

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

**June 2, 2010**  
**Room 322, State Capitol**  
**Santa Fe**

The first meeting of the Legislative Health and Human Services Committee (LHHS) was called to order by Senator Dede Feldman, vice chair, at 9:24 a.m. on June 2, 2010. Committee members introduced themselves.

**Present**

Rep. Danice Picraux, Chair  
Sen. Dede Feldman, Vice Chair  
Sen. Rod Adair  
Rep. Nora Espinoza  
Sen. Linda M. Lopez  
Rep. Antonio Lujan  
Sen. Gerald Ortiz y Pino

**Absent**

Rep. Joni Marie Gutierrez

**Advisory Members**

Sen. Sue Wilson Beffort  
Rep. Ray Begaye  
Rep. Eleanor Chavez  
Rep. Nathan P. Cote  
Rep. Dennis J. Kintigh  
Rep. James Roger Madalena  
Sen. Cisco McSorley  
Rep. Bill B. O'Neill  
Sen. Nancy Rodriguez  
Sen. Sander Rue  
Rep. Mimi Stewart

Rep. Jose A. Campos  
Rep. Miguel P. Garcia  
Rep. Keith J. Gardner  
Sen. Clinton D. Harden, Jr.  
Rep. John A. Heaton  
Sen. Gay G. Kernan  
Rep. Rodolpho "Rudy" S. Martinez  
Sen. Mary Kay Papen  
Rep. Jeff Steinborn  
Sen. David Ulibarri  
Rep. Gloria C. Vaughn

**Staff**

Michael Hely  
Karen Wells  
Mark Harben

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts are in the meeting file

## **Wednesday, June 2**

### **Welcome and Introductions**

The chair invited members of the committee and staff to introduce themselves.

### **Reports and Updates**

#### **SJM 1 Health Care Reform Working Group**

Deborah Armstrong, director, New Mexico Medical Insurance Pool (NMMIP), chair, SJM 1 Health Care Reform Working Group (SJM 1 working group), provided an update on work that is underway to identify state action necessary to implement the federal Patient Protection and Affordable Health Care Act (PPACA). Ms. Armstrong described the membership of the SJM 1 working group, and the process for determining an interim agenda. The SJM 1 working group is made up of both executive and legislative members and was created pursuant to a senate joint memorial that passed both houses during this year's legislature. She commented on the massive breadth and scope of the federal law and the enormous challenge of identifying critical elements that will require state action to implement. The SJM 1 working group has identified a schedule of major topics to be addressed in monthly meetings. Advisory groups are self-forming to further provide input to the SJM 1 working group on specific topics that include Medicaid; the health care work force; consumer education and outreach; and health insurance exchanges. Ms. Armstrong will be giving updates to the LHHS monthly and has coordinated the schedule and agenda to avoid duplication as much as possible. The web site of the Insurance Division of the Public Regulation Commission (PRC) contains updated information regarding the work of this SJM 1 working group.

#### **Governor's Health Reform Leadership Team**

Sam Howarth, director, Division of Policy and Performance, Department of Health (DOH), provided an overview of the goals and purpose of the Governor's Health Reform Leadership Team, which had its first meeting on May 20, 2010. It was created by Governor Richardson's Executive Order 2010-012 to develop a strategic plan for implementation of the PPACA. The team is made up entirely of members from executive departments, including human services; health; children, youth and families; workforce solutions; information technology; Indian affairs; and other departments on which the PPACA will have an impact. Mr. Howarth emphasized that it will require a Herculean and coordinated effort to fully implement the PPACA and will result in significant structural and policy changes. Each department is identifying a lead person who is a classified employee to ensure the continuity of implementation after the election of a new governor, when many or all cabinet-level employees will probably be replaced. Additionally, classified employees will be selected to take the lead on legal and information technology issues. The team will meet again on June 11, at which point it hopes to identify the specific responsibilities of each department, time lines for implementation and the parties responsible for carrying out these responsibilities. Mr. Howarth emphasized that the team recognizes the critical importance of capitalizing on funding opportunities. The executive order calls for a report to the

governor by July 1, 2010. The team also anticipates working closely with the SJM 1 working group and the LHHS.

Committee members asked questions and made comments in the following areas:

- whether any grant applications have already been made pursuant to the PPACA and what they are;
- PPACA funds that have been or will be appropriated to the state;
- identification of a grant to fund a temporary high-risk pool of \$37 million;
- whether the governor has any plan to appoint a "czar" to ensure coordination and to maximize funding opportunities;
- a request to the leadership team for a matrix that demonstrates responsibility for applying for grants and how funding is allocated;
- the possibility that a special session will be needed to appropriate matching funds when grants and projects require matching funds;
- the potential negative impacts of the loss of the superintendent of insurance and other key members of the Insurance Division and missed opportunities for funding;
- what legislative action, if any, might be required prior to the next legislative session and what is expected for the 2011 session;
- whether the Retiree Health Care Authority will be affected and how; Wayne Propst, executive director, Retiree Health Care Authority, indicated the authority is waiting for clarification and guidance;
- how coordination between the SJM 1 working group and the leadership team will occur; both groups will report to the LHHS;
- the need for ongoing organized efforts to ensure the accomplishment of this huge task;
- a suggestion by Ms. Armstrong that the LHHS propose legislation to create an ongoing structure to implement federal health care reform;
- a request for the elements of the federal Indian Health Care Improvement Act, which is included in the PPACA, to be presented to the LHHS and the interim Indian Affairs Committee; and
- the critical importance of outreach to Native Americans and other specific groups within New Mexico as to how the PPACA may have an impact on them.

A request was made for aggressive accountability regarding the application for grants and funding and the recognition that federal funding is now available to address many of the concerns and issues that have been raised in the LHHS for years. Mr. Howarth stated that comprehensive matrices are under development to identify and take advantage of funding opportunities as they arise.

Questions were raised regarding whether and how the network of community health providers plans to benefit from the multibillion dollar availability of funds. David Roddy, executive director, New Mexico Primary Care Association, noted that grants for these entities will be competitive and that New Mexico's past success at serving the uninsured in community health centers may now be a disadvantage in competing for these funds. Formula funding,

however, should benefit New Mexico.

### **Overview: PPACA**

Frederick Isasi, senior legislative counsel for health care for U.S. Senator Jeff Bingaman, recognized the significance of the passage of the PPACA. He provided a brief overview of the federal law. He emphasized that the law is projected to reduce the federal deficit and has a great potential to reduce the growth of the cost of health care. He highlighted the impact on uninsured New Mexicans, especially uninsured children. Insurance market revisions will eliminate what he characterized as insurers' many "heinous" practices such as rescissions and exclusions for pre-existing conditions. Co-payments for prevention are eliminated. The "donut hole" of prescription drug coverage for seniors will be eliminated. There are many measures included in the PPACA that have not been covered in the media, including work force provisions, system and reimbursement redesign, quality improvements and long-term care provisions. He noted that the number of uninsured could be reduced from more than 20% to less than 4% in New Mexico. Federal Medicaid funding will be substantially increased, and Senator Bingaman worked hard to ensure that New Mexico would not be harmed by efforts to expand coverage to the uninsured under Medicaid. Premium decreases should be seen in the private market, especially for small businesses. He outlined several measures that will require legislation at the state level to fully implement the act, including the establishment of health insurance exchanges. He emphasized that Senator Bingaman and he are ready and willing to serve as resources in the process.

Committee members had questions and made comments in the following areas:

- whether New Mexicans enrolled in the State Coverage Insurance (SCI) Program will be helped or harmed by this new law; the majority of New Mexicans who are SCI eligible but not enrolled *will* be considered as newly eligible for the purpose of federal Medicaid matching funds, according to Mr. Isasi; current SCI enrollees may or may not be identified as newly eligible;
- clarification regarding a provision in the PPACA to create a basic health option for individuals between 133% and 200% of the federal poverty level that could be implemented in New Mexico; the federal match would be 100% for this optional population; this option would be in lieu of an exchange; a model already exists in Washington state to do this;
- acknowledgment that seamless enrollment integration between the exchange and Medicaid is required and will require New Mexico to acquire considerable information technology supports to accomplish this;
- clarification regarding insurance provisions and the current lack of knowledgeable staff at the Insurance Division due to staff turnover;
- a suggestion that the LHHS consider legislation to restructure the Insurance Division so that it is not under the PRC;

- clarification regarding where and how savings will be achieved under the PPACA;
- the fiscal impact of expansion of coverage to dependents up to age 26;
- the fiscal impact of a defined benefit package and the impact of state mandates for coverage;
- clarification regarding compacts that permit insurance to be sold across state lines;
- whether the mandates currently in New Mexico law are anticipated to be included in the new federal basic benefit package; it is not clear;
- whether the PPACA includes funding to support the expansion of education infrastructure for training of the health professional work force; it is anticipated that the University of New Mexico will be approved for up to 15 new slots for physicians;
- the opportunity for community health centers to serve as residency sites for physicians in training;
- whether there is capital outlay funding in the PPACA to expand health professional training sites;
- a request to inform Senator Bingaman that anesthesiology assistants be permitted to practice at sites outside of Albuquerque;
- clarification regarding the adequacy of subsidies to assist individuals to purchase mandated health insurance and what the caps are on out-of-pocket expenses;
- the importance of strong rate review processes to hold down rising health insurance premium rates; and
- the problem of rising Medicaid costs and the increasing burden on state general funds.

Andrew Black of Senator Bingaman's Santa Fe office and Melanie Goodman of Senator Bingaman's Las Cruces office were introduced and offered to provide resources to the LHHS to take advantage of the PPACA provisions; Senator Bingaman's office has access to national expertise on such issues as exchanges that staff members are happy to share.

### **Medicaid Restructuring Process**

Carolyn Ingram, director, Medical Assistance Division, Human Services Department (HSD), and Charissa Saavedra, deputy secretary, HSD, provided the committee with an overview of the purpose for and process to restructure Medicaid. Restructuring is underway as a method of

aligning New Mexico's program with federal PPACA provisions and in anticipation of increasing challenges of state general funding of Medicaid. Several work groups have been formed to gather input on the process of restructuring Medicaid, including advocates, tribes, and health and human services agencies redesign teams. A provider work group will be formed. The purpose of each work group was identified. Ms. Ingram updated the committee on SCI funding and current issues, beginning with a historical review of the program and its funding streams. Recently, the federal Centers for Medicare and Medicaid Services (CMS) informed the HSD that enhanced federal medical assistance percentages (FMAP) funding will not be available for current SCI enrollees as newly eligible, which will reduce the funding for SCI by an estimated \$17.4 million. Even if the department is successful in convincing the CMS that enhanced FMAP should be provided for this population, the waiver that allows New Mexico to serve childless adults caps the amount that can be spent due to budget neutrality requirements. Potentially, New Mexico could have a shortfall of approximately \$20 million in this program. The HSD sees the SCI as the vehicle for offering an alternative public program to enrollees through the exchange. The HSD is looking at how other states have handled this situation and options that New Mexico might pursue. The work groups have been considering these options. Ms. Ingram reviewed cost-containment measures that have already been implemented in Medicaid.

Committee members asked questions and made comments in the following areas:

- clarification regarding the composition of the provider work group to be formed;
- the importance of adequate physician representation on the provider work group to ensure that physicians do not cease to participate in Medicaid;
- clarification regarding existing co-payments in Medicaid; a list of co-payments will be provided;
- the profound potential impact of Medicaid budget shortfalls and of Congress not extending the enhanced FMAP; if Congress does not extend the enhanced FMAP, Medicaid will face an estimated \$160 million shortfall in New Mexico;
- clarification regarding what happens if a Medicaid client is unable to pay a co-payment; the provider ultimately absorbs the cost;
- the number of other states that operate Medicaid under a managed care approach and whether there is any consideration of New Mexico not operating its program under a managed care model;
- clarification about how the provider tax is being implemented in Colorado and how much money could be raised by instituting provider taxes in New Mexico;
- clarification regarding changes that have been implemented pursuant to a study of potential cost-containment measures; and

- the impact of the nursing home bed tax that was previously implemented in New Mexico; New Mexico won the lawsuit that challenged this bed tax, but the law has since sunsetted.

### **Government Restructuring Task Force**

Jonelle Maison, Legislative Council Service (LCS), reported on behalf of Paula Tackett, director, LCS, and Raúl E. Burciaga, director-designate, LCS. She noted that the New Mexico Legislative Council (LC) did not reduce the number of days that the LHHS will meet in the interim and approved three-day meetings; however, the Disability Concerns Subcommittee must meet during one of the regularly scheduled LHHS meeting days. Additionally, this year, the LC is discouraging meetings being held outside of Santa Fe. Finally, the LC would like the LHHS and all interim committees to work with the agencies that they oversee to identify opportunities for restructuring government, cost efficiency and consolidation.

Committee members had questions and made comments as follows:

- clarification regarding the membership and meetings of the Disability Concerns Subcommittee;
- a need for data to make recommendations as requested by the Government Restructuring Task Force;
- clarifications regarding specific concerns that the Government Restructuring Task Force has expressed, including Medicaid and other health care services relative to the PPACA;
- clarification regarding exactly what is being asked of the LHHS: consideration of structure, contracts and the impact of structural consolidations recommended by the Carruthers Commission; there were suggestions for making the system better;
- clarification of the deadline for these recommendations, which is August 2010;
- whether the task force has decided how to address these issues and recommendations and whether the chairs, vice chairs and co-chairs of the interim committees will be part of those discussions;
- an observation that the LHHS is tasked with such an enormous responsibility already and spending too much time on this task may not be a good idea;
- a concern that the Coordination of Long-term Services (CoLTS) Program vendors are losing money, yet no state employees were let go in order to implement this program; and
- an observation that executive agencies are like a ship without a sail as key people leave and are not replaced; accomplishing restructuring in a time of transition is very

challenging.

### **Public Comment**

Pug Burge, associate vice president for administration at the University of New Mexico Health Sciences Center (UNM/HSC), conveyed concerns of health sciences center president Dr. Paul Roth regarding federal health reform and the impact on the UNM/HSC. Three internal task force groups have been formed to closely track regulations, make recommendations for boards and commissions and pursue grant opportunities. One key committee will address work force issues and will work with the SJM 1 working group and its advisory groups. The UNM/HSC is committed to coordinating efforts with all other efforts that are currently underway. A committee member commented that the UNM/HSC has excellent grant writers, and that their expertise should be sought.

Barbara Webber, executive director, Health Action New Mexico, commented that this interim and the upcoming session promise to be among the most important in history for the LHHS. She reminded the committee that consumers are eagerly awaiting information about the new PPACA and how it will benefit them and urged members to consider those who will be most affected by all the changes.

Mike Batte, administrator for the New Mexico Life Insurance Guaranty Association, informed the committee of a bill that was introduced in the 2009 session. That bill died in committee, which Mr. Batte attributed to the complexity of the content, and the bill would benefit from interim committee review. He asked the committee to look at that bill, time permitting.

Nick Estes, policy analyst for New Mexico Voices for Children, emphasized that the issue of the loss of the enhanced FMAP under Medicaid will have a significant impact on the state either in the short run or in the future. Advocacy groups are working hard to convince Congress to extend the enhanced FMAP. When the FMAP is reduced, it will result in a \$360 million shortfall to Medicaid, which will result in devastating cuts to recipients. He urged the committee to identify ways to replace those lost revenues.

### **Consideration of Work Plan**

Michael Hely, staff attorney, LCS, reviewed the proposed work plan, which was developed by staff with input from the chair and vice chair. The work plan proposes to concentrate on the state's implementation of the PPACA and changes to Medicaid. Additionally, the committee has been asked to focus on opportunities for restructuring government; a potential release of a request for proposal and new contract for the provision of behavioral health services; and oversight of the health and human services agencies of the state. PPACA measures that will come under review by the LHHS are enormous and will require close attention to such issues as work force, information technology, insurance reforms, Medicaid, quality, transparency and system reform, long-term care and more. That review also will require close coordination with the SJM 1 working group and the Governor's Health Reform Leadership Team. The Disability Concerns Subcommittee focus will be subject to change after a chair of the subcommittee is

appointed. He reviewed the proposed meeting schedule, noting that meeting dates have been coordinated with meeting dates of the SJM 1 working group.

Committee members asked questions and made comments on the following areas:

- whether the Disability Concerns Subcommittee can consider the implementation of the CoLTS Program;
- whether the guardianship alliance and guardianship issues can be addressed by the LHHS;
- an observation that the SJM 1 working group, the Governor's Health Reform Leadership Team and the LHHS will be involved in duplicative work; there was a request that the LHHS write a letter to the governor stating that opinion. Some committee members disagreed, saying there could be value in two groups meeting on this complicated topic; and
- a request that the work plan reflect a desire that the LHHS receive reports from the other groups working on health reform.

A motion was made and seconded to approve the work plan as amended. There being no objection, the work plan was adopted.

The meeting was adjourned at 3:55 p.m.