

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

**December 7, 2018
State Capitol, Room 322
Santa Fe**

The ninth meeting of the Legislative Health and Human Services Committee (LHHS) was called to order by Representative Deborah A. Armstrong, chair, at 1:24 p.m. on December 7, 2018 in Room 322 of the State Capitol in Santa Fe.

Present

Rep. Deborah A. Armstrong, Chair
Sen. Gerald Ortiz y Pino, Vice Chair
Sen. Bill B. O'Neill
Rep. Elizabeth "Liz" Thomson

Absent

Rep. Gail Armstrong
Rep. Rebecca Dow
Sen. Mark Moores
Sen. Cliff R. Pirtle

Advisory Members

Rep. Joanne J. Ferrary
Rep. Miguel P. Garcia
Sen. Linda M. Lopez
Sen. Cisco McSorley
Sen. Howie C. Morales
Sen. Mary Kay Papen
Rep. William B. Pratt
Sen. Nancy Rodriguez
Rep. Patricia Roybal Caballero
Sen. Bill Tallman
Rep. Christine Trujillo

Sen. Gay G. Kernan
Rep. Tim D. Lewis
Rep. Rodolpho "Rudy" S. Martinez
Rep. Angelica Rubio
Rep. Nick L. Salazar
Rep. Gregg Schmedes
Sen. William P. Soules
Sen. Elizabeth "Liz" Stefanics

Guest Legislators

Sen. Jacob R. Candelaria
Sen. Candace Gould

Staff

Michael Hely, Staff Attorney, Legislative Council Service (LCS)
Christopher Pommier, Staff Attorney, LCS
Karen Wells, Contract Staff, LCS

Minutes Approval

Because the committee will not meet again this year, the minutes for this meeting have not been officially approved by the committee.

Guests

The guest list is in the meeting file.

Handouts

Handouts and other written testimony are in the meeting file.

Friday, December 7

Welcome and Introductions

The chair welcomed members of the audience. Committee members introduced themselves.

Medicaid Buy-In: Final Report of Feasible Options for New Mexico

Patricia M. Boozang, senior managing director, Manatt Health, and Chiquita Brooks-LaSure, managing director, Manatt Health, were invited to address the committee. Ms. Boozang described the project for which Manatt was engaged. Phase one involves development of a paper, which was handed out in the meeting, that evaluates options for a Medicaid buy-in program for New Mexico. Manatt is now engaged in phase two of the project, which is being conducted in partnership with Wakely Consulting. This phase involves a quantitative assessment of specific state options. The time line for completion was identified. The goals of the study are to identify options to increase coverage and reduce the uninsured rate in the state, to increase affordability of care while supporting provider reimbursement rates and to simplify health care coverage for beneficiaries. She acknowledged that it is unlikely that all goals can be completely met.

Ms. Boozang described the landscape of the uninsured in New Mexico, 88% of whom are under 400% of the federal poverty level (FPL). She described a situation called a "family glitch", in which a family member is able to obtain health insurance through an employer, but which then prevents other family members from obtaining subsidies for coverage.

Ms. LaSure described four buy-in options: 1) a targeted Medicaid buy-in; 2) a qualified health plan public option; 3) a basic health program; and 4) a Medicaid buy-in for all. She clarified whether the options could be offered on the New Mexico Health Insurance Exchange (NMHIX), through a Medicaid waiver, or a combination of both. She discussed the eligibility and details of the modeling that is under way in phase two of the study, including eligibility, benefits, premiums and cost-sharing or deductibles. Various potential enrollment scenarios were described. It is projected that an estimated 88,000 individuals could enroll and as many as 17,000 immigrants could potentially enroll. Families and children in the family glitch and other unsubsidized categories were addressed. Ms. LaSure estimates that a proposed subsidy program would require approximately \$18 million to cover the cost-sharing provisions. Ms. Boozang described a time line for completion of next steps.

Committee members had questions and made comments as follows:

- whether the enrollment projections include all four options: no, they include the uninsured only in a model that does not require a waiver;
- whether Manatt recommends beginning with option one, which could cost New Mexico \$59 million to fund: yes;
- whether option one affects the NMHIX: only minimally;
- whether there is any likelihood that the specific funding needs will be known in time for the 2019 session: yes;
- whether additional information regarding various uninsured populations is available: yes, this will be shared with the committee;
- whether the estimates take Medicaid provider reimbursements into consideration: this is part of what is being studied in phase two;
- an observation that outreach efforts would probably identify some who are Medicaid eligible but not yet enrolled and that an increase in Medicaid enrollees should be anticipated;
- an observation that marketing should focus on increasing participation by those who are eligible to enroll through the NMHIX;
- whether the study will clarify who does or does not qualify for subsidies: estimates include those who are currently uninsured and who are at or above 400% of the FPL but who, under this proposal would be able to buy insurance at a lower rate on the NMHIX;
- an observation that individuals who apparently have no other option to purchase insurance are actually now eligible to purchase insurance through the New Mexico Medical Insurance Pool;
- whether recommendations will include implementation costs: no;
- a concern that the market may be flooded with individuals obtaining insurance for the first time and who could have long-untreated health care needs. Abuko Estrada, staff attorney, New Mexico Center for Law and Poverty, noted that a coalition is working with both the Legislative Finance Committee (LFC) and the incoming administration on the impact of many issues that Manatt is not charged with studying;
- clarification regarding the premium cost to those over 400% of the FPL: the estimated cost is around \$421 per month, which is 47% lower than all options available today;
- whether New Mexico's Medicaid program currently adjusts payments to managed care organizations (MCOs) to reflect those caring for higher risk populations: most states do that;
- how the proposal addresses the concerns of health care providers: rates would have to be adjusted for individuals moved from the commercial market into this program; and
- concern that the timing is problematic and that it will likely take a full year before it is reasonable to implement the program fully. Mr. Estrada stated that this is what the coalition is anticipating.

Public Comment

Pat Bartels, Progressive Democrats of New Mexico, expressed concerns regarding provider rates and that a lack of data at present might make decision making premature. The chair noted that a request for data from insurers is planned.

Herbert Hoffman, retired clinical psychologist, Progressive Democrats of New Mexico, observed that the presentation was overwhelming and difficult to absorb. He thinks it is a shortfall of the proposal that it does not overtly require universal enrollment. He supports the concept of a federal Medicare-for-all approach.

Lan Sena, New Mexico Together for Healthcare, has previously shared her personal story of health care coverage challenges, including multi-generational cancer. She is hopeful that her story will inspire the committee to do whatever it takes to support an avenue to affordable, quality health care.

Dr. Juliette Sweet, naturopathic medicine practitioner, read a letter from a soon-to-graduate student, Hanna McCune. The letter makes a point that additional primary care providers will be essential under an effort to expand health care coverage to all residents.

Dan Weaks, lobbyist, New Mexico Hospital Association (NMHA), provided the committee with a brief update of progress on a tax bill that the association supports, emphasizing that this is not a provider tax. The bill will raise approximately \$125 million, he said. The NMHA would like dedicated uses for this money, including establishment of a Medicaid trust fund and restoration of funding that was cut several years ago that disproportionately harmed rural hospitals.

The NMHA also favors additional support for behavioral health services and programs. The NMHA would like some funds dedicated to expansion of telehealth in several specialties. Finally, the NMHA is looking to fund workforce recruitment and retention. Mr. Weaks said that the federal Centers for Medicare and Medicaid Services is considering eliminating the safety net pool, a proposal the NMHA is fighting, by offering alternative methods of support. The NMHA is working with the New Mexico Nurses Association on nurse staffing issues. The NMHA supports safe-staffing legislation at this point, having participated in a task force on that issue. The NMHA is working with MCOs on reimbursement and billing issues, including surprise billing problems.

Dick Mason, Health Action New Mexico, pointed out that a federal waiver pursuant to Section 1332 of the federal Patient Protection and Affordable Care Act (ACA) may require state legislation to direct the administration to apply for the waiver.

Dr. Rick Madden, family physician, asserted that physicians by and large support a Medicaid buy-in approach. He asserted that the chipping away of the ACA will demand state adoption of some efforts to cover people.

Ruth Hoffman, Lutheran Advocacy Ministry, sees the Medicaid buy-in as a positive step to get needed coverage for those who otherwise cannot afford it.

Tom Horan, lobbyist for the City of Albuquerque, notes that Albuquerque supports the Medicaid buy-in.

Charlie Marquez, New Mexico Health Care Association (NMHCA), noted that the association intends to bring back the provider-fee bill to support nursing home reimbursement. The NMHCA is reevaluating last year's bill and anticipates some changes but plans to put it forward.

David Simon read a letter provided by Presbyterian Healthcare Services regarding an incident of abuse in a hospital setting. She has personally experienced a criminal assault in a hospital but received a poor response from the Department of Health's (DOH's) Division of Health Improvement. She would like to follow up with any legislator willing to work with her. She feels the statutes are not being enforced.

Tisha Brick, parent of a student in need of medical cannabis, spoke in favor of changes to the Lynn and Erin Compassionate Use Act regarding access to cannabis in schools. She stated that she has encountered hostile reactions from police, state hearing officers and the school district and is desperate to have this issue addressed.

Connie Vigil, Greater Albuquerque Business Alliance, spoke about the need for a new homeless shelter. She hopes a bill can be passed to allow the courts to direct homeless people with drug addictions to receive drug treatment on an outpatient basis. She introduced Roger Barback, who testified that he is currently homeless. He told the committee that he had been living in his car, but it was stolen. He testified to the prevalence of discarded needles. He supports the need for a court-ordered rehabilitation program.

The chair entertained a motion to approve the minutes of the November 8-9, 2018 meeting. Representative Thomson made the motion, and Senator Ortiz y Pino seconded it. The motion was amended to recognize that Representative Pratt was in attendance at the meeting. The motion as amended received unanimous approval.

The chair noted that the Family First Prevention Services Act (FFPSA) Subcommittee has prepared an executive summary, which was distributed.

The chair announced that the president pro tempore of the senate, Senator Papen, appointed Senators McSorley and Gould as voting members for this meeting.

Review of 2019 Legislation for Endorsement

Mr. Hely and Mr. Pommier brought the following bills to the committee for consideration of endorsement.

Bill #1: .210935.5 would amend the Lynn and Erin Compassionate Use Act to allow medical cannabis to be used and possessed in school settings. With some exceptions, it requires schools to allow students to have medical cannabis administered to them in school settings. The bill was endorsed following a motion by Representative Thomson and a second by Senator Ortiz y Pino, which motion passed without opposition.

Bill #2: .211022.2 would provide for licensure and regulation of naturopathic doctors. Representative Ferrary agreed to include admitting privileges for nurse practitioners after introduction of her bill relating to nurse practitioners. Senator Ortiz y Pino moved, and Representative Deborah A. Armstrong seconded the motion, to endorse the bill. The committee voted unanimously to support the motion.

Bill #3: .211063.5 would enact the Caregiver Leave Act and the Public Employee Caregiver Leave Act to allow employees with accrued sick leave to use that leave for family caregiving responsibilities. This bill has been modified and brought back for consideration following discussion at the LHHS meeting of November 9. The sponsor of the bill, Senator O'Neill, distributed to the committee language for an additional change to Section 8 of the bill. Representative Deborah A. Armstrong moved that the bill be endorsed with the addition of the change to Section 8. Senator O'Neill seconded the motion to endorse the legislation as amended. The motion passed without objection.

Bill #4: .211078.1 would require the Behavioral Health Services Division of the Human Services Department (HSD) to create a program to provide interventions designed to reduce recidivism for nonviolent offenders with behavioral health disorders who are in state, county and municipal detention centers. The bill contains an appropriation of \$1.5 million to implement the program. Following a motion by Representative Thomson and a second by Senator Ortiz y Pino, the bill was endorsed without opposition.

Bill #5: .211216.1 would amend a section of the Vital Statistics Act to provide for changes in sex designation in vital records. The bill was brought back to the committee for further consideration following discussion at the meeting of November 9. Without opposition, a motion to endorse the bill made by Senator Ortiz y Pino, with a second by Representative Deborah A. Armstrong, passed, and the bill was endorsed by the committee.

Bill #6: .211352.1 would provide a gross receipts and governmental gross receipts tax deduction for feminine hygiene products. It requires the Taxation and Revenue Department to report to the legislature on the impact of the deduction. Representative Thomson moved, and Representative Deborah A. Armstrong seconded the motion, to endorse the measure. The motion passed without opposition.

Bill #7: .211353.1 would require insurance companies and Medicaid to cover artery calcification screening for certain individuals at high risk of cardiovascular disease. Representative Thomson

made a motion to endorse the bill. Senator Ortiz y Pino seconded the motion. Without objection, the motion to endorse was passed.

Bill #8: .211354.1 would ban insurance discrimination against professional art therapists for covered services. The bill was endorsed following a motion by Senator McSorley and a second by Representative Thomson. The motion passed without objection.

Bill #9: .211351.2 would change the membership and duties of the statutory Developmental Disabilities Planning Council. The bill was endorsed following a motion by Representative Thomson to endorse and a second by Senator McSorley. The motion passed without objection.

Bill #10: .211441.1 would appropriate \$2 million to the University of New Mexico (UNM) Health Sciences Center to fund Project ECHO, which is intended to restore prior cuts in funding. The bill was endorsed following a motion to endorse by Representative Thomson and a second by Senator Ortiz y Pino. The motion passed without objection.

Bill #11: .211439.1 would appropriate \$500,000 to the Brain Injury Services Fund to support brain injury services statewide. The appropriation is intended to supplement the funding derived from moving violation fines. Following a motion by Representative Thomson and a second by Senator Ortiz y Pino, the bill was endorsed without objection.

Bill #12: .211503.1 would appropriate \$500,000 to fund a study of sexual assault on people with disabilities. Representative Thomson moved, and Senator Ortiz y Pino seconded the motion, to endorse. Without objection, the motion to endorse was approved by the committee.

Bill #13: .211504.1 would require the DOH to establish a grievance procedure for the prompt and fair resolution of concerns of clients with developmental disabilities relating to consent for treatment. Following a motion by Senator Ortiz y Pino and a second by Representative Thomson, the motion to endorse was approved by the committee without objection.

Bill #14: .211588.1 would appropriate \$125,000 to the Crime Victims Reparation Fund to provide services for victims of human trafficking. After a recommendation to increase the appropriation to \$145,000, Representative Thomson made a motion to endorse the appropriation as amended. Senator O'Neill seconded the motion, which passed without objection.

Bill #15: .211591.1 would provide equal access to payment and services between mail-order pharmacies and community pharmacies. Following a motion by Senator Ortiz y Pino and a second by Representative Thomson, the bill was endorsed without objection.

Bill #16: .211620.1 would provide a safe harbor for registered nurses who believe that they have been requested to engage in practices that would violate their duties to patients or to uphold professional standards. The bill requires employers to develop a process for nurses to invoke safe harbor and prohibits retaliation by employers against those nurses. Senator Ortiz y Pino

made a motion to endorse the bill, and Senator O'Neill seconded the motion. The bill was endorsed without objection.

Bill # 17: .211654.2 would repeal the Maternal and Child Health Plan Act and enact the County and Tribal Health Councils Act. Some county and tribal health councils' roles are clarified in the bill. Following a motion by Representative Thomson and a second by Senator McSorley, the motion to endorse was approved without objection.

Bill #18: .211682.2 would appropriate \$2 million to the Children, Youth and Families Department (CYFD) to fund services for victims of domestic violence. Following a motion by Representative Thomson and a second by Senator O'Neill, the committee voted without objection to endorse the bill.

Bill #19: .211688.1 would appropriate \$25 million to the DOH and require the DOH to reduce the waiting list in the Developmental Disabilities Waiver Program. A motion to endorse made by Representative Thomson, seconded by Senator Ortiz y Pino, was approved without objection.

Bill #20: .211698.2. This bill, the County and Tribal Health Councils Act, is identical to Bill #17, .211654.2. After discussion, the committee declined to take action to endorse this measure, choosing to support only one of the two identical bills.

Bill #21: .211737.1 would appropriate \$360,000 to the UNM Health Sciences Center to support programs that coordinate nursing education using a common curriculum. A motion was made by Senator Ortiz y Pino and seconded by Representative Thomson to endorse the bill. The motion passed without objection.

Bill #22: .211742.1 would appropriate \$1.2 million to UNM to fund residencies. Following a motion by Senator Ortiz y Pino and a second by Representative Thomson, the bill was endorsed without objection.

Bill #23: .211766.1 would appropriate \$3.3 million to the Crime Victims Reparation Commission for services for victims of sexual assault. Senator O'Neill made a motion to endorse the bill, and Representative Thomson seconded the motion. The motion passed without objection.

Bill # 24: .211780.1 would appropriate \$1 million to the DOH to support tribal and county health councils to restore funding that has been diminished in recent years. The motion to endorse was made by Senator Ortiz y Pino and seconded by Senator O'Neill. It was adopted without objection.

Bill # 25: .211910.1 would appropriate \$200,000 for cerebral palsy detection and amends a previously endorsed measure to extend the time the work group has to complete the work required. Senator Ortiz y Pino made a motion to remove the previous endorsement made on

November 9 of .211318.4 and to endorse this measure in its place. Representative Deborah A. Armstrong seconded the motion, and the committee voted without objection in favor of endorsing .211901.1 and removing the endorsement of .211318.4.

Additional bills presented included the following:

Supplemental Bill #1: .211108.1 would appropriate \$6 million to the HSD to raise wages for workers who provide personal care services directly to Medicaid recipients. Following a motion by Senator Ortiz y Pino and a second by Senator O'Neill, the bill was endorsed without objection.

Supplemental Bill #2: .211796.1ms would enact the Psychology Interjurisdictional Compact to regulate the practice of telepsychology in the state and across state borders. Senator McSorley made a motion to endorse the bill, and Senator Ortiz y Pino seconded it. The motion to endorse passed without objection.

Supplemental Bill #3: .211309.1 would limit the changes that may be made to prescription drug formularies within certain time frames in health coverage and provider contracts. Representative Thomson made a motion to endorse the measure, and Senator O'Neill seconded it. The committee approved the motion without objection.

At the request of the chair, Senator McSorley summarized the report on the FFPSA Subcommittee. The report includes recommendations and changes in the federal Social Security Act, Title IV-E, to fund prevention services and foster care for children. Approval of the recommendations will ensure that the CYFD meet deadlines and provide services to allow New Mexico to benefit from the new laws. Senator McSorley asserted that the state needs to make changes and act quickly to obtain the funding provided by this new federal law. The chair reminded members that the LHHS requested the New Mexico Legislative Council to establish this subcommittee. At the request of the chair, Senator McSorley made a motion to accept the report, incorporate it into the minutes of this meeting and present it to the LFC and the new administration. The motion was seconded by Representative Thomson, and it passed without objection.

Adjournment

There being no further business before the committee, the LHHS adjourned for the interim at 5:20 p.m.