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

June 14, 2011
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, chair, at 10:10 a.m. in Room 322 of the State Capitol.

Present
Sen. Dede Feldman, Chair
Rep. Danice Picraux, Vice Chair
Rep. Nora Espinoza
Rep. Dennis J. Kintigh
Sen. Linda M. Lopez
Rep. Antonio Lujan
Sen. Gerald Ortiz y Pino

Absent
Sen. Gay G. Kernan

Advisory Members
Rep. Ray Begaye
Rep. Eleanor Chavez
Rep. Miguel P. Garcia
Rep. James Roger Madalena
Sen. Cisco McSorley
Rep. Bill B. O'Neill
Sen. Mary Kay Papen
Sen. Nancy Rodriguez
Sen. Sander Rue
Sen. Bernadette M. Sanchez
Rep. Mimi Stewart

Sen. Rod Adair
Rep. Paul C. Bandy
Rep. Conrad D. James
Sen. John C. Ryan

Guest Legislator
Sen. Stephen H. Fischmann

Staff
Michael Hely
Karen Wells
Lisa Sullivan
Rebecca Griego

Guests

Carlie Duncan, Intern for Senator Kernan

The guest list is in the meeting file.

Handouts

Handouts are in the meeting file.

Tuesday, June 14

Welcome and Introductions

The chair invited members of the committee to introduce themselves. The chair introduced the staff and acknowledged the hard work that they do. Carlie Duncan, intern for Senator Kernan, was introduced.

Review and Discussion of Work Plan, Meeting Dates and Locations for 2011 Interim

Mr. Hely, staff attorney, Legislative Council Service (LCS), reviewed committee guidelines regarding how quora are made, how blocking measures are invoked, the travel restrictions imposed by the New Mexico Legislative Council, circumstances under which a subcommittee can be formed and how a special session will affect the interim work of the committee. The committee asked when and how often the Disabilities Concerns Subcommittee will meet. Mr. Hely clarified that the subcommittee will meet twice this interim and that details will be presented in the discussion of the work plan. Clarification was requested regarding whether any member could attend the Disabilities Concerns Subcommittee meeting. Mr. Hely stated that only appointed members can receive per diem and mileage for attendance unless a "wild card" attendance allowance were used. The legislative council has not yet clarified its policy this interim regarding the number of wild card days that members will be awarded.

Mr. Hely reviewed the work plan, providing detail on the content areas to be addressed that are included in the written plan. He noted that numerous requests have been received to address long-term services and that the chair would like the topic of prescription drugs to be added as well. Mr. Hely noted that oversight of health and human services agencies is included in the work plan. The proposed agenda items for the Disabilities Concerns Subcommittee were presented. It was noted that one day would be dedicated to the submission of the recent revisions to the developmental disabilities (DD) waiver and one day to cover a broad array of areas of concern to the disability community.

The chair asked for clarification of who the members of the Disabilities Concerns Subcommittee are. The appointed members are Representative Antonio Lujan, chair; Senator Rodriguez, vice chair; Senator Adair; Representative Espinoza; Senator Papen; and Representative Picraux. The chair requested that a report be brought from the subcommittee to the full LHHS. Committee members had the following questions and comments:

- whether behavioral health services will be included in the Medicaid redesign efforts;
- disappointment that the legislative council did not approve the creation of a behavioral

health subcommittee;

- an observation that Alzheimer's disease and other age-related diseases will have an overwhelming impact on the health care delivery system in the future;
- a suggestion that the work plan be narrowed down in order to effectively cover a few critical issues;
- recognition of the serious issues facing behavioral health providers subsequent to the behavioral health contract with OptumHealth;
- support for prioritizing behavioral health issues and concerns;
- a suggestion that the LHHS meet, at least for updates and an informational meeting, during the special legislative session because the members will be present anyway; and
- a request that the committee receive testimony regarding the impact of the federal Patient Protection and Affordable Care Act (PPACA) on the Native American community and other issues critical to Native Americans and that the LHHS meet once at a pueblo.

Mr. Hely reviewed proposed meeting dates and locations. He noted that the July meeting is proposed to be held in Albuquerque, with one day at a pueblo, and that the August meeting is proposed to be held in Silver City and Las Cruces, and not Lordsburg and Clovis as presented in the work plan. The chair noted that Albuquerque is proposed for a meeting site due to the presence of unique and cutting-edge delivery system models in that area. Mr. Hely noted that arrangements have been made to visit Casa de Salud and the South Valley Clinic during the Albuquerque meeting. A suggestion was offered to hold the October meeting in Albuquerque instead of Santa Fe and that Clovis or some other rural community be substituted for the July meeting.

Committee members' questions and comments continued with:

- a suggestion that the committee should meet in Clovis or another rural area in lieu of Albuquerque; and
- a request that the legislative council be sent a message that a subcommittee on behavioral health be created in recognition of the substantial financial impact of behavioral health services in the state and to address other critical behavioral health issues.

At the request of the chair, Raúl E. Burciaga, director, LCS, was asked to address the committee on these points. He was informed of the concerns of committee members regarding the decision of the legislative council not to create a behavioral health subcommittee and the difficulty of the LHHS to cover all the content areas that are before it. Mr. Burciaga noted that the governor's line-item vetoes of funding for the Redistricting Committee and approval for the House Appropriations and Finance Committee to meet for one week before the short session in 2012 put a significant financial burden on the legislative budget. Due to the special session, the legislative council challenged all interim committees to fit the entire interim content into a shorter period of time. He advised that the committee can ask Mr. Hely to make an additional request to the legislative council to reconsider its decision not to create a behavioral health subcommittee. Representative Espinoza made, and Senator Ortiz y Pino seconded, a motion to

write a letter from the committee pursuant to that request. The motion was unanimously endorsed. Mr. Burciaga was asked if it is known whether meetings in Albuquerque cost the same as meetings in Santa Fe. The cost is virtually the same, he said, and a request to the legislative council for the LHHS to meet in October in Albuquerque can be made. The chair asked whether the committee objected to that request; there being no objection, the request will be made to hold the LHHS October meeting in Albuquerque. Mr. Burciaga was asked whether the LHHS could meet informally during the special session. He noted that when the legislature is in special session, the interim technically does not exist. Committee members would like that to be further explored. Mr. Burciaga said he will take that question to the legislative council. He noted that the governor may call for additional items beyond redistricting to be included in the special session. A suggestion was made that the Redistricting Committee meet only in Santa Fe and not travel statewide.

Clarification was requested regarding the closure of nursing homes in the state. Charlie Marquez, lobbyist for the New Mexico Health Care Association, stated that more than one nursing home on the east side of the state has closed due to financial constraints.

Mr. Hely requested clarification regarding the committee's preferred location of the July meeting. The chair asked the committee for permission to determine the exact location at a later time. The committee approved. Representative Picraux made, and Senator Papen seconded, a motion to adopt the work plan with the proviso that additional topics be addressed as time permits, specifically in those areas that have been discussed. A question was asked about how soon members can know what topics will be covered and when. Staff will send out agendas in as timely a manner as possible. General topic areas have been identified but are subject to change due to availability of presenters and other factors. The motion was unanimously adopted.

2011 Legislation Summary

Mr. Hely provided a summary of the legislation that the LHHS endorsed and whether it was passed during the legislative session. He provided information about the ultimate disposition of bills that were not endorsed by the committee but that relate to health and human services. A request was made to provide the committee with a handout describing those non-endorsed items. The bill to create a health insurance exchange and a bill to reform the medical malpractice law that passed but were vetoed were highlighted. A desire was expressed for justification from the executive regarding the rationale for vetoes and pocket vetoes of important measures. Mr. Hely will provide copies of the veto messages.

Health and Human Services Programs Fiscal Overview and Outlook

Ruby Ann Esquibel, principal analyst, Legislative Finance Committee (LFC), presented fiscal information regarding the budgets for the health and human services agencies in the state. She summarized the FY09 through FY12 general fund appropriations, highlighting the Medicaid program. A total of $837.3 million was appropriated for Medicaid, with $280 million provided to make up for federal American Recovery and Reinvestment Act of 2009 (ARRA) funds that provided enhanced federal medical assistance percentage payments and that were lost when ARRA funding ended. The legislature appropriated supplemental funding for FY11, which is

the current fiscal year. Medicaid enrollment is expected to increase because Medicaid is an entitlement program, which will affect the budget going forward. Temporary Assistance for Needy Families (TANF) grew by more than 47% between 2008 and 2011. Federal funding for the program substantially declined during that period. ARRA funds offset this decline but only for FY11. Cash assistance and child care programs were protected and not reduced. Overall TANF funding was reduced by 3.4% from the current operating year for Human Services Department (HSD) programs. State general funds were reduced for the Supplemental Nutrition Assistance Program (SNAP).

Mimi Aledo, senior fiscal analyst, LFC, spoke about budget decisions affecting the Children, Youth and Families Department. Home visiting, pre-kindergarten and domestic violence programs all were reduced.

Ms. Esquibel highlighted the impact to the Department of Health (DOH). The DOH received a general fund increase of $30.2 million, largely to keep the DD waiver program whole following the loss of ARRA funds and to support state hospital facilities. She noted that the Coordination of Long-Term Services Program was transferred in the budget from the Aging and Long-Term Services Department to the HSD, which hopefully will result in greater efficiencies. Funding for aging network services was reduced.

Questions from committee members covered the following areas:

- clarification regarding the impact of the loss of state general fund dollars for SNAP; the legislature had hard decisions to make, and a balance was sought;
- clarification regarding the Medicaid Personal Care Option (PCO) Program; it will be included in the Medicaid redesign;
- clarification regarding a reduction in approved hours of service in the PCO Program;
- an observation that the governor vetoed a bill that would have reduced the general fund burden in the Family, Infant, Toddler Program by limiting coverage for those with health insurance;
- clarification regarding the budget impact of the veto of the Commission on the Status of Women;
- an observation that the DOH has experienced drastic reductions in previous years, especially in the area of public health and prevention; overall, general funds that were lost have been replaced by federal and other funds;
- the impact of the loss of ARRA funding; and
- clarification regarding the impact of increased funding for the DD waiver; about 70 additional people can be served.

Prior to the afternoon session of the meeting, Ms. Wells was recognized for her years of service to the LHHS and the LCS. She was presented with a certificate of appreciation upon her pending retirement.

Medicaid Redesign

Sidonie Squier, secretary, HSD, and Alicia C. Smith, J.D., Alicia Smith and Associates,

presented an overview of the HSD request for proposals and plan to redesign Medicaid. Secretary Squier introduced Matt Kennicott, HSD communications director. She described the purpose and status of Medicaid and the two-month process to submit a request for proposals and engage a contractor to redesign the program. Stakeholder input will be broadly sought in statewide meetings, through meetings with advocates and trade associations and through tribal consultations. She fully expects to make continuing reports to the LHHS on the progress of the redesign. Secretary Squier identified four principles upon which the modernization of Medicaid will be based, including: (1) the integration of all Medicaid services into a "second generation" of care for enrollees; (2) an increase in personal responsibility through the implementation of co-payments for certain services and incentives, such as medical savings accounts, to motivate positive behaviors; (3) the implementation of reimbursement reform through payment for positive health outcomes; and (4) an increase in administrative efficiencies through a single global waiver. The time line for the transformation process is to develop a road map for implementation by August 2011, with full implementation within 24 months. The HSD favors a "health home" model of service delivery, with sufficient wrap-around services to meet the needs of recipients. The HSD intends to consider carefully those clients with behavioral health needs. Secretary Squier asked for committee input on whether these services should be carved in or carved out of a global waiver. The goal is to design a program that is innovative, fair and appropriate to the unique needs of New Mexicans.

Committee members had questions and expressed concerns in the following areas:

- the full extent and amount of the contract; gathering information; preparing the waiver application; procurement issues; writing the contracts that will arise from the plan; evaluation of proposals; and the readiness of contractors to "go live" with the program by July 1, 2013. The full amount of the contract is $1.7 million for 12 months to 18 months of work;
- the extent of transparency that is anticipated; full transparency is expected;
- how the contract is funded; it will be funded through federal Children's Health Insurance Program Reauthorization Act of 2009 (CHIPRA) bonus dollars; no state general funds will be used;
- clarification of the principle of payment for outcomes; care will be taken to ensure that providers are not limited in ordering appropriate tests, but the expectation is that people will improve as a result of the care;
- clarification regarding how the department will implement the behavioral health provider-based managed pilot project that passed the legislature in 2011 (HB 432) (Laws 2011, Chapter 5); the department intends to implement it but objects to the large proportion of the state's population and geography included in the pilot;
- a desire that behavioral health be afforded priority attention and that the intent of HB 432 be respected;
- clarification regarding ways in which CHIPRA bonus funds are generally used; bonus payments are open-ended and may be used for a variety of purposes; they are not eligible for federal matching funds;
- whether the state has any unspent CHIPRA bonus funds; about $13.5 million has been awarded, and about $8 million is unspent; more information can be provided to the

committee regarding how this money has been used;

- a concern about charging co-payments to very sick individuals;
- a request that the LHHS automatically receive updates on the progress to redesign Medicaid;
- clarification about Ms. Smith's contract to monitor OptumHealth's contract;
- clarification regarding ways in which Medicaid is allegedly in trouble and the future fiscal impact of the implementation of the PPACA on Medicaid;
- an observation that every dollar spent on Medicaid generates nearly three federal dollars and that making drastic changes to the program could be dangerous;
- clarification regarding the role of the legislature in Medicaid redesign; the HSD is actively seeking input from legislators and others;
- whether legislation will be needed to make the anticipated changes to Medicaid; this is not known at this time;
- why the governor vetoed a bill that embraces the principle of payment for outcomes;
- whether there are models to follow in the area of reimbursement reform such as payment for outcomes and how recipients will be incentivized to engage in healthier behaviors;
- whether there will be coordination between behavioral health services and physical health services;
- why the governor vetoed a medical home bill (HB 34) in light of the department's intention to implement a health home model of care;
- clarification regarding what is meant by a health home model of care; the concept is to build wrap-around services around the individual receiving care so that care is integrated and is tailored to the individual;
- an observation that the Medicaid redesign plan is very ambitious, and encouragement to simplify rather than complicate Medicaid;
- clarification regarding the approach to obtain stakeholders' input that will achieve "buy-in" on reform initiatives;
- whether a global waiver is just another name for a block grant; the answer is no; the department is looking at an 1115 Medicaid waiver, which is not a block grant; currently, the federal government does not allow block granting of Medicaid;
- whether other states are using medical savings accounts; yes; Florida is using them;
- whether other states are using pay-for-performance models; yes, California, Missouri and Tennessee are using them;
- a request for a brief written summary of how a global waiver would work and a comparison of what other states are doing, including the pros and cons and what is working and what is not;
- how this Medicaid redesign will differ from previous efforts;
- clarification regarding the intention to reduce the numbers of managed care organizations from seven to four;
- an observation that not all medical conditions are responsive to increased personal responsibility and that a Medicaid redesign must preserve enough resources to cover unanticipated and emergency medical services;
- a recommendation that the members of the LHHS be fully engaged in the Medicaid

redesign process and that whatever final solution is recommended be accomplished through legislation;

- whether providers will be cut further with the Medicaid redesign;
- concerns regarding conditioning provider payments on good outcomes;
- comments regarding the seriousness of considering the specific needs of beneficiaries in reform efforts;
- clarification regarding how incentives will be rewarded to recipients;
- clarification regarding the bottom-line goals of reform; the goal is for New Mexicans to get quality care; there is no plan to cut medical services or enrollees;
- a concern that more areas in the state will be involved in public input sessions; there was a suggestion that more areas in northern New Mexico be visited;
- the point at which a decision will be made about whether to carve in or carve out behavioral health services; there will not be a decision before all stakeholders have had a chance to provide input;
- how it is anticipated that the principles of reform will be applied to behavioral health; special input sessions are planned through the Interagency Behavioral Health Purchasing Collaborative;
- a recommendation that the department inform each local chamber of commerce before holding town hall meetings;
- the importance of providing accessible communication avenues for individuals and family members who need information about Medicaid waivers and options; and
- a request for written clarification regarding the difference between a global waiver and a block grant and information regarding pay-for-performance models.

Public Comment

Bill Jordan, policy director, New Mexico Voices for Children, expressed concern with the premise that Medicaid is unsustainable and a fear that the program will be cut. He emphasized the favorable economic impact of Medicaid.

Tim Carver, chief financial officer, San Juan Center for Independence, expressed appreciation for the opportunity to get involved at the beginning of the process.

Dick Mason, New Mexico Health Council Alliance, spoke in opposition to the DOH elimination of funding for health councils in New Mexico. An assessment is being conducted about the impact of eliminating these councils.

Barbara Webber, executive director, Health Action New Mexico, noted that the PPACA will significantly expand Medicaid and access to health care for the uninsured in New Mexico. She believes this will ultimately reduce the cost of health care. She urged health care administrators to become actively involved in the process of reform. She noted that personal responsibility needs to be accompanied by collective responsibility.

Jane Wishner, executive director, Southwest Women's Law Center, offered comments about how to ensure the most valuable public input and that best practices be considered in any

changes prior to implementation.

Nick Estes, policy analyst, New Mexico Voices for Children, stated that the Medicaid Coalition developed a one-page statement of principles to guide the department in the redesign process. He thanked the department for its accessibility.

Lydia Pendley, Health Care for All Coalition, expressed disappointment regarding the lack of approval by the legislative council for the SJM 1 Health Care Reform Working Group for another year.

Judy Williams, League of Women Voters of Santa Fe County, testified that the league has developed a guide to transparency in government. The league also supports Medicaid redesign and the PPACA. She noted that the league is eager to see more detail in the plan.

Michael Murphy, Independent Living Resource Center, expressed support for home- and community-based services and especially "money follows the person". He is worried that the global waiver will change the PCO Program into a waiver and not an entitlement.

Michael Keslin, New Mexico Allergy Society, is interested in having allergy testing and allergy specialty care as a benefit of Medicaid. Such services improve outcomes and lower costs of health care.

Guy Watson spoke as a citizen whose grandchildren are Medicaid recipients and whose brother, who committed suicide, was a Medicaid recipient at the time of his death. He expressed concern that the proposal to consider a Medicaid redesign is brought by two people from Florida and not from the state legislature. He urged greater involvement by legislators. He is further concerned that the department can make these changes without legislative input. He feels the program is working and does not need to be changed.

Harris Silver, retired physician and teacher of public health, expressed outrage as a concerned citizen. He described his own personal difficulty obtaining covered care through his insurance policy. He objected to several elements of the Medicaid redesign, including payment for outcomes, elements of personal responsibility and administrative efficiency efforts.

Christine Marchant, New Mexico Developmental Disabilities Planning Council, noted that the DD waivers waiting list now has 5,600 people awaiting services, and she projects that within five years, it will exceed 7,000 people. The people served by this waiver desire high-quality services. This population does not have the additional resources to pay for co-payments. She is concerned that a global waiver will limit flexibility.

Dr. Paul Lanier, Organizers in the Land of Enchantment (OLÉ), has read the materials provided by the department, but he does not understand them. He urged the department to use a fully transparent process.

Penelope Foran spoke on her own behalf. She expressed anger at the plan to redesign Medicaid. She also expressed appreciation for the legislators and the role they have played in having the hearing and allowing public input.

Terry Schleder, New Mexico Alliance for Retired Americans, informed the committee that retired public employees in New Mexico are now on Medicaid due to premium increases they cannot afford. Medicaid saves live and saves money for the state.

Roqueeta Jones is concerned that the redesign effort is emerging from the executive branch and not the legislature. She is also concerned about the principle of personal responsibility. Even with daily exercise, her Navajo parents still have diabetes. Medicaid has worked well for her and her children.

Sherri Gonzales identified herself as the face of Medicaid. She would not be alive but for Medicaid. She noted, however, that it has been "hell" getting needed services, especially emotional support.

Itsy Kraft is on both Medicare and Medicaid. She was a stay-at-home mom who lost her health care insurance when she got divorced. She is very grateful for the access to services she now has. She urged paying for preventive care so that people do not get sick in the first place.

Patsy Romero, National Alliance for the Mentally Ill-New Mexico (NAMI), spoke about HJM 17 and the language that included NAMI in an effort to train providers. She referred to an alleged effort to exclude her from the task force for being an outspoken opponent of core service agencies.

Jim Jackson, executive director, Disability Rights New Mexico, acknowledged the legislature for doing its part to sustain Medicaid. He reiterated that the only way to get a home- and community-based waiver is to go into a nursing home first and that the waiting list is growing. He is nervous that putting the whole Medicaid program into one global waiver relieves the state from compliance with many regulations.

There being no further business, the meeting adjourned at 5:35 p.m.