

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

**June 5, 2015  
Room 322, State Capitol  
Santa Fe, New Mexico**

The first meeting of the Legislative Health and Human Services Committee (LHHS) was called to order by Senator Gerald Ortiz y Pino, chair, on June 5, 2015 at 9:00 a.m. in Room 322 of the State Capitol.

**Present**

Sen. Gerald Ortiz y Pino, Chair  
Rep. Nora Espinoza, Vice Chair  
Rep. Deborah A. Armstrong  
Rep. Miguel P. Garcia  
Rep. Tim D. Lewis  
Sen. Benny Shendo, Jr.

**Absent**

Sen. Gay G. Kernan  
Sen. Mark Moores

**Advisory Members**

Sen. Craig W. Brandt  
Sen. Jacob R. Candelaria  
Rep. Gail Chasey  
Sen. Linda M. Lopez  
Rep. James Roger Madalena  
Sen. Cisco McSorley  
Sen. Howie C. Morales  
Sen. Bill B. O'Neill  
Sen. Mary Kay Papen  
Rep. Patricio Ruiloba  
Sen. William P. Soules  
Sen. Mimi Stewart  
Rep. Don L. Tripp  
Rep. Christine Trujillo

Sen. Sue Wilson Beffort  
Rep. Doreen Y. Gallegos  
Sen. Daniel A. Ivey-Soto  
Rep. Terry H. McMillan  
Sen. Nancy Rodriguez  
Sen. Sander Rue

**Staff**

Michael Hely, Legislative Council Service (LCS)  
Shawn Mathis, LCS  
Diego Jimenez, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts and other written testimony are in the meeting file.

**Friday, June 5**

Committee chairs announced that starting on time and keeping on schedule would be a priority in the coming interim. Later, they also explained that with respect to the committee's interim agenda, priority would be given to matters likely to be the subject of legislation in the coming 30-day session, specifically: budgets, appropriations and revenue bills; bills drawn pursuant to special messages of the governor; and bills of the last regular session vetoed by the governor.

**Review of LHHS Legislation (2015 Regular Session)**

A review of the fate of 2015 legislation endorsed by the committee during the last interim was the first agenda item, including a review of the seven long-term initiatives that were recommended by last year's Behavioral Health Subcommittee and endorsed by the committee. (See handouts.) Also discussed were appropriations to the Administrative Office of the Courts and to the Human Services Department (HSD), contingent upon federal approval of the Tribal-State Class III Gaming Compact approved in the First Session of the Fifty-Second Legislature. At the request of the committee chair, staff has obtained clarification that if an appropriation is contingent, it is not allocated or funded unless and until the contingency comes to pass; thus, there is no budget impact if the contingency does not come to pass.

**Health and Human Services Budgetary Update**

Next, the committee received an update on the state's health and human services budget from Legislative Finance Committee (LFC) staff. (See handout.) Items discussed included:

- a projected \$37 million shortfall for fiscal year 2016 in the HSD's budget;
- "pockets" of major behavioral health service disruptions statewide since the 2013 credible allegations of fraud against 15 provider agencies;
- a lack of care coordination among Medicaid managed care organizations (MCOs). Only 2% of enrollees receive care coordination;
- right-sizing the Department of Health's (DOH's) budget to meet health needs and take advantage of expanded Medicaid;
- whether appropriate outcome measures are being used on agency report cards;
- an assertion that noncompetitive salaries for DOH staff nurses are at least partially due to the veto of a 3% salary increase for DOH nurses and that the DOH's inability to compete for nurses to hire means an increased reliance upon contract nurses;
- the extent and cost of the DOH's use of contract nurses;

- whether a \$4 million supplemental appropriation to the DOH will be sufficient for anticipated expenses through the end of 2015;
- DOH employee retention;
- cuts in funding to sexual assault services;
- the Children, Youth and Families Department's (CYFD's) progress in filling vacancies through "rapid hiring", resulting in a recent 2% decrease in vacancies;
- the numbers of reported child abuse and neglect cases that the CYFD has investigated is only 87.3%, whereas the national standard is 95%; and
- the CYFD now has close to 19,000 children on child-care assistance rolls.

**Update on Centennial Care and Behavioral Health Services for Medicaid Clients; Interagency Behavioral Health Purchasing Collaborative (IBHPC) Strategic Plan**

Following the committee's lunch break, Secretary of Human Services Brent Earnest, accompanied by various HSD staff members, presented an update on Centennial Care and behavioral health services for Medicaid clients. (See handouts.) Secretary Earnest informed the committee that Wayne Lindstrom, Ph.D., the director of the department's Behavioral Health Services Division who was scheduled to present the IBHPC's strategic plan, was unable to attend due to a family emergency.

According to Secretary Earnest, the HSD has continued to see "significant growth" in the use of behavioral health services by Medicaid recipients. Key to this increase are the Medicaid expansion and the reformation of the state's Medicaid program, known as Centennial Care. He explained that the major change in the state's Medicaid program involves the requirement that MCOs provide care coordination for every covered life. In addition, Secretary Earnest reported "high levels of satisfaction" from patient surveys.

Secretary Earnest also highlighted recently appropriated funding for crisis stabilization and triage units, "which should get people into the right [treatment] setting", and he told the committee that the HSD is working with Dona Ana County and Bernalillo County to establish these resources. He also informed the committee that \$1 million of the HSD's budget would be spent on an investment zone strategy, an approach that is being utilized by the CYFD.

Finally, Secretary Earnest informed the committee of three areas of focus for his agency going forward: 1) updating HSD regulations (including regulations to allow reimbursement of practitioners that are not independently licensed but that are supervised); 2) changes in provider payment levels; and 3) work force.

Committee members questioned Secretary Earnest on the following matters:

- the data used by the HSD to conclude that substantially more Medicaid recipients are receiving behavioral health services;
- the use of extrapolation in resolving alleged overpayments by the HSD to Medicaid providers;

- the cost of Medicaid expenditures on prescription drugs, and the effect that psychiatric medications have on the Medicaid budget;
- the departure of the behavioral health agency, La Frontera, and its cooperation with the HSD on making a transition;
- whether new behavioral health provider agencies have been identified to replace departing and departed behavioral health provider agencies;
- the status of behavioral health providers for whom the attorney general had completed investigations after no finding of fraud;
- the number of the HSD's tribal consultations in the past year;
- the apparent discrepancy between the "significant" increase in recipients receiving behavioral health services and the relatively small increase in associated costs;
- the higher rates of population served in some counties compared to others;
- rates of hospitalization, arrests, incarceration, homicide and suicide as indicators of how the mentally ill population is being served;
- whether per person behavioral health spending has been increased or reduced;
- the methodology for conducting patient satisfaction surveys;
- whether the HSD had collected any patient satisfaction data for the period of time Medicaid recipients were being served by Arizona behavioral health providers;
- the exclusion of costs for behavioral health medications from the cost data presented by the HSD;
- options for Supplemental Nutrition Assistance Program (SNAP) recipients in rural areas where jobs may not be available under new proposed SNAP requirements;
- whether care coordination is an appropriate substitute for case management and enlarging the classification of practitioners who can offer comprehensive community support services; and
- regulatory changes in school-based behavioral health services.

### **Public Comment**

Two public comment periods were held in which the following issues were brought to the committee's attention:

- the HSD's new work requirements for SNAP recipients, with the HSD's only public hearing on the proposed amendments scheduled for Friday, July 17, from 1:30 p.m. to 4:00 p.m. at the DOH Harold Runnels Building Auditorium, 1190 St. Francis Drive, in Santa Fe;
- inconsistencies in behavioral health data recently reported by the HSD;
- the continuing need for a behavioral health clearinghouse;
- the need for court-ordered differential response services for at-risk families;
- the need for declaration of a state of emergency with respect to deaths from drug overdoses;
- the availability of a nurse registry from the New Mexico Hospital Association for use by state agencies;

- the need for a center for independent living for persons with disabilities in the nine northern counties of the state;
- the need for access to sign language interpreters during the legislative session;
- continued concern over adequate staffing and retention of nurses at health facilities statewide;
- a status update from Healing Addiction In Our Community on its youth transitional living center in Albuquerque;
- DOH rules that are barriers to wider distribution of Narcan and the importance of getting Narcan into the hands of as many people as possible, particularly first responders;
- 17% percent of New Mexico's population is living with a disability, yet there are few services — especially for those living in rural areas;
- a status update from the Forward New Mexico pipeline program for rural and frontier students interested in health professions;
- the lack of transportation for those wanting to access behavioral health services;
- the need to develop uniform reporting tools for behavioral health services;
- a status update on school-based health clinics;
- a commenter's difficulty in obtaining information from state agencies;
- concerns about a reported 20% drop in Temporary Assistance for Needy Families enrollment during the past year; and
- the CYFD's request for authority to obtain court orders to provide services to families where there has been no substantiation of abuse or neglect.

Commenters requested that the following be included in the committee's interim agenda:

- hunger and poverty;
- changes in SNAP regulations (to the committee's July agenda before a public hearing on proposed amendments to regulations);
- the feasibility of consolidating all hunger programs into one state entity;
- an analysis of the global impact of the Medicaid expansion on the state's economy and budget;
- mental health in prisons and county jails;
- long-term services under Centennial Care;
- use of seclusion and restraints on children living with autism;
- memorials directed to the committee;
- update on sexual assault programs;
- implementation of the federal Achieving a Better Life Experience (ABLE) Act;
- medically fragile waiver transition to Centennial Care in 2016 and income eligibility;
- reimbursement for dialectical behavioral therapy; and
- new federal rules extending mental health parity to MCOs and health insurance exchange plans.

### **Committee Requests for Information**

Representative Espinoza requested committee staff to keep a running list of requests by committee members for information from presenters. Requests for further information made at this meeting are as follows:

#### **Request to the LFC**

1. How much of the DOH's budget is dedicated to pregnancy prevention?

#### **Requests to the HSD**

1. How many seriously mentally ill and seriously emotionally disturbed children received behavioral health services?
2. How many tribal consultations has the HSD had in the last year? Please provide details on participants and tribes to Representative Madalena and Senator Shendo. They also request that they be notified when these consultations take place.
3. With expanded Medicaid, how much is the state funding for alcohol and drug rehabilitation and treatment?
4. How many behavioral health consumers have been hospitalized for the same periods that the HSD is reporting significant increases in recipients receiving services?
5. Please provide a copy of the metrics that the HSD is using for behavioral health and the data corresponding to such metrics.
6. Please provide consumer satisfaction data for 2012-2013 and 2013-2014.
7. Please provide data for numbers of behavioral health consumers served for 2012-2103.
8. Please provide pharmacy expenditures for the recipients of behavioral health services for 2012-2013 and 2013-2014.
9. Please provide data on medical services for the same unduplicated behavioral health recipient population that the department has used to show a "significant" increase in behavioral health recipients under Centennial Care and the corresponding pharmaceutical costs for this same population.
10. Please provide an explanation of the effect of the proposed changes in school-based services for Medicaid-eligible recipients under 21 years of age. Please also provide a copy of comments on the proposed regulations from school districts.
11. Please provide information on the status of suspended funds to the referred behavioral health providers.

### **Committee 2015 Interim Work Plan**

The committee concluded its meeting with a discussion of its work plan. A copy of the revised work plan is posted on the committee web site.

**Adjournment**

There being no further business before the committee, the first meeting of the LHHS adjourned at 5:13 p.m.