the department is attempting to avoid that scenario at all costs.

Mr. Dunbar noted that in the special session, the rate for covering child care was increased to 200% FPL and the department received \$7.2 million in TANF funds. The budget that sustains this enrollment includes not only the federal TANF funds but also the \$13.9 million in stimulus money and the CYFD's budget. However, there is no certainty of funding after 2010. The department, he said, is making the critical decisions on whether and when to ramp down by

keeping careful track of funding, but the challenge remains to manage the program to use every dollar without jeopardizing families.

Secretary Dodson said that every state that receives stimulus money is required to spend at least 4% of the money on quality child care. The department has taken that requirement as an opportunity to put in place initiatives that will have a lasting effect even if stimulus funds go away. There is the "stars" program for which providers receive increasing reimbursements as their teachers are better educated and the ratios of children to teachers decrease. The professional development program has allowed the department to start providing a family, infant and toddler studies degree program online. The TEACH scholarships are now given to at least 150 more child care providers statewide. There are "mind in the making" courses statewide on child brain development.

The CYFD has just released a request for proposals for an urban and a rural program to demonstrate quality. Up to 250 small contracts will also be issued to providers to help them get staff through the "stars" program. The department also continues its toy lending library and professional resource libraries for child care providers and is conducting a recruitment campaign for more infant and toddler child care providers.

As to home visit models, Secretary Dodson said that the department is using a "continuum" model — and not pitting various types of home visiting programs against each other. Instead, community-to-community home visiting programs will be constructed to suit local needs. Originally, the home visit program was contracted from the CYFD through the single entity behavioral health services program, but the secretary pulled it back as she felt home visiting was not behavioral health. The department is working closely with the Public Education Department, the HSD and the Department of Health to get federal government funding not provided in the stimulus package for home visiting programs.

Dr. Mary Dudley, a member of the Child Development Board, mentioned a recent LFC audit that was somewhat critical of early childhood programs. She said the board was surprised by the way that overhead costs were defined in the report — for instance, counting professional development as a cost for pre-kindergarten programs. Ruth Hoffman, Lutheran Advocacy Ministry, commented that it is important to keep funding in place to protect children. Having reliable, good child care makes it possible for families to be successful in the workplace, she said.

Mr. Rounsville reported on key initiatives in protective services, responding to October 2008 federal legislation. The CYFD has created a youth transition database that helps to identify successful independent living programs for foster children who age out of foster care. Finding stability for foster children is the biggest challenge for the department, Mr. Rounsville said. The national goal is for two or fewer placements in a 120-month period, but New Mexico is not at that point yet.

Questions from committee members included:

- whether it would be possible to perform drug tests on children in community placement;
- priorities for using state funds to open new home visit programs in other counties;
- how many children go into foster care in a given year;
- the federal shift in priorities away from permanent group home placements for foster children;
- the increased rates for foster parents, brought about through Representative Vaughn's bill sponsorship, the first increase since 1991;
- federal stimulus money for Head Start programs;
- the governor's veto of a bill requiring equal funding for public and private pre-K programs while equal amounts were, in fact, dedicated to each in this budget cycle;
- vacancy rates in staffing for protective services;
- how many children from foster care enter college versus entering the criminal justice system;
- foster care in pueblos, the Navajo Nation and Apache reservations; and
- the possibility of more support for grandparents who are raising family members.

### **Hunger and Food Insecurity: Intergenerational Summer Food Program**

Nancy Pope, director of the New Mexico Collaboration to End Hunger, reported on the successes of the summer food plan. Ms. Pope wrote a plan for ending hunger in New Mexico over a three-year period, and the plan was privately funded at \$100,000 per year for three years. The plan covers everything from free school lunches to improving food in retirement communities.

Currently, one in four children in New Mexico does not know when the next meal will be available. One in eight senior citizens has the same problem. New Mexico is the worst in the country for food insecurity.

A private-public partnership has raised \$1.9 million to end hunger, leveraging federal funds with state and private dollars. Last summer, the project fed 5,600 children at 37 sites. This year there are 46 sites and 37% more families and children have been fed. In addition, the program provided weekend food bags and some free breakfasts. Senior volunteers throughout the state are helping to plant gardens at the meal sites.

Legislators expressed support and thanks for the work of the collaboration. Questions and discussion topics included concerns over communities that still have no meal sites and the increase of homeless children in Albuquerque this year — some 4,000 new homeless children in addition to the estimated 3,000 already identified.

### **Women, Infants and Children (WIC) Program and Supplemental Nutrition Assistance Program (SNAP) Updates**

Katie Falls, deputy director, HSD; Deanna Torres, family food and nutrition section chief, Department of Health; and Jane Peacock, deputy director, Public Health Division, Department of Health, reported that some \$360 million per year is provided in federal food

stamp benefits to New Mexico. The participation rate is improving. In 2006, only 71% of eligible persons participated.

Stimulus funding in the amount of \$2 million has been made available for increases in caseloads resulting from the recent economic downturn. Currently, the average caseload for workers is 734 cases per worker; with the stimulus money, perhaps that number will decrease.

The state approved a supplement for elderly persons on Supplemental Security Income (SSI) at \$10.00 per person, but with the stimulus funding the amount went up to \$16.00. Now, no one in New Mexico gets less than \$30.00 per month for food stamps.

The HSD received a federal waiver in order to put into place a combined application project. Under the program, the department reviews applications of people who receive SSI payments and let them know if it is likely they are also eligible for other programs.

Ms. Falls reviewed the department's response to the food stamp enrollment, outreach and community partnering memorial passed last session.

The HSD is not only complying with the memorial's suggestions but has eliminated a financial asset limit, qualifies persons by telephone and provides information in English and Spanish to all low-income comprehensive tax rebate clients. The HSD is using old vans from the Department of Health to do Medicaid outreach and has been to Taos, San Juan, Luna, Bernalillo and Lea counties. Although it used to require 100% face-to-face interviews, the department has now eliminated half of those. Telephone interviews are also used for recertification. These changes are important because the department is finding that some persons with very little money are being rejected because of owning two cars, even if one is not reliable. The federal program does not require an asset test, on the theory that people with assets generally have too much income to qualify for food stamps. New Mexico is not forced to perform an asset test in order to qualify for federal funding.

Now, people applying for food stamps can do so by phone, so long as they meet an expanded definition of hardship.

Questions included:

- the potential to do drug testing for able-bodied adults without children;
- uses of electronic benefit transfer cards;
- oversight of the SNAP program;
- ways to discourage destructive uses of benefits; and
- differences in approved uses for food stamp cards and cash assistance cards.

Ms. Peacock and Ms. Torres talked about the WIC program, including the Department of Health's programs to encourage the purchase of healthy food at farmers' markets. The WIC program in New Mexico involves 67,000 participants per month, which represents 80% of persons eligible.

The program offers food benefits as well as nutrition education and referrals. Only certain foods — milk, eggs, juice, beans and other basic nutritional foods — can be purchased with a WIC benefit. Some 237 grocers participate in the program statewide. Beginning October 1, a new federal regulation will accommodate cultural preferences better aligned with New Mexico food habits — including whole wheat tortillas, corn tortillas and fresh fruits and vegetables.

As part of Governor Richardson's initiative to reduce obesity, the WIC program is coordinating with several New Mexico groups, including the New Mexico Healthier Weight Program Council. The groups are partnering to create a healthy foods 10-year plan. A pilot project in Las Cruces, "Healthy Kids", is in process. In the 10-year strategy, each community decides how it will create better health through local opportunities. The program wants to expand into Chaves County and has had a kickoff meeting there.

### **Pediatric Cancer Clinical Trials Interim Study Panel HM 102 and SB 42 (2009)**

Stuart Winter, a pediatric oncologist, Barbara McAneny, CEO of the New Mexico Cancer Center, and Terri Stewart, executive director of the New Mexico Cancer Care Alliance, reported on the progress of cancer clinical trials coverage in New Mexico. With the passage of SB 42, insurance companies in New Mexico are now required to cover participation in phase I clinical trials. However, Dr. Winter expressed concern that children still cannot participate in phase I trials. Dr. McAneny talked about the importance of bringing cancer treatments close to patients since patients often do not feel well enough to travel. She said that infrastructure still needs development so that people in the Gallup area can participate in trials and get transportation and other support networks in place for participants. Sometimes Medicaid coverage remains a barrier to participation, she said. Also, amendments are contradictory, and insurers are getting mixed messages from the law.

Questions from committee members included:

- whether health care coverage is the proper way to fund medical research;
- the need for close monitoring of application of the new law; and
- numbers of participants in cancer clinical trials.

### **Public Comment**

Ms. Otero-Hatanaka again addressed the committee, this time expressing concerns that stimulus funds may be used for new enrollment in entitlement programs. She would prefer that the money be used to retain professional staff.

### **Committee Discussion**

Committee members discussed several issues raised during the meetings on the second day and, on motion of Senator Ulibarri, seconded by Senator Feldman, the committee voted to write the HSD encouraging it to enroll all 18,000 eligible children not currently enrolled in Medicaid.

## **Wednesday, July 8: Joint Meeting with Legislative Finance Committee (LFC)**

The meeting was called to order by Representative Luciano "Lucky" Varela, chair, LFC, at 8:40 a.m.

### **Update on Workforce Development Training and Temporary Assistance for Needy Families**

Renada Peery-Galon, senior fiscal analyst, LFC, reported that a performance review on the New Mexico Works program and workforce development system integration was completed in 2006 and contained three significant findings: New Mexico Works families lack sufficient access to effective and comprehensive workforce development services, including child care, through one-stop centers; New Mexico Works policies need adjustment to help families transition off welfare into self-sustaining employment; and lack of an office of training and workforce development authority and decentralized administration may impede further progress to meet the needs of New Mexico's businesses and job seekers.

Brent Earnest, senior fiscal analyst, LFC, reported the review made seven recommendations concerning the Temporary Assistance for Needy Families (TANF) program, including requiring that employment and training service contractors provide their services through one-stop centers; amending state law to create a post-TANF job retention bonus program; and creating a separate state two-parent cash assistance program to avoid federal penalties for not meeting work participation rates. Ms. Peery-Galon said that there were two key recommendations for the CYFD: the department should co-locate child care eligibility workers at a minimum of three one-stop centers; and the legislature should consider maintaining the child care income eligibility threshold at 155 percent of federal poverty level and should target future expansion funding to raise the exit level eligibility threshold. There were also two key recommendations for the Workforce Solutions Department (WSD): a legislative study of options to consolidate workforce development programs into a single department; and a recommendation for how services should be delivered to job seekers and employers.

Questions were asked regarding the delay in passing through child support funds to TANF clients. Mr. Earnest said the change in law allowed the department to increase the pass-through and additional general fund revenue was appropriated to the child support enforcement division, because it was likely to lose other state funds to support its operations. Senator Beffort asked that the process be expedited.

A question was asked about whether CYFD is providing access to child care services through one-stop centers. Julienne Smrcka, African American liaison, CYFD, responded that information technology (IT) has been an issue in terms of being able to screen applicants at a site and placing someone at those sites. An integrated IT system with HSD and the WSD is being reviewed.

### **Workforce Investment Act Funding for Adults and Dislocated Workers — Status of ARRA Funding**

Betty Sparrow-Doris, secretary, WSD, reported on the ARRA funding. The ARRA provides funding to the state from the United States Department of Labor (DOL) and follows legislation initially provided for various programs. The WSD serves as the administering agency for all DOL-funded programs. These programs include the unemployment insurance program, Wagner-Peyser Act of 1933 program (labor exchange activities) and the Workforce Investment Act (WIA) program. The WIA in New Mexico received more than \$11 million provided through local workforce boards for the actual provision of services; four local boards represent all regions in the state. The Navajo Nation also received more than \$1 million. The state serves as the recipient of the funds but has no authority over the funds. The WIA is composed of three parts providing for adult services, youth services and dislocated-worker services. The department is operating in a comprehensive and integrated workforce system with all integration completed as of December 31, 2008. Support services are also provided and include needs-based payments to assist individuals in getting to job interviews. Funds under the ARRA must be expended by June 30, 2011.

The governor established an oversight office for the ARRA, called the New Mexico Office of Recovery and Reinvestment, which is overseeing all funds related to the ARRA and how they are leveraged with other funds. In addition to providing an initial report of the plan for use of the funds, there have been and continue to be weekly reports, which must be provided to the office. Subsidiary plans are also submitted in addition to the overall plan. A liaison is assigned from the office and meets with the department on a weekly basis to review expenditures and performance.

Secretary Sparrow-Doris said the state Workforce Development Board is responsible by law for the oversight and advice to the governor in terms of bringing together coordination to improve the economic viability of the state and providing a trained workforce. Nationally, an annual report is required by state boards and quarterly information is provided. Secretary Sparrow-Doris said the state board last met and expired in December 2008. Orientation for the new board is scheduled for July 24, 2009, and a full board meeting will be held on August 21, 2009. A concern was expressed regarding regulatory citations, and a report for the last two years was requested.

Committee members had questions and made comments about whether:

- provisions, policies or both could be put in place requesting the federal government to provide reports of the Navajo Nation to the state;
- pueblos and tribes were eligible for state funding under the workforce;
- it were possible to work with libraries and local schools so that displaced and unemployed individuals could access services provided by the department;
- job listings were accessible on line; and
- the legislature would consider funding the WIA program with state as well as federal funds.

## **How Local Workforce Boards are Spending ARRA Funding and Tracking Performance Measures**

Lou Baker, chair, Northern Area Local Workforce Development Board, reported that the mission of the board is to be the labor market's number one choice. The WIA requires that 51 percent of board composition represent the business community; 49 percent of those board members are federally mandated members. There are 25 members, five staff members and one service provider on this board, which covers 10 northern counties and serves a population of more than 300,000. Since 2002, the WIA formula funding has seen a 67 percent reduction.

ARRA funding has enhanced existing programs such as the Attain and Sustain Film Industry Project; the Commercial Driver's License (CDL) program, allowing city and county governments' access to training for their employees; and the Raytheon Program. Alex Martinez, executive director, SER-Jobs for Progress, reported that the Raytheon Program is in the Farmington area, and 167 candidates were identified for prescreening. Sixteen individuals have met the minimum requirements for employment with Raytheon. On-the-job contracts have been generated and the board is paying 50 percent of the wages for training of specific occupations, with Raytheon paying the other 50 percent. These individuals will transition into employment once training is complete.

Ms. Baker said staff met with business owners to discuss the summer youth employment program funded with ARRA funds. Funds received totaled \$838,000; 83 percent went to administration. The northern board implemented a Youth Employment for Success (YES) initiative that currently has 360 registrants. Staff members interact with business owners in the community and provide assessment profiles and work readiness skills.

Committee members had questions and comments about whether:

- there is a federal formula used to draw resources on a cost reimbursement basis or distribution of resources. Secretary Sparrow-Doris said dollars are allocated by formula and not specific activities to the local boards. The formula is based on the number of individuals living in poverty and the unemployment rate; and
- a meeting could be set up specifically with northwest legislators.

### **Temporary Assistance for Needy Families — Providing Cash Assistance and Building Self-Sufficiency: Caseload Growth and Maximizing ARRA**

Patricia Anders, staff attorney, New Mexico Center on Law and Poverty, reported that New Mexico should take steps to ensure that no federal TANF stimulus funds will be left on the table, seize the opportunity presented by the TANF ARRA funds to implement an emergency assistance program and discuss policies to prevent poor families and their children from being cut off of TANF cash assistance when facing hardships. A TANF emergency contingency fund was created in ARRA to help states weather the recession. In addition to the fund, a regular contingency fund has long been available to states. Drawing on both funds, New Mexico will be eligible for up to \$55.3 million over federal fiscal years 2009-2010. To date, New Mexico has accessed \$16.6 million from the regular contingency fund. New Mexico is eligible for emergency contingency funds through basic cash assistance, short-term nonrecurring assistance and subsidized employment. New Mexico could set up a short-term TANF benefit program and be eligible to receive 80 percent federal reimbursement for these expenditures. The other 20

percent of expenditures does not have to be new state funding. The state could claim existing state spending as the matching funds. In addition, spending from nonprofit organizations and charities already providing assistance and services meeting the TANF purpose and other maintenance effort requirements can be used toward the additional 20 percent. Participants in subsidized employment receive wages rather than cash assistance. The ARRA funding also provides the opportunity to expand this program.

A policy option is currently available to New Mexico, ensuring that families with children facing hardships are not cut off of TANF benefits because of the time line. Generally, there is a 60-month time limit on how long families can receive TANF cash assistance; however, federal law in recognition of the special hardships faced by the very poor allows states to provide hardship extensions up to 20 percent of the TANF caseload. The legislature has statutorily codified its intent that families facing hardships be provided extensions. To date, HSD has not fully used the flexibility granted by the legislature. The department is in the process of making the extension more accessible to families.

### **Are We Building Self-Sufficiency — New Mexico Works Workforce Program and Other Support Services**

Katie Falls, deputy secretary, HSD, reported that the TANF program is a federally funded program for low-income families with dependent children. The record low enrollment for the program was in July 2007. Since May 2009, the program has seen an increase of 20 percent, attributed to the economy. Individuals on the program are required to participate in a work activity unless they are exempt from it. The TANF program focuses on ending dependency of needy parents by promoting job preparation, work and marriage. The New Mexico Works program focuses on improving the quality of life. National trends show the people on TANF are people who have multiple problems and barriers and are ill-equipped for work. As TANF imposes time limits, people are leaving the program without jobs. Their most common sources of income are food stamps and child support. One-third of them are moving in with family or friends. Reasons for not working include poor health, not finding a job and no child care. Forty percent of people on the TANF program in New Mexico are exempt from work because of these problems. Ms. Falls testified that beginning in FY11, the same TANF contract for support services will not be issued because the population has changed. TANF clients will be interviewed about services they are receiving and how those services are helping them, and what additional services they need. Individuals who have left the program will also be asked what helped them get off TANF and what could have been done better. Work will then be done with the public and advocates to design a request for proposals enabling the department to provide services in the future that meet the needs of current TANF clients.

The TANF program is funded with a federal block grant spent on cash assistance, support services and administrative costs. HB 590 appropriated funding to the Taxation and Revenue Department (TRD) for the working families tax credit. HSD has applied for and has drawn down \$11 million for cash assistance. The amount of money appropriated for cash assistance has been declining, while the amount of funding for support services has been increasing.

Chairman Varela requested that the HSD provide a written response to the report submitted by the Center on Law and Poverty. Senator McSorley requested that extensions (triggers) be included in the response.

### **Update on Behavioral Health Collaborative**

Linda Roebuck-Homer, chief executive officer, the Behavioral Health Collaborative, reported that the collaborative re-bid its statewide entity contract and awarded it to OptumHealth New Mexico effective July 1. Eleven core service agencies have been identified across the state establishing clinical homes to allow people with multiple needs to receive thorough assessments and assistance. The first round will go live in October; it will take 12-18 months to have the entire state covered. Implementation of a housing plan focuses on housing and developing capacities with specific focus on people with behavioral disorders. Stimulus funding coming into the state will be invaluable to populations. The goal is to get people into permanent housing.

The number of local collaboratives has expanded by three to a total of 18. Expansion occurred to accommodate additional Native American local collaboratives; there are now five local collaboratives for Native Americans.

Other accomplishments include the expansion of projects for returning soldiers and veterans, pilot projects for a quality service review system and the New Mexico Consortium for Behavioral Health Research and Training (CBHTR). The total projected for the FY10 contract is approximately \$378 million (both general fund and federal funds), with an overall administrative cost of \$47 million. Approximately \$10 million to \$12 million will return to New Mexico in taxes.

Sandra Forquer, CEO, OptumHealth New Mexico, reported that a regional model has been developed to ensure that members of their staff are in communities assisting in facilitating care. Regional offices with between 12 to 18 staff members have been put in place in six areas of the state and include family and consumer peer specialists. The care coordination function has also been moved to the regional offices along with a provider care team. Fifty-three peer and family messengers were hired and have met with more than 3,000 consumer and family members. Ms. Roebuck-Homer said there is less funding available for behavioral health, with an increasing need and demand for services.

The Behavioral Health Planning Council works with local collaboratives around the state and has identified priorities across the state. Priorities include crisis services, supportive housing, transportation and support for the local provider base. OptumHealth has committed to assist in developing a crisis system. Local collaboratives have been funded at \$21,000 a year. Each collaborative receives \$3,000 from OptumHealth and the remaining \$18,000 is given out of a federal Systems Transformation Grant; grant funding ends in September 2010.

### **Working Lunch and Roundtable Discussion — New Mexico Legislative Behavioral Health Caucus**

Karen Wells, researcher, Legislative Council Service, provided an overview and historical perspective on the Behavioral Health Collaborative. ValueOptions was chosen as the first statewide entity. The Behavioral Health Collaborative oversight team has engaged in ongoing contract compliance to make sure the contractor is meeting their contract. A program assessment was conducted and covered the first year of the contract with ValueOptions. Local collaboratives and key stakeholders were involved in developing a strategic plan through an evaluation of the planning process. The New Mexico Medical Review Association (NMMRA), the external quality review organization for the state, conducted annual compliance audits and several specialized audits. External audit findings from the Lewin Group indicated access to care increased in the first year of the contract with ValueOptions. Forty-four percent of providers were dissatisfied because of untimely payments or reimbursements being too low. Consumers of the behavioral health services were satisfied, with the exception of Native Americans, who felt that the program effectiveness ranked low. The external audits from NMMRA compared ValueOptions' annual performance with regulations and standards set in the New Mexico Administrative Code (NMAC). In the final audit, it was found that ValueOptions was compliant with the regulations, and the overall audit compliance was 96.7 percent. Over the course of four years, there was a variation among the different standards; however, ValueOptions always had at least some standards that met only minimal compliance. If ValueOptions was found to be in minimal compliance in any area, a plan of correction was automatically put in place. LFC reviewed and evaluated the collaborative in 2006 and did a follow-up report in 2007. Those findings and recommendations led to the passage of HB 181, which established rulemaking authority for the collaborative regarding standards of delivery and contracts and amendments. It also required the appointment of a director, quarterly reports of performance measures and a separately identifiable consolidated behavioral health budget. The 2007 report asserted ongoing concerns with prepayments for non-Medicaid services. As of July, they have transitioned to a fee-for-service basis. There were also concerns with fragmented reports on performance measures and problems with residential treatment services for adolescents.

Ms. Wells testified that the LHHS has heard testimony from the collaborative annually since its inception. There were consistent issues, questions and comments made regarding administrative overhead, the value received for the money expended and how consumers and family members received timely information regarding services. Concerns were brought to the Courts, Corrections and Justice Committee asserting that there had been drastic cuts in services for youth, as well as elimination of residential treatment centers. The transition poses uncertainty, and the legislature has a consistent continuing interest in ensuring transparency, accountability, quick resolution of problems, responsiveness by both the collaborative and OptumHealth and providing assurance that the behavioral health needs of New Mexicans are met efficiently, safely and compassionately.

Senator Feldman requested information on the number of providers that failed and are no longer in New Mexico. Ms. Forquer said an expedited payment process has been put in place for providers who have been deemed vulnerable by the collaborative. A contract was developed with the National Council of Behavioral Healthcare. Every provider in the state was asked to provide a financial viability assessment, including audited or unaudited financial statements from 2008. Technical assistance will be provided for improving business practices for those in trouble.

Bill Belzner, deputy Director, Behavioral Health Collaborative, said the increasing number of denials for out-of-home placements over the last six months has raised concerns. The oversight team is analyzing changes in denials that began in November 2008. The reasons for denials, reductions of care and termination of care have been tracked. The covering agencies were asked to look at the utilization management decisions by ValueOptions. ValueOptions was placed on a corrective action plan for denials regarding treatment foster care. In cases where alternative levels of care were not appropriate or denials exceeded a particular percentage, the medical director or other clinical staff was required to report back.

Chairman Varela requested a progress report for OptumHealth during the regular session as well as a status report of the ValueOptions contract as of December 31, 2009.

The joint session of the LHHS and the LFC was recessed, and the LHHS meeting was adjourned at 3:00 p.m.