

MINUTES
of the
FOURTH MEETING
of the
WELFARE REFORM OVERSIGHT COMMITTEE
September 22 and 23, 2008
State Capitol, Santa Fe, NM

The third meeting of the Welfare Reform Oversight Committee (WROC) was called to order by Representative Luciano "Lucky" Varela, chair on Monday, September 22, 2008, at 10:15 a.m. in Room 311 at the State Capitol.

Present

Rep. Luciano "Lucky" Varela, Chair
Sen. Linda M. Lopez, Vice Chair
Sen. Sue Wilson Beffort
Sen. Clinton D. Harden, Jr. (10-22)
Sen. John Pinto
Rep. Jim R. Trujillo

Absent

Sen. Dianna J. Duran
Rep. Antonio Lujan
Sen. Gerald Ortiz y Pino
Rep. Nick L. Salazar
Rep. Shirley A. Tyler
Rep. Gloria C. Vaughn

Advisory Members

Rep. Nathan P. Cote
Rep. Miguel P. Garcia
Rep. Larry A. Larranaga

Rep. Candy Spence Ezzell
Rep. Daniel R. Foley
Sen. Steven P. Neville
Sen. John C. Ryan
Rep. Edward C. Sandoval

Other members in attendance:

Speaker Ben Lujan
Senator John Arthur Smith

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

Staff

Jennie Lusk
Carrie McGovern
Karen Wells

Guests

The guest list is in the meeting file.

Monday, September 22

Work Retention, Safeguards Against Improper Denial of Benefits and Related Issues

Katie Falls, deputy director of the Human Services Department (HSD), gave a detailed talk, keyed to respond to each of the Center on Law and Poverty's (CLP) allegations of the department's handling of Medicaid applicants. HSD general counsel Paul Ritzma, Ted Roth and Steven Rendazzo accompanied Ms. Falls. Her handout is in the meeting file. The only criticism Ms. Falls did not address was the CLP's concern about grandparent eligibility for temporary assistance for needy families (TANF) funds, which she promised to address at a later date. In a September 18, 2008 letter to the committee, the CLP expressed these concerns:

- (1) the department's processing of emergency food stamps for very poor families is inadequate at least in part because of "outsourcing" electronic benefits transfer (EBT) cards;
- (2) the department's most important notices are not translated into Spanish;
- (3) lags in processing can cause an improper and automatic denial of food stamp benefits; and
- (4) fewer very poor families are on Medicaid than there were under the previous administration.

These concerns were shortened versions of the requests the CLP distributed in the July WROC meeting urging the committee to:

- (1) ensure that the HSD implement safeguards that eliminate improper auto-denial, especially ensuring that the files of TANF-eligible clients are not subject to autoclosure;
- (2) ensure that the HSD ease language barriers (including for Navajo and Vietnamese speakers) by publicizing the right to interpretation services and sending written communications in Spanish when the recipients speak only Spanish;
- (3) ensure that the department improve screening for emergency food stamps; and
- (4) put very low-income New Mexicans back on Medicaid.

In addition, the CLP requested that the HSD disregard guardians' income in determining whether children are eligible for TANF funds and that it not curtail benefits or eligibility for expensive recipients of Medicaid, such as elderly or disabled New Mexicans, while increasing the enrollment of children.

As to concern (1), the handling of emergency or "expedited" food stamps applications, an independent audit taken pursuant to the *Deborah Hatten Gonzales* case indicates that 97.22% of applications were approved within the 29-day period for regular applications and six days for expedited applications. Also, although the CLP asserts that half of the food stamp applicants leave not knowing what additional documents they may need to complete an applications file, the HSD asserted that 94% of applicants leave knowing exactly what information is still missing.

Currently, HSD staff send applicants home with an EBT card that only needs to be activated when the amount of the food stamp award is determined. There is no delay due to mailing of a card, for instance, since applicants leave with one. Applicants who are not eligible simply have a card with no funds attached.

Representative Trujillo raised with Ms. Falls the fact that one of his constituents became discouraged in dealing with bad service in Santa Fe, and Ms. Falls acknowledged that there are problems. However, she said that significant new procedures are being put in place in the Santa Fe and Albuquerque offices — the two worst in terms of — that should reduce the numbers of complaints and the need for complaints.

As to concern (2), the availability of Spanish-language documents, Ms. Falls acknowledged that not all forms are in Spanish, but that the HSD is paying for a "language line" for translation services and is trying to improve services. It is developing signs to post in HSD offices. There is a problem as to sending appropriate individualized notices to Spanish-speakers, since the old ISD-2 computer system, which has been in place since 1994, cannot perform the function to complete them in Spanish. However, forms do include a message saying to contact caseworkers where there is a language barrier. Bilingual caseworkers receive a dime more per hour for their language skills. Santa Fe has a dozen Spanish-speakers in the office, just under half of the staff.

The HSD is asking for a large multi-year appropriation to replace the old ISD-2 system in the coming fiscal year in order to solve this and other problems.

As to concern (3), the denial of benefits because of the HSD's automated system, Ms. Falls acknowledged that there are auto-denials, but that the system is set up to ensure that applicants receive the full amount — not a shorter amount — of time to provide documents proving eligibility. Clients are able to request additional time, when necessary, to bring in documents. She said that failure to make timely denials of benefits causes the state to receive federal penalties. She said that the numbers the CLP uses to quantify how many applicants are denied benefits due to failures to provide necessary information are not accurate. Instead, as the HSD has informed the CLP, 99.21% of Medicaid applications are processed in a timely way, with complete information provided.

As to concern (4), low-income New Mexicans on Medicaid, Ms. Falls said that Medicaid

is at its peak enrollment — 443,931 persons in May 2008. She agreed that the state's poorest families need their benefits as quickly as possible.

Speaker of the House Ben Lujan, who joined committee members, asked a series of questions on food stamp eligibility and outreach to Native American communities. In response to his questions, Ms. Falls said that the most recent data — which dates from 2004 through the United States Department of Agriculture (USDA) — showed 250,000 persons on food stamps in the state. Senator Lopez requested information on new federal food stamp requirements. A document reviewing those changes is attached to these minutes. The HSD has put additional Native American positions in field offices to determine eligibility in Crownpoint, Shiprock, Gallup and Acoma-Laguna and at the Indian Health Service offices in Santa Fe and Albuquerque and at the Southwest Indian Polytechnic Institute. The HSD is working with LIHEAP customers to reach low-income New Mexicans and remind them that they may be eligible for food stamps.

ValueOptions Follow-Up

Legislative Finance Committee (LFC) performance auditor Charles Sallee and analyst Brent Stevens reported to the committee on the issue of overpayment by the HSD to ValueOptions, its behavioral health contractor for mental health and substance abuse services statewide. Peter Cubra, co-chair of the Bernalillo County Behavioral Health Collaborative, had reported in the previous WROC meeting that a \$20 million overpayment was made to ValueOptions.

Mr. Sallee, whose two audits of the behavioral health care programs had previously been discussed by the committee, explained where such a figure could have been derived. Nonetheless, he still questions only two payments or forms of payment: (1) an \$11 million payment made in 2006 by the HSD to ValueOptions that appeared unrelated to performance under the contract; the approval process for the contract amendment that allowed the payment did not include a clear delineation between what areas staff were authorized to negotiate; and (2) prepaying "per member per month" amounts to the contractor, as the practice appears contrary to best practices requiring that services be delivered prior to payment — especially since prepayment reduces the leverage the state has to require the contractor to perform adequately or prove that it actually incurred costs.

Staff were instructed to request an opinion by the attorney general on the propriety of the two payments or types of payment and to ask the state auditor to consider an audit.

Early Childhood Programs

Dorian Dodson, secretary, Children, Youth and Families Department (CYFD), announced to the committee that the CYFD is creating a new division entirely for early childhood education. The former family services division has been changed as of September 1 by executive order to the "Early Childhood Division", which will serve children ages 0 to 13 but will concentrate on services for those ages 0 to 5. Diana Gonzales is acting director. Home visiting services have moved to the new division and Dan Haggerty is concentrating on improving the quality of child care services.

The CYFD agreed to report on the types of services available in each New Mexico town, who has applied to provide services and what kinds of quality can be had in each location. Senator Harden asked why so few programs are available in northeastern New Mexico, and the secretary said the CYFD had funded 100% of those who applied. The CYFD is working with area residents to develop a plan to provide more services, including more recruitment of child care providers willing to apply for pre-K funding, in the area. Efforts to improve accessibility, availability and quality are continuous for the CYFD. The senator emphasized that early childhood education is essential to providing a way out of poverty and therefore is of special concern to committee members.

The committee asked about procedures for expanding eligibility for child care subsidies from 165% to 200% of the federal poverty level (FPL). Secretary Dodson said that the CYFD is doing aggressive outreach to find children who otherwise might not be in child care and that every child is funded for 165% of FPL. There were a total of 22,245 children receiving child care subsidies in New Mexico in January 2008. Of the appropriation of \$13 million for child care passed in the recent special session, some \$5 million will be used for keeping child care subsidies in place. The other \$7.2 million is for expansion. Because the CYFD child care assistance program accounts for approximately 26% of the child care services purchased in New Mexico, it is the primary entity driving the cost of care; further, the cost of care is rising with the quality of care, as more providers better educate teachers in child development.

Adult Basic Education Programs (ABE)

Pam Etre-Perez, state director of ABE, and Dr. William Flores, deputy secretary, Higher Education Department (HED), told the committee that the United States has the lowest literacy rate of all industrialized nations. It is common for people here to have been educated only through eighth grade, which is uncommon elsewhere in the developed world.

The HED's goal is to establish a seamless system for early childhood education, moving from earliest years to elementary and secondary schools and finally to college. Job opportunities are severely restricted for a person without a high school education, so funding for general equivalency diplomas (GED) and English language skills are especially important. Of those who have graduated with a GED in New Mexico, more than half have met their goals. Without a GED or a high school diploma, a person can expect to earn \$7.33 per hour. Having the GED or diploma raises that sum to \$10.78 on average; some college, to \$12.92 per hour; and a bachelor's degree, to \$19.38 per hour. Even though ABE programs help graduates to earn more money, and even though having persons earn a good wage helps to generate dollars for the economy, there remains a huge unmet need for ABE in New Mexico, according to Ms. Etre-Perez. There are over 400,000 persons eligible for ABE, but only 5% of those are able to enroll.

This year, the department will ask for \$2.5 million in general fund appropriations. Of this, \$1.3 million is earmarked to bring programming to those already on a waiting list; \$1.1 million to increase ABE enrollment by 10%; and \$100,000 for a curriculum specialist.

Senator Beffort, who attended a higher education conference at New Mexico Tech, noted that the only way to raise New Mexico's education level is to target adults. She suggested that the committee may want to encourage the legislature to make changes to the lottery scholarship to enable more students to attend colleges. On questioning by Representative Garcia, Ms. Perez said that GED tests are still administered by the Public Education Department (PED) and not by the HED.

Dr. Flores, who was provost at the New Mexico State University, emphasized to the committee that dropouts cost taxpayers \$1.5 billion annually in public benefits and lost wages. In addition, he noted that ABE is a bargain at \$515 per student versus approximately \$6,000 per student during kindergarten through twelfth grade and over \$12,000 per student on average for higher education.

Representative Trujillo asked about HED's coordination with work force training, and Dr. Flores said that HED is now moving toward working more closely with local work force development boards. Secretary Reed Dasenbrock has been asked by the Legislative Education Study Committee to submit a finance plan showing how ABE can transfer from the HED the role of helping students successfully enter the work force. The HED is working with the ACHIEVE Institute to integrate higher standards in high schools and to foster better coordination between colleges and the state's career services programs. In addition, Dr. Flores said that the HED is working with the PED to identify students ages 16 to 20 who drop out and get a GED with an eye to encouraging them to stay in school while earning college credits.

Chairman Varela asked for a report on ways HED and the Workforce Solutions Department can better work together to ensure that the state supports adult education as strongly as it supports other education.

Holly Harper, a GED program graduate who now attends the University of New Mexico (UNM)-Valencia campus, shared her story of arriving in New Mexico a decade ago with a son and two suitcases. Today, she and her son both work in the GED program. Ms. Harper called the GED program "life-changing" because pursuing her certificate taught her how to set goals and how to deal with systems.

Senator Beffort asked that the committee consider her position that GED instructors should not have to hold a bachelor's degree in order to teach and that only if people are failing GED course work should the additional requirement for an undergraduate degree be imposed. A short memo on the issue is attached to these minutes.

Child Care from the Providers' Points of View

Donna Fletcher, Chrissy Jeter and Rebecca Dow addressed the committee, sharing with it their business concerns with the changes required by the CYFD. They said the 250 licensed providers in the state have now trained 2,500 potential staffers in the 45-hour entry-level course work required of daycare centers. Shorter requirements are being accepted at some sites, and 16 hours may be accepted from online course work.

They thanked committee members for helping to extend the eligibility for child care subsidies from the state to families up to 200% of the FPL.

Ms. Jeter asked that committee members support an increase in the reimbursement rate for providers. Ms. Dow agreed and said that her school is running at a financial deficit because of the rate. Providers are struggling, especially as more of their teachers are better-trained and earn a "five-star" rating. The schools do not want to hire less-qualified teachers, but are having difficulty in meeting the salary needs of well-qualified teachers, especially with such low reimbursement rates. Ms. Fletcher said that private providers cannot afford to pay for benefits for teachers.

Chairman Varela noted that the legislature had appropriated more funding for reimbursement rates — but that the funding was vetoed by the governor. Representative Varela wants more money for the children's budget, he said.

Committee members discussed ways to help private child care providers, among them:

- * exempting them from gross receipts tax when providers accept state-subsidized children as students;

- * using capital outlay money for private provider vehicles;

- * repealing the "sunset" provision by which public and private pre-K programs were to remain at approximately 50% each of the market;

- * requesting that the appropriate agency revisit its plan to require private providers to purchase new buses rather than vans, especially since safety has not been an issue;

- * exempting private providers from having to hire "highly qualified" teachers, defined as those with an undergraduate degree, at a minimum; and

- * providing state funds for private child care providers.

Adjournment

The committee adjourned at noon.