

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

November 16-19, 2004
State Capitol, Room 317
Santa Fe

PRESENT

Sen. Dede Feldman, Chair
Rep. J. Paul Taylor, Vice Chair
Sen. Rod Adair (11/16)
Sen. Steve Komadina (11/17, 11/18, 11/19)
Rep. Terry T. Marquardt (11/19)
Sen. Mary Kay Papen (11/17, 11/18, 11/19)
Rep. Jim Trujillo

ABSENT

Rep. Rory J. Ogle

Advisory Members

Rep. Gail C. Beam (11/17, 11/18)
Sen. Sue Wilson Beffort (11/16, 11/18)
Rep. Ray Begaye (11/17, 11/18, 11/19)
Rep. William "Ed" Boykin
Rep. John A. Heaton (11/16, 11/17, 11/18)
Sen. Timothy Z. Jennings (11/16)
Rep. Antonio Lujan (11/17, 11/18, 11/19)
Rep. James Roger Madalena (11/17, 11/18, 11/19)
Rep. Danice Picraux (11/16, 11/17, 11/18)
Sen. Bernadette M. Sanchez
Rep. Edward C. Sandoval (11/18)
Sen. Leonard Tsosie (11/18)
Rep. Gloria C. Vaughn

Sen. Linda M. Lopez
Rep. Rick Miera
Rep. Al Park

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

Staff

Phil Lynch
Raul Burciaga
Ramona Schmidt
Karen Wells
Sarah Salazar

Guests

The guest list is in the meeting file.

Tuesday, November 16

The meeting was called to order by the chair at 9:20 a.m. Members of the committee and staff introduced themselves.

The children's cabinet priorities were presented by Mary-Dale Bolson, secretary of children, youth and families, Sonya Carrasco-Trujillo, acting chief of staff, office of the lieutenant governor, and Dana Grubestic, director, children's cabinet, office of the lieutenant governor. Ms. Grubestic presented the key projects identified by the children's cabinet to develop five target areas and indicators. Five outcome areas were identified:

- 1) all children and youth will be physically and mentally healthy;
- 2) all children and youth will be safe and supported in school;
- 3) all children and youth will be ready for and successful in school to reach their goals;
- 4) all children and youth will be able to transition successfully to adulthood; and
- 5) all children and youth will be valued and active participants in their communities.

Ms. Grubestic stated that the budget will compile the amount spent on all children in the state where gaps exist and where service costs are decreasing or increasing. Committee members expressed concern about the need for analysis and consideration regarding building in the public sector to move pre-kindergarten (pre-k) into existence but ensuring that the private sector can still survive. Secretary Bolson noted the program is to supplement and not to supplant; the goal is to make sure existing quality providers are kept whole and that pressure is being placed on non-quality providers to step up or step out. The funding for the pre-k program is from state dollars as there is not federal money available.

Discussion ensued as to the impact on families with both parents financially required to work and the logistical difficulties with transportation, the actual amount of funding requested that is not available at this time and the five-year phase-in for voluntary enrollment.

Dorian Dodson, director, protective services division, children, youth and families department (CYFD), Dr. Karen Campbell, MD, medical director, CYFD, and Lieutenant Steve Harvill and Sergeant Eric Burnham from the New Mexico state police spoke on meth lab exposure child care and the issues being addressed, including:

- what happens when children are found in a setting where meth is produced;
- what do the children feel;
- what happens when law enforcement approaches the scene; and
- how the children are treated to make them feel comfortable.

Three disciplines involved are law enforcement, child protective services and emergency medical staff.

The challenges faced include:

- incomplete data;
- what are the long-term effects on children; and
- how to isolate the effects of meth related to other environmental factors.

The actual medical effects on the children can include fumes inhaled that permeate the surrounding surfaces. The best safety measure is to physically remove the child from the house and, once out of the home, the lab is identified, the children are observed for physical and neurological symptoms and are taken immediately to a health care facility, if required.

The task force recommended looking at other bordering states' laws in developing legislation for any problems created in other states in proactive children meth lab initiatives. Lt. Harvill stated that a major issue faced in dealing with the meth labs is the lack of manpower. A precursor law was amended last year to include more ingredients used in meth production. It was noted that the precursor law does not deter the production of methamphetamine.

Discussion arose regarding the regulation of pseudoephedrine and the authority of the board of pharmacy to regulate pseudoephedrine. Senator Feldman asked Phil Lynch to contact the board of pharmacy to get a copy of the proposed regulation affecting the sale of pseudoephedrine.

Sharon Waggoner, executive director of the GRADS program, addressed past funding of the program and the current concerns and financial constraints. She noted that the GRADS program has grown immensely and while the program is available for TANF funds, those funds may no longer be available. Ms. Waggoner spoke to the issues facing TANF fund qualifications, including financial necessity. The GRADS system mission is to promote healthy families and reduce risk-taking behaviors among all youth served. The following benefits of funding the GRADS program were shared:

- 87.62 percent of GRADS students receive public assistance;
- 16.6 percent of GRADS secondary students were gainfully employed during the school year; and
- GRADS has achieved an 86 percent retention rate among enrolled teenage parents.

The GRADS programs is in every county but one in the state. Representative Taylor stated that the committee will continue to work with Secretary Garcia to include the funding in the TANF grants and Ms. Waggoner noted they are willing to partner with the federal health and human services department to obtain funding.

During the public comment period, Anna Otero Hatanaka shared the upcoming legislative agenda priorities to:

- maintain and restore funding levels for all development delay and developmental disability services;
- maintain the family infant toddler program and early intervention services within the department of health (DOH); and
- develop a state contingency plan for serving persons with developmental disabilities currently served by the community-based service system.

Ms. Hatanaka raised awareness on the following DOH-related issues:

- provide a cost-of-living increase for early intervention services provided through the family infant toddler program requiring funding of \$3 million;
- the medicaid waiver developmental disability services to provide a cost-of-living increase for services requiring funding of at least \$1.5 million; and
- state general fund and medicaid waiver rates for developmental disability services.

Susan Loubet from the New Mexico women's agenda commented on HJM 77 because of the concern for the mental state of children found in the presence of meth labs and stated that while the effort has been a good effort, it is important to remember that the aim is to keep families together and keep trauma as minimal as possible. She expressed concern that the report addresses the different levels of harm and what will then be done, but that the report does not address if no harm occurs.

Dr. Eaton from the university of New Mexico health sciences center (UNMHSC) reviewed the following legislative requests for 2005-2006:

- school of medicine enrollment expansion for \$805,800;
- UNMHSC library collections enhancement and IT maintenance for \$660,000 (non-recurring);
- UNMHSC compliance program (base adjustment) for \$672,300; and
- the special project for specialized perinatal services for \$319,000.

Dr. Eaton noted that UNMHSC is seeking and will continue to seek federal funding for the IT request, which he views as bridging through other sources of recurring funding, but that he cannot guarantee success.

Erma Sedillo and Sherry Helwig from the corrections department spoke about HJM 53, which put in place a task force to study prisoner reintegration. The task force studied barriers to successful reintegration of parolees into communities and improved coordination of release and reentry planning for parolees by executive agencies. Ms. Helwig reviewed the executive summary, recommendations, barriers work plan, HJM 53 mandate and the task force list.

Discussion ensued as to the political implications of current campaign tactics used when issues are related to parolee release programs, sex offender housing, etc. It was noted that oversight under the behavioral health collaborative committee would be appropriate.

Sharon Jones, director, government programs and compliance, Molina healthcare of New Mexico, shared the history, business facts, membership, names of the company executives, corporate structure, quality issues, health education programs, the cultural and linguistic programs and community programming. Ms. Jones noted that Molina is a SALUD!-only plan and is one of the largest of its kind nationwide.

Discussion ensued on the disease management programs, the development of provider networks

throughout the state, the behavioral health RFP and the pharmaceutical formulary used by Molina.

The meeting recessed at 4:10 p.m.

Wednesday, November 17

Michelle Lujan Grisham, secretary of health, introduced her leadership staff and reviewed the organizational chart. Discussions of budget, internal changes and ethical oversight occurred. The following DOH priorities were shared:

- the vision and mission;
- what the department looks like, where it is located throughout the state, organizational structure and core functions;
- the program areas and their purposes, major programs, budget and FTEs:
 - program area 1 - prevention and disease management;
 - program area 2 - health care delivery;
 - program area 3 - epidemiology and response;
 - program area 4 - scientific lab and pharmacy services;
 - program area 5 - behavioral health services;
 - program area 6 - Los Lunas community program and residential care facilities;
 - program area 7 - developmentally disabled community services;
 - program area 8 - health certification, licensing and oversight; and
 - program area 9 - administration.
- the health priorities, including childhood immunizations, obesity, teen pregnancy, youth suicide, hepatitis C and school-based health centers;
- DOH legislation, including the:
 - extension community health outcomes;
 - Billy Griego Act;
 - breath alcohol instrument replacement plan;
 - transfer DWI program;
 - e-vitals system support;
 - Health Care Registry Act;
 - care givers criminal history screening;
 - booster seat law;
 - redundancy in health facility registration;
 - amendment of the county maternal and child health plan;
 - removal of certain regulations related to marriage licenses;
 - interstate compact on threatening communicable diseases;
 - amendment of the Health Facility Receivership Act;
 - increase of health facility licensure fees; and
 - protection of SLD records.

Secretary Grisham shared other areas of concern that are within other departments. A chart for

the 2004 current and governor's proposed new school-based health centers was distributed and reviewed.

The committee members asked questions in the following areas:

- the transfer of funding and administrative support for DWI from the department of finance and administration to DOH and the projected effect on counties;
- the amount and impact of reductions in federal funding on DOH programs;
- the possible transfer of the family infant toddler program from DOH to CYFD;
- the process involving the behavioral health RFP;
- clarification that DOH is not requesting an increase of HIV/AIDS funding this session;
- how the amount budgeted will be adequate to fund new proposed school-based health centers but will not be enough to fund the current school-based health centers; thus, DOH will be looking at additional funds through private partnerships; and
- school vending machines and obesity issues.

Christina Barden reviewed for the committee the medically fragile case management program at the university of New Mexico (UNM). Noted that the program is the only UNM case management program and that she has worked with the program since 1985. A medically fragile case is a chronic physical condition resulting in a prolonged dependency on medical care for which daily skilled nursing intervention is medically necessary and is characterized by one or more of the following:

- frequent periods of acute illness requiring frequent medical supervision, intervention and hospitalization;
- frequent time-consuming administration of specialized treatments, which are medically necessary; and/or
- dependence on medical technology necessary to maintain a reasonable level of health, which include ventilators, dialysis machines, tube feedings or intravenous therapy for nutritional support and continuous oxygen.

Ms. Barden noted that over the past 10 years, the medical acuity has increased for this population. She stated that case managers are the glue that hold the complex system of care together and while costs increase each year, the reimbursement has remained the same.

Two families gave testimony on behalf of New Mexico's medically fragile program to support its full funding and avoid future funding cuts that severely impact all levels of the program, especially the quality of life of medically fragile children and their families. Mr. Alvarez and Mr. and Mrs. Silva each addressed to the committee their children's requirements, the needs and impact on the families and the support provided through the program.

Ms. Barden asked the committee for its support in reinstating the past reimbursement rate. Discussion resulted regarding the immediate needs and the need for a cost analysis study to ensure that the rate applied is appropriate. Mr. Howarth with the aging and long-term services department (ALTD) stated the question that should be asked is whether the rate is adequate. He noted that a study in 2000 showed the rate as adequate and another study will be conducted this

spring. Committee members addressed concern regarding the wait time required as well as the rate issues. Kathy Stevenson stated that there are 100 people on the waiting list and attempts are being made to rectify the provision of services. Ms. Barden noted that the issue is not just allocating slots but ensuring an appropriate infrastructure is in place. Mr. Howarth was encouraged by the committee to follow through with the study to review the reimbursement rate. It was noted that funding sources also come through SALUD!

Senator Feldman asked Ms. Stevenson for a copy of the budget affecting the problem.

Jeff Dye, executive director of the New Mexico hospitals and health systems association, presented the legislative requests to address New Mexico's nursing shortage. He stated that the requests are supported by 11 organizations, including his association the New Mexico organization of nurse executives, the New Mexico center for nursing excellence, the association of commerce and industry, the New Mexico nurses association the New Mexico medical society, the New Mexico board of nursing, the New Mexico health resources, the New Mexico CNE articulation group, the New Mexico health care association and the New Mexico association for home and hospice care. The following legislative requests were made:

- Linda Siegel spoke to the crisis being faced in nursing and past funding and the need to increase the number of licensed graduates to allow consistent funding that will allow nursing programs in New Mexico to expand their current capacity for \$2 million;
- Pat Boyle addressed the need to increase the supply of qualified nurse educators through consistent funding for a faculty loan forgiveness program for \$500,000;
- the need to provide direct support to nurses and nursing leadership for ongoing development and mentoring best practices in order to retain nurses by funding a clinical teaching institute through the New Mexico center for nursing excellence for implementation of a pilot program for \$250,000; and
- Jerry Harrison noted that there is a need to provide direct support to nursing, medical and other health care professional students to increase the number of graduates by removing New Mexico income tax from the loan forgiveness programs, loan-for-service programs and the New Mexico health service corporation.

Committee questions and issues raised included what factors affect nursing shortages, including retirements, new needs with population growth and expansion of the use of the lottery fund, the actual number of vacancy positions, the need to pay marketplace salaries and the need for a strategy to address the vacancies.

Clarification was sought as to the total amount of funding needed to support nursing that is being requested of the committee.

Debbie Armstrong, secretary-designate, ALTD, spoke of the reorganization occurring within the department and noted that there is not an administrative cushion to adjust to that impact and that ALTD is requesting an expansion of positions in its executive funding request. ALTD's request is \$7.8 million, with \$4 million of that as expansion and \$3.8 million is to retain current services. She stated that ALTD is contemplating the establishment of a senior trust fund, which would

allow another funding stream targeted at \$25 million and that once created it may take a number of years to get to that level.

Ms. Armstrong then reviewed the following issues:

- the ALTD organizational chart;
- the gold mentor program is looking for additional funds and is at risk of being cut if TANF funds are cut;
- the MedBank program to assist people of any age who live in New Mexico who do not have prescription drug coverage or have used up their benefits;
- an update on the establishment of the aging and disability resource center;
- the model program that improves quality of life for elderly medicaid beneficiaries and those with disabilities, which allows people eligible to receive supportive services through medicaid to direct their own care and live more independently;
- the disability and elderly waiver to serve persons who are eligible both medically and financially for institutional level of care under medicaid;
- \$4.9 million expansion to address the developmental disability waiting list, as required by a lawsuit last year;
- an update on PACE (program for all-inclusive care for the elderly); and
- progress on the brain injury program.

Patsy Trujillo Knauer spoke about the positive aspects of consolidation and collaboration with both the DOH and CYFD.

Committee members shared concerns regarding family members supplying care through the personal care options and the oversight of nursing homes regarding mistreatment of patients and adequacy of staffing. It was clarified that the expansion request of Alzheimer's services is included in the aging network requests, but is not in the base budget of the department.

Karen Wells reviewed the current exhaustive list as to funding priorities and noted that there are a few requests that will be added for tomorrow's committee review.

Thursday, November 18

Ms. Wells reviewed the substantive (nonfiscal) requests list and committee discussion occurred as to the following issues:

- concern with mandating eating requirements in the school systems and mandating regulations for government agencies;
- how the regulation of the use of helmets for all non-motorized transport is overly broad, i.e., horses being included; and
- the logistics of enforcing requiring licensing in rural and isolated areas.

Raul Burciaga, legislative council service (LCS) assistant director for drafting services, presented a summary of preliminary findings as mandated by House Bill 955 for the comprehensive study on health care and health care costs in New Mexico. Mr. Burciaga shared the names of the individuals who worked on the study, including two law students, Mateo

Delgado and Sheila Sievers; Professor Rob Schwartz from the UNM school of law; LCS staff, Mr. Lynch, Mr. Burciaga and Ramona Schmidt; and Patrick Alarid, formerly from the health policy commission (HPC). Mr. Burciaga noted that the lion's share of the work was done by Karen Wells, RN, and Lisa Cacari Stone, Ph.D., and the New Mexico state university economics department headed by Anthony Popp, Ph.D.

Mr. Burciaga reviewed national trends in health care and efforts made in New Mexico to address health care reform efforts. He stated that increasing coverage, improving quality and controlling costs is the three-legged stool on which health care rests and efforts attempting to affect all three have been marginal at best. He suggested the health care reform initiatives that have occurred would best be combined with public health care initiatives.

Ms. Wells and Ms. Cacari Stone spoke about the determination of the private and public costs of health care. Ms. Cacari Stone stated that at the initial meeting by the group in July, two questions were established as the base for the research on costs: *Where it came from? Where it went?* Ms. Cacari Stone reviewed the report, including health care spending categories (state and federal, public and private), the sources contacted for data, uncompensated care, past studies and the lack of a uniform monitoring structure on an annual basis.

Dr. Popp addressed the impact of health care spending on the state through federal spending. He noted that these are preliminary figures that have been refined and will be reanalyzed prior to publication of the report. The input/output analysis between the varying sectors in the economy is used to follow the spending in one industry and the re-spending into other industries, which is the multiplier process. Dr. Popp reviewed the multipliers used, the expenditure classifications, the output turned into multiplier earnings and, ultimately, the jobs created in the state economy.

Mr. Burciaga informed the committee that Minnesota has begun to monitor health care expenditures on a biannual basis to understand the spending of health care and to establish a baseline on spending for policymaking decisions. Mr. Burciaga noted that the original goal of the bill resulting in this study was to establish a baseline for New Mexico.

The presenters stood for questions. Committee members raised questions on the following issues:

- the impact on the cost of health care if federal legislation is enacted regarding the legalization of currently non-legal immigrants in the state of New Mexico;
- what sort of legislation would be required to replicate the Minnesota baseline mechanism and what the funding requirements might entail;
- how to use the report to provide necessary care to all people in the state;
- the difficulty in obtaining accurate data;
- the lack of funding and the impact on requirements from the HSC;
- the cost of not providing care;
- whether it is possible to incentives the collection of data through agencies and associations;
- cost-shifting and the impact of rising costs and the difficulty in tracking; and

- releasing the data to the public and involved entities.

Public comment was made by Ellen Pines, who clarified the difference between the economic impact of Dr. O'Donnell's report and Dr. Pomp's data. She noted that it is important to collect the data but also to act effectively with the data. Ms. Pines stated that the Insure New Mexico! task force, which will meet on Monday, November 22, does not allow public access to documents distributed at the meeting and noted concern with the participating individuals. She encouraged the committee to apply some pressure to make it a more open and participatory process.

Mr. Burciaga then reviewed the national conference of state legislatures' publication addressing state options for expanding health care access. He spoke to numerous options implemented in other states, including catastrophic coverage, providing basic benefits, medical savings accounts, eliminating barriers to private coverages, the Health Insurance Portability and Accountability Act and employer mandates. Mr. Burciaga informed the committee that LCS staff is willing to draft any appropriate bills requested by the committee. The issue of reinsurance is being raised as a possible option.

Ms. Wells continued her review of the committee's legislative proposals, and committee discussion continued.

The meeting was recessed at 5:10 p.m.

Friday, November 19

The committee continued its review and ranking of its 2005 legislative proposals as recommended in the 2004 interim. The matrix is attached.

The matrix for priority funding was distributed and the choices for funding priorities were reviewed. The priorities will be presented to the legislative finance committee on Monday, November 29.

Senator Feldman reminded those in attendance that this is the last meeting for Representative J. Paul Taylor, who was thanked for his commitment and passion to all New Mexicans. Representative Taylor thanked all for their generous words and reminded all that the committee deals with some of the most emotional issues, such as medically fragile individuals and that those individuals depend on the committee members and the providers to take care of them properly. He stated that it is wonderful to see the growth of the committee and commended Mr. Lynch for his steadfast commitment and the individuals who support him such as Mr. Burciaga, Ms. Wells and Ms. Schmidt, as well as the advocates who live with this daily. He thanked all for the heart they have given to the whole committee and its processes and spoke to the wonderful leadership the committee receives through Senator Feldman and her wisdom.

The meeting adjourned at 12:10 p.m.