

MINUTES
of the
ORGANIZATIONAL MEETING
of the
LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE,
THE DISABILITIES CONCERNS SUBCOMMITTEE AND
THE BEHAVIORAL HEALTH SUBCOMMITTEE

June 16, 2017
State Capitol, Room 311
Santa Fe

The organizational meeting for the 2017 interim of the Legislative Health and Human Services Committee (LHHS) was called to order on June 16, 2017 by Representative Deborah A. Armstrong, chair, at 9:10 a.m. in Room 311 of the State Capitol in Santa Fe.

Present

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

Absent

Rep. Gail Armstrong
Sen. Mark Moores

Advisory Members

Rep. Joanne J. Ferrary
Rep. Miguel P. Garcia
Sen. Linda M. Lopez
Rep. Rodolpho "Rudy" S. Martinez
Sen. Cisco McSorley
Sen. Mary Kay Papen
Sen. Nancy Rodriguez
Rep. Patricia Roybal Caballero
Sen. William P. Soules
Sen. Elizabeth "Liz" Stefanics
Sen. Bill Tallman

Sen. Gay G. Kernan
Rep. Tim D. Lewis
Sen. Howie C. Morales
Rep. Angelica Rubio
Rep. Nick L. Salazar
Rep. Christine Trujillo

BEHAVIORAL HEALTH SUBCOMMITTEE

Present

Sen. Bill B. O'Neill, Chair
Rep. Christine Trujillo, Vice Chair
Rep. Sharon Clahchischilliage
Rep. Rebecca Dow
Rep. Doreen Y. Gallegos

Absent

Sen. Howie C. Morales

Advisory Members

Rep. Deborah A. Armstrong
Sen. Mary Kay Papen

Sen. Gerald Ortiz y Pino

DISABILITIES CONCERNS SUBCOMMITTEE

Present

Sen. Nancy Rodriguez, Chair
Rep. Joanne J. Ferrary, Vice Chair
Sen. Linda M. Lopez
Rep. Elizabeth "Liz" Thomson

Absent

Rep. Gail Armstrong

Advisory Members

Rep. Deborah A. Armstrong
Rep. Miguel P. Garcia
Sen. Elizabeth "Liz" Stefanics

Rep. Angelica Rubio

Staff

Michael Hely, Staff Attorney, Legislative Council Service (LCS)
Rebecca Griego, Records Officer, LCS
Shawna Casebier, Staff Attorney, LCS

Friday, June 16

The chair convened the committee at 9:10 a.m. The committee members and staff introduced themselves. A quorum was present.

Health and Human Services Budgetary Update

Ruby Ann Esquibel, senior analyst, Legislative Finance Committee (LFC), Jon Courtney, program evaluator manager, LFC, and Eric Chenier, senior analyst, LFC, presented budget updates for health and human services agencies and programs. They passed out three handouts, with the titles "Review and Update of 2017 Appropriations" (review); "Performance Report Card" (report card); and "2016 Accountability Report: Medicaid" (Medicaid report).

Human Services Department (HSD)

Ms. Esquibel informed the committee that the HSD and the Children, Youth and Families Department (CYFD) were working in cooperation to expand the availability of home visiting services statewide.

Ms. Esquibel spoke of improvements in administration at the HSD's Income Support Division (ISD). She noted a great deal of volatility in the HSD's budget projections for fiscal year (FY) 2018. The previous January projections indicated a \$6.1 million shortfall in general

fund dollars, she stated, but she noted that the budget has gained \$5 million in the period between January and June of this year.

Overall, the Medicaid budget projection for FY 2018 showed a shortfall of \$31.9 million of federal and state funds, based on assumptions. Variables include:

- funds that the HSD may recoup from the federal Indian Health Service if the federal government approves the recoupment;
- the implementation of copayments in accordance with a state Medicaid plan amendment for some Medicaid participants; and
- assumptions about the amount of state taxes collected in FY 2018.

With respect to the Temporary Assistance for Needy Families (TANF) cash assistance, work participation and medical assistance programs, Ms. Esquibel stated that in FY 2018, appropriations for cash assistance and support services will decrease by \$2.3 million from FY 2017 appropriations.

Ms. Esquibel discussed an expected \$16.8 million settlement that the federal government approved relating to disproportionate-share hospital payments. Further savings, she explained, were derived from provider rate cuts made in FY 2017 and from some savings in the cost of treatments for hepatitis C and higher prescription drug rebates.

Great increases in Medicaid enrollment boosted costs considerably, according to Ms. Esquibel. In June 2017, the enrollment was projected to include 929,030 individuals in all categories — the newly eligible non-disabled "childless adult" or "expansion" category, as well as adults with disabilities, children and families. The main categories experiencing growth have been the Medicaid expansion and family planning. Ms. Esquibel said that economists at the HSD believe that as outreach and education about enrollment grow, there could be some migration between the New Mexico Health Insurance Exchange (NMHIX) and the state's Medicaid program. Changes allowing more retroactive eligibility in the Medicaid program may be responsible for some of the increased enrollment.

Ms. Esquibel explained that the Medicaid federal match has dropped in FY 2017 to 95% for the expansion population, and beginning in 2020, it will drop to 90%. With the "woodwork effect", the HSD is seeing a lot more enrollment in the non-expansion population as well. The federal match for the non-expansion population is at approximately 70%.

Ms. Esquibel directed the committee to review the report card provisions relating to the HSD, which noted that the General Appropriation Act of 2017 has some performance measures. There are also performance measures that state agencies, in collaboration with the LFC, could create. The state's 20 largest agencies get report cards, Ms. Esquibel explained.

Under the rubric of "take-away messages for the HSD", Ms. Esquibel discussed:

- areas in Medicaid that need much improvement, including early childhood health indicators. Assessments are apparently moving from quarterly or biannual assessments to annual assessments. This is a trend that should reverse, according to Ms. Esquibel;
- lead testing: New Mexico is among the worst states for testing residents' exposure to lead poisoning. The rate in New Mexico is only at about 5%, whereas nationwide the rate is 49%. The presence of lead indicates that some areas of New Mexico have worse rates of lead exposure than Flint, Michigan, which is infamous for extraordinarily high rates of lead in its drinking water; and
- behavioral health: the data lag in this category, according to Ms. Esquibel, so the most recent data are from the third quarter of FY 2107, on page 5 of the report card. This shows a great increase in the number of people receiving services. Questions remain about the quality of services and the timeliness of the services being provided.

Department of Health (DOH)

Mr. Chenier directed the committee to slide 9 of the LFC's PowerPoint handout. It indicates a flat budget for the DOH between FY 2016 and FY 2017.

Referring to the review, Mr. Chenier discussed a \$1.2 million appropriation for disengagement from the *Jackson* lawsuit, which is the lawsuit that led to the statewide closure of institutions for individuals living with developmental disabilities (DD). However, the DOH would experience savings in state general funds because *Jackson* engagement will be performed by the DOH's Division of Health Improvement and because the increase in federal matching funds decreases state General Fund contributions by \$1.1 million.

Mr. Chenier reminded the committee of the *Waldrop* lawsuit against the DOH, which relates to the DD Medicaid supports and services waiver (DD waiver) program using the supports intensity scale (SIS) tool for eligibility determinations and level-of-care assignments.

The DOH has requested a \$375,000 supplemental appropriation to support DOH facilities. A shortfall of \$800,000 had been projected, which the DOH previously indicated it could make up through other means, Mr. Chenier explained. LFC staff would be meeting with DOH officials concerning the matter. DOH facilities have experienced savings of \$2.3 million for job vacancies that remain unfilled. Mr. Chenier stated that the DOH has incurred \$1 million in direct care contract staff increases, in contravention of the DOH's attempts to reduce the number of expensive contract staff members.

Mr. Chenier discussed the effect of the passage in the 2017 regular session of Senate Bill 204 (Laws 2017, Chapter 84), which effected the transfer of \$4.7 million relating to the New Mexico State Veterans' Home (veterans' home) from the DOH to the Veterans' Services Department. The LFC evaluation of veterans' home services shows many poor indicators.

Moreover, Mr. Chenier stated, the federal "Nursing Home Compare" website shows that the veterans' home scores much more poorly than other states' long-term care facilities.

Public health programs saw an increase of income due to the implementation of the Vaccine Purchasing Act, according to Mr. Chenier.

Mr. Chenier indicated that if the DOH's Developmental Disabilities Supports Division does not spend all appropriated money in FY 2017, it will be able to use those funds in FY 2018.

Mr. Chenier directed the committee to review the LFC report card indicators for the DOH, including severe increases in pertussis among infants.

CYFD

Dr. Courtney directed the committee to page 12 of the review, which indicates a 1.7% increase from FY 2016 to FY 2017. The CYFD's budget has increased, while other department budgets have not. Dr. Courtney indicated that the CYFD's Juvenile Justice Division will receive a transfer of youth mentoring funds. The Protective Services Division is increasing salaries and, thus, is seeing improvement in turnover rates.

With respect to early childhood services, Dr. Courtney directed the committee to the review, beginning at page 13, showing:

- increases in early childhood home visiting;
- flat funding for child care assistance and the Family Infant Toddler (FIT) program;
- a slight increase in pre-kindergarten (Pre-K) funding for extended full-day Pre-K; and
- uncertainty for the K-3 Plus summer nutrition program. Dr. Courtney stated that June slots decreased from the previous year's slots, resulting in districts being able to fund fewer slots.

Early childhood is very important for child development, Dr. Courtney stated. The LFC continues to research evidence-based early childhood programming, he said, seeking a high return on investment. New Mexico's poverty rate is high enough that Medicaid pays for 80% of births. New Mexico's rates of adverse childhood events (ACEs) are higher than other states, with at least three-fourths of New Mexico children at risk of experiencing at least one ACE. Approximately 80% of New Mexico children attend schools where the poverty rate is high. Over half of New Mexico's third graders are not performing at grade level. Three-fourths of New Mexico students tested were not proficient in math or reading.

Referring to the report card on page 11, Dr. Courtney indicated that the CYFD's Protective Services Division is serving 2,600 children, an increase from the usual average of about 2,000 children. This increase shows that maltreatment has risen in the past five years. Per one thousand children, 17.5 are victimized in the state, which is twice the national average, according to Dr. Courtney. Drawing the committee's attention to the statistics on page 12 of the

report card, Dr. Courtney indicated that 88.3% of New Mexico children for whom there was a prior substantiation of maltreatment had no substantiated recurrence of maltreatment. This statistic is much worse than the national average, which indicates that 95% of children for whom there has been a prior substantiation of maltreatment have not had any recurrence of maltreatment.

The turnover rate in the CYFD's Protective Services Division has dropped substantially, with an 18.3% turnover rate for the third quarter of FY 2017, versus a turnover rate closer to 30% in FY 2016 and FY 2015.

Dr. Courtney stated that the early childhood services of the CYFD are performing "relatively well". Most measures are good or acceptable. A "red" indicator, he explained, does not necessarily indicate failure but may reflect the fact that a system is experiencing additional stress.

The Juvenile Justice Division performs relatively well, according to Dr. Courtney, and does well at keeping children safe and out of the juvenile justice system. On page 13 of the report card, Dr. Courtney pointed out "red" indicators that show rates of violence in the juvenile justice system.

Questions and Comments

Members of the LHHS raised a number of issues, including:

- the cost each year to the state in defending the *Jackson* and *Waldrop* lawsuits, which relate to the provision of DD supports and services by the DOH. Mr. Chenier estimated these costs to be approximately \$5 million. He explained that the *Waldrop* case has led the DOH to move away from using the SIS evaluation system and said that the DOH pays the University of New Mexico (UNM) for conducting evaluations;
- whether the Medicaid program is being underfunded by \$32 million. Ms. Esquibel indicated that there is substantial volatility in Medicaid funding, so that number fluctuates;
- a reduction in autism services and the closure of Camp Rising Sun for children on the autism spectrum. Mr. Chenier stated that the LFC is researching this and would follow up with more information;
- the ISD's administration of the Supplemental Nutrition Assistance Program (SNAP), which Ms. Esquibel stated was improving despite the report card's warnings that reflect the lag time before staff could be trained and address the lag with timely processing. She thinks that SNAP administration should be "good" by late summer;
- behavioral health service usage trends, which indicate an increase, though the reason is unknown. Dr. Courtney indicated that the LFC is seeking to further investigate the HSD's reporting on access to behavioral health services;

- whether anyone has done a cost analysis of the behavioral health services crisis arising from the HSD's credible allegations of fraud against behavioral health provider agencies; and
- an inquiry as to why the governor vetoed funding to address teen unintentional pregnancy rates.

Members discussed the following:

- concerns with the continued high number of individuals awaiting allocation to DD supports and services;
- that the DOH does not seem to increase staffing in response to increased appropriations to address the DD "waiting list" or central registry;
- the DOH's reversion of funds that the legislature appropriated to the DOH to allocate DD supports and services, which has not resulted in an increase in allocations;
- LFC appropriations relative to the allocation of "slots" on the DD waiver;
- concerns regarding the increase in child maltreatment with statistics showing that New Mexico is faring more poorly than in 2012;
- a desire to make inquires about autism and DD services at the DOH when the DOH presents to the committee;
- a request that the LFC look into administrative changes in the HSD's Child Support Enforcement Division;
- concerns that DD waiver participants are being disenrolled because of slow Medicaid processing. Ms. Esquibel stated that Sean Pearson, deputy secretary, HSD, is currently investigating this;
- concerns about accurate reporting of maltreatment of children in foster care and on the need for behavioral health services;
- the rate of domestic violence statewide, regarding which the LFC recently released a report that is proposed to come before the LHHS;
- the Arizona governor's declaration of a state of emergency because of opioid addiction, while New Mexico ranks worse for the incidence of opioid- and alcohol-related deaths;
- on the subject of Medicaid expenditures, Dr. Courtney's observation that page four of the Medicaid report indicates that Centennial Care expenditures have increased quite a bit, while utilization has slightly decreased;
- a desire that the committee review the TANF program and Medicaid case management services;
- concerns about early intervention programs and cuts to neonatal services;
- concerns about UNM not contracting with any Medicaid managed care organizations (MCOs), despite UNM being a state entity and Medicaid being a state program;
- the FIT program's flat budget;
- Yucca Lodge's move from Fort Bayard to the New Mexico Rehabilitation Center in Roswell and reports of patient displacement;
- child care assistance and quality standards;

- a request for a presentation from the attorney at Disability Rights New Mexico on ending the state's engagement with the *Jackson* lawsuit;
- concerns about the closure of public health facilities in Albuquerque's South Valley;
- concerns about the governor's veto of legislation to create a diabetes committee and the closing of public health clinics; and
- a desire to see how much the DOH spends on hepatitis C and HIV treatment and whether hepatitis C treatment is being rationed.

The chair announced that the speaker of the house added Representative Elizabeth "Liz" Thomson as a voting member of the Behavioral Health Subcommittee.

Public Comment

Robert Kegel told the committee that during the fall of 2016, the Disabilities Concerns Subcommittee requested that he do an investigation into public input on DD waiver changes. He stated that he has also prepared a report on creating an autism waiver, though no progress has been made. He stated that the current administration has missed receiving \$75 million in federal funding.

With respect to the Medicaid program, Mr. Kegel stated that \$650,000 was cut from programs instead of using a provider fee to increase funds by as much as \$35 million.

Regarding the DOH's *Jackson* lawsuit, Mr. Kegel stated that attorney Peter Cuba intervened to stop application of the SIS for evaluations. The state has spent "billions on the SIS", he said.

Mr. Kegel finished his comments by stating that the public comment process relating to the HSD's renewal of the Centennial Care Medicaid waiver is "not going well at all". He noted that the HSD is proposing the imposition of copayments on Medicaid recipients' use of services.

Tracy Perry, a direct therapy services worker from Las Cruces, requested that the committee add to the work plan a discussion on the fact that DD waiver participants are being disenrolled because the ISD is not sending out renewal paperwork in a timely manner. This is affecting participants as well as provider agencies.

Connie Molecke spoke of the climate for autism services and introduced other families of individuals with autism. She lamented the closing of Camp Rising Sun and other cuts and discussed the camp's value to individuals with autism and their families.

Nat Dean, Karen Cushner and Annika Cushner discussed service and emotional support animals. In 2013, amendments to the Service Animal Act made New Mexico's law mirror the federal Americans with Disabilities Act of 1990 (ADA). They spoke of the many issues that arise from the appearance of "imposter" service animals that do not meet the requirements of

state law or the ADA. If an imposter damages a working animal, the handler has to replace or retrain that dog. If a dog develops fear, it cannot work.

Annika Cushner said that disabled individuals may be forced to use a wheelchair when service animals are unavailable and that many spaces, including the committee's meeting room, are inaccessible to individuals in wheelchairs.

Karen Cushner stated that she has been a dog handler for 10 years and works with federal officials in education and enforcement issues relating to service animals. She moved to New Mexico in 2009, and there has been a continual intrusion with imposter dogs. She said that it is hard to go to a grocery store or other public places that allow pets. Service dogs are trained to ignore everything, and this means that non-service dogs might attack them. The Service Animal Act requires more education on helping individuals and businesses know what a real, versus imposter, service dog is. The Albuquerque Police Department did not even know a service animal law exists, she said. The department is unwilling to enforce the law because other things take priority.

Ms. Dean noted that her contact information is on the ADA national network.

Linda Sechovec, executive director, New Mexico Health Care Association (NMHCA), provided the committee with handouts. She explained that the NMHCA is a provider organization that delivers long-term care services in nursing facilities, retirement communities and facilities for individuals with DD. She announced that the NMHCA is working closely with DD community providers to integrate operations and offices. The NMHCA will be advocating for three provider groups and is "locked in a spiral" of new regulations and workforce issues, driving costs beyond the NMHCA's providers' ability to absorb them. She noted that DD facilities have not received rate increases since 2014 and that this is a re-basing year.

Ms. Sechovec discussed the NMHCA's efforts to pass legislation to establish a provider fee to increase the state's federal matching dollars. She stated that she is upset that the federal government appears to be moving toward block grants as a system for funding Medicaid. She says that New Mexico would be seriously adversely affected by changes to federal policy. She reminded the committee that New Mexico has one of the highest populations of individuals over 85 years of age. She said that New Mexico used to lead the nation in performance standards. Now it is below on performance measures.

Ms. Sechovec asked the committee to address the potential of a provider fee and said that a provider fee would be a "win-win" situation for the state.

Dr. Dale Alverson told the committee that 65% of all hospital beds in the state are using the NMHIX, but full participation is needed to get all data and full interoperability. If New Mexico participates in the NMHIX, the federal Centers for Medicare and Medicaid Services (CMS) will provide New Mexico with \$3.9 million to grow the state's health insurance exchange.

Dr. Alverson identified some programs that he said were "good news" for the state, including UNM's Access to Critical Cerebral Emergency Support Services, or the ACCESS project, whose telestroke program can get patients treated within 4.5 hours of a stroke and thus prevent or significantly decrease brain damage. It has increased from 2% to 18% the number of people eligible for clot-preventing drugs.

Gay Finlayson discussed the work being done pursuant to Senate Memorial 79, passed in the 2017 regular session, regarding adults with autism. She said that the work group met in the preceding week and that data are needed to assess the impact that autism is having on the state.

David Roddy, executive director, New Mexico Primary Care Association, told the committee that the DOH has cut by \$1.5 million payments to federally qualified health centers (FQHCs). FQHCs in the state have received contracts for July 2017 that are \$5 million below 2016 figures. FQHCs have lost much since 2015, according to Mr. Roddy. He told the committee that for every provider lost to a FQHC, 1,000 individuals lose access to care.

Recent proposed changes to the state's tax code would make New Mexico the first state in the nation to take \$14 million from clinics' operating budgets. Such cuts would have a serious impact on access to care in the state.

According to Mr. Roddy, New Mexico still has the best primary care safety net program in the country. One-sixth of New Mexicans access health care services in primary care clinics, he said. The quality of these services is excellent, keeping many patients' chronic conditions, such as diabetes and hypertension, in check. He urged the committee to pay special attention to preserving the primary care safety net.

Patsy Romero, chief executive officer, Easter Seals El Mirador, provided the committee with handouts. In January 2017, 12 behavioral health provider agencies went into mediation with the HSD, she said. Only four of the provider agencies have completed a fair hearing, allowing them in that process to review the HSD's audit findings. She gave a procedural update regarding the provider agencies that have won appeals and those that are awaiting decisions or hearings. She stated that the HSD wanted provider agencies to pay the HSD for services rendered during that suspension in exchange for getting rid of extrapolated findings, according to Ms. Romero. She said that the provider agencies' error rates were "so low" that the HSD agreed to settle and not extrapolate.

Jim Jackson, executive director, Disability Rights New Mexico, told the committee that the *Jackson* lawsuit does not mean that money expended is going to lawyers. It is going to recipients of services and the community, he said. The DOH has promised that it would provide the committee with information about the DD waiver central registry, or waiting list. He asked the LHHS to pay attention to federal developments in Medicaid, the federal budget and health care reform.

Shane Knoll, who identified herself as a provider of autism spectrum disorder services, told the committee that certain insurance companies are not paying claims. She said that Medicaid MCOs are better than private insurance in making timely reimbursement. She stated that she is experiencing trouble, especially with one insurer.

Paige Duhamel, Esq., health care policy manager, Office of Superintendent of Insurance (OSI), told the committee that the OSI is seeking to get on the LHHS's work plan this interim. She stated that the OSI currently has an informal comment process under way relating to its network adequacy rules and wants the LHHS to review the proposed rules. She also suggested that committee members complete an OSI survey about their constituents' health coverage costs and access to care.

The committee recessed for lunch at 12:45 p.m. The chair reconvened the committee at 2:00 p.m.

Behavioral Health Services Update

Dr. Wayne Lindstrom, director, Behavioral Health Services Division (BHSD), HSD, introduced Dr. Deborah Altschul of UNM's Center for Behavioral Health Research and Jamie Michael, director, Dona Ana County Health and Human Services Department.

Dr. Altschul told the committee that previously one in five adults received a behavioral health diagnosis nationwide. The statistics show that, now, one-fourth of Americans have a behavioral health diagnosis.

She informed the committee that the suicide rate is very high in New Mexico. She provided statistics on New Mexico's Medicaid population, among whom:

- 65% of recipients with a mental health diagnosis are between 18 and 65 years of age;
- 57% are female;
- 34% are Native American;
- 29% are 17 years of age or younger; and
- 61.5% receive outpatient treatment.

Of behavioral health services, 23.7% are delivered on an inpatient, skilled-nursing basis. Ancillary care means that the care is recovery-oriented. She stated that access to care has improved considerably since the expansion of Medicaid.

Dr. Lindstrom told the committee that the HSD just completed a Results First report in cooperation with the CYFD and the LFC. He stated that statistics on substance use disorders (SUDs) may be misleading because there is a focus on primary diagnoses. SUDs may disappear in statistics as primary diagnoses because they are usually the secondary or tertiary diagnosis. He stated that SUDs in New Mexico occur at higher rates than in other states.

Dr. Lindstrom reviewed the Interagency Behavioral Health Purchasing Collaborative's strategic plan. Referring to page one of the plan, Dr. Lindstrom stated that New Mexico's behavioral health services delivery system cannot meet demand because it is already overstressed by complex regulations, inflexible financial incentives such as fee for service and an inadequate workforce.

An inadequate behavioral health workforce is the greatest challenge for the state, Dr. Lindstrom said. He indicated that social work is not going to provide an adequate return on investment for young people and said that he could not urge legislators enough to make good policy to encourage more individuals to enter the behavioral health workforce. Dr. Lindstrom reviewed features of the strategic plan with the committee.

Dr. Lindstrom stated that the HSD is well into the Medicaid Centennial Care waiver's implementation and is working on "Centennial Care 2.0". He said that there is a desire to provide intensive wraparound behavioral health services and referred to the Results First "Children's Behavioral Health" report, which indicates that residential treatment has no effect, at best.

He said that the PAX Good Behavior Game (PAX) model has been implemented in four different school districts. It has produced a 60% reduction in destructive behaviors. The collaborative is taking some opioid state-targeted money to use PAX in Native American schools. He stressed the need to sustain PAX in schools and said that the United States surgeon general has found a \$60.00-to-\$1.00 return on investment for schools.

Dr. Lindstrom told the committee that the collaborative is emphasizing treatment first and the removal of procedural barriers to timely access to behavioral health services over completion of bureaucratic paperwork.

Dr. Lindstrom discussed many other innovations and new emphases identified in the strategic plan, including a suicide prevention grant that focuses on the high suicide rate among Native Americans.

Ms. Michael provided the committee with a one-page handout relating to behavioral health services in Dona Ana County. She discussed a program for jail diversion designed to reduce the number of people with behavioral health diagnoses who are in jails by sharing information among jurisdictions, law enforcement, the judiciary and behavioral health services.

Ms. Michael spoke of the Assertive Community Treatment (ACT) team's successes in intervening in emergency behavioral health situations. She gave the example of a chronically homeless and repeatedly hospitalized young man who has been stabilized on medication and gets disability benefits. He now has a home and is no longer homeless.

She discussed a continuum of policies and services that are assisting individuals with behavioral health diagnoses with increased wraparound care that identifies and treats mental illness and SUDs.

Maggie McCowen, executive director, Behavioral Health Providers Association of New Mexico (NMBHPA) discussed the state's behavioral health services system and providers' roles in that system. She stated that the NMBHPA is seeking to improve care and access to care statewide while identifying challenges to the system, including bureaucratic barriers.

Ms. McCowen emphasized the importance of keeping young people at home and not sending them out of state for residential treatment. She said that there is now a coordinated case review team for young people in out-of-state residential treatment that is attempting to bring them home. The team does a monthly review of these cases with the CYFD, MCOs and others to develop highly individualized service plans.

She stated that she is not sure that behavioral health statistics "tell us what we need to know". She said that despite ongoing efforts since 1997 to reform behavioral health care in the state, there is still a great lack of access to community behavioral health services. However, the NMBHPA does not believe a gap analysis is indicated.

Ms. McCowen stated that there is a need for legislation to protect behavioral health providers against allegations of fraud.

Questions and Comments

The committee asked questions regarding:

- whether the collaborative has analyzed Centennial Care 2.0's role in increasing access to behavioral health services and the gaps in access that exist statewide. Dr. Lindstrom stated that resources are not adequate to meet needs and that provider rates cannot be cut further;
- whether any state agency is taking advantage of federal funding to distribute naloxone for opioid overdose prevention statewide. Dr. Lindstrom informed the committee that the BHSD does not have the capacity to apply and manage the funds. He said he believes that rural areas would see some naloxone made available in August 2017;
- whether 911 call centers' equipment is at the end of its life. Dr. Lindstrom stated that he had not had any communication regarding that issue. He stated that the BHSD has worked on agreements with dispatchers and that it is willing to get referrals from them to the statewide crisis and action line;
- network adequacy for Medicaid. Dr. Lindstrom stated that the MCOs determine network adequacy and that the HSD intervenes when it is concerned about adequacy;
- the transferred Yucca Lodge facility; the committee was directed to ask the DOH;
- program changes expected under Centennial Care 2.0, including care coordination and further expansion of behavioral health homes;

- the status of licensed alcohol- and drug-abuse counselors (LADACs); Dr. Lindstrom stated that he would have to follow up with the committee, and Ms. Michael stated that she has seen a case of an LADAC who was able to bill Medicaid MCOs;
- Medicaid behavioral health provider rates and reductions in those rates;
- the capacity for telehealth and telemedicine to expand access to behavioral health services in rural areas;
- the crisis triage center in Dona Ana County. Ms. Michael stated that there is some discussion about creating a safe division and reentry center on the site. The county is requesting a letter of interest from providers that are interested in offering the needed services, and it is looking at licensing regulations, scope of work and funding sources;
- prior authorization for residential treatment facilities; Ms. McCowen said this is required and that there are many challenges to getting young people the treatment they need;
- co-morbidities with behavioral health conditions and the increased role of primary care in treating both chronic health conditions and chronic behavioral health conditions;
- suicide rates among lesbian, gay, bisexual and transgender (LGBT) youth. Dr. Lindstrom stated that the BHSD has a designated program manager who focuses on special populations. He offered to provide a report or present before the committee on LGBT youth suicide;
- emergency department information exchanges, which Dr. Lindstrom said are supported by MCOs; and
- care for young people who have private insurance but inadequate access to behavioral health services.

Presentation of Work Plan and Meeting Schedule

Mr. Hely presented a summary of the proposed work plan and meeting schedule for the 2017 interim. He began his presentation by discussing the proposed meeting schedule. Mr. Hely said that for the September 6 meeting, it was proposed that the committee meet in Truth or Consequences and that on September 7, the Burrell College of Osteopathic Medicine has offered to host the committee in Las Cruces. As to the meeting in Roswell, Mr. Hely stated that the DOH has given preliminary approval to visit the rehabilitation facility that houses Yucca Lodge. For the October 18 meeting, he stated that he is waiting on confirmation for a joint meeting on juvenile justice issues with the Courts, Corrections and Justice Committee and that if the committees are interested in touring any facilities, they will need approval from the CYFD in addition to approval from the New Mexico Legislative Council to travel outside of Santa Fe after September 30.

The members discussed the proposed meeting schedule. Concerns were raised about committee member conflicts that would prevent attendance at the proposed meeting of the Behavioral Health Subcommittee on October 11. Mr. Hely agreed to check the appropriateness of the proposed date.

A member proposed that the committee hold a joint meeting with the Indian Affairs Committee to address health care, behavioral health and long-term care relating to Native Americans. The members discussed potential dates to hold the joint meeting, and Mr. Hely said he would make the request to the Indian Affairs Committee and change the meeting schedule accordingly. As to the September 6 meeting in Truth or Consequences, a member noted that the committee would be able to hear presentations on all early childhood programs.

Next, Mr. Hely reviewed with the committee the proposed work plan, noting that it was drafted in general terms to leave opportunities for the committee to address specific topics of concern. The committee then discussed additions to the work plan.

A member requested that the topic of long-term care be added to the committee's review of health concerns specific to Native American communities. Another member suggested that the committee receive a presentation on the Law Enforcement Assisted Diversion program and what the outcomes have been. The member informed the committee that the program is an alternative to jail for juveniles and for adults with a history of low-level crimes and that the program has experienced great results. Although bills have been passed twice regarding the program, appropriations are needed.

A member suggested that employment issues be addressed by the Disabilities Concerns Subcommittee. A member told the committee that some of the member's constituents had raised concerns about patient rights relating to health care coverage. The member suggested a review of the existing statutes to see where improvements could be made.

A member recommended that the committee receive presentations from Dr. Sanjeev Arora on Project ECHO and Dr. Paul Roth, chancellor, UNM Health Sciences Center, on the successes and lessons learned in urgent care. The member additionally urged the committee to look at health care workforce shortages and mechanisms, such as tax breaks or other incentives, to bring medical professionals to underserved areas.

A member noted that the committee had a long list of very detailed ideas for presentations and that the committee will attempt to address as many of the topics as possible, depending on the location and topic of the day.

Mr. Hely then brought the committee's attention to a status report on the 2017 regular session bills endorsed by the LHHS, but due to time constraints, the committee did not review or discuss the contents of the report.

On a motion made by Senator Ortiz y Pino, seconded by Representative Dow, and without opposition, the committee voted to approve the work plan and meeting schedule as presented and modified.

Medicaid Update

Secretary of Human Services Brent Earnest and Medical Assistance Division Director Nancy Smith-Leslie introduced the committee to the HSD's proposal that some Medicaid recipients make copayments for Medicaid services to save \$3 million. There have been copayments in the Children's Health Insurance Program and Working Disabled Medicaid program for a long time. This proposal, he explained, adds copayments for those with incomes above 100% of the federal poverty level.

Secretary Earnest discussed the Medicaid program's budgetary shortfall of \$38 million, which could be reduced to \$20 million if the United States Congress takes action. He informed the committee that the HSD would likely seek a supplemental appropriation request for FY 2018 and emphasized the agency's efforts, including provider rate cuts, to meet the budget demands without changing eligibility or dropping benefits. Secretary Earnest stated that there was a 1.3% growth in Medicaid spending between the years 2015 and 2016.

Ms. Smith-Leslie discussed the Centennial Care 2.0 waiver application, regarding which the HSD has scheduled a public hearing on July 14, 2017. The HSD will send the draft waiver to the CMS on September 1, 2017. The final waiver will be completed between November 2017 and December 2018 and implemented as of January 1, 2019. Ms. Smith-Leslie guided the committee through a handout that detailed the areas of focus for Centennial Care 2.0. This includes changes to care coordination, including increasing coordination at the provider level and not the MCO level, and seeking to improve its reach to those highest in need; behavioral health integration with physical health; changes to long-term services; implementation of payment reforms to include value-based payments; changes in member engagement and recipient responsibilities; and administrative simplifications. Among these changes could be implementation of monthly premiums from \$20.00 to \$40.00, depending on income. Transitional Medicaid coverage would be eliminated.

Questions and comments from the committee included the following topics:

- the HSD's plans if the federal government implements block grant funding for Medicaid in lieu of federal matching funds. Secretary Earnest said that the HSD has not made any plans for this. He believes it would be a "double whammy" for Medicaid;
- the type of input the HSD has sought from the public on the Centennial Care waiver renewal. Ms. Smith-Leslie stated that the HSD has sought feedback starting in October 2016;
- lessons learned on the implementation of Centennial Care. Ms. Smith-Leslie stated that there have been many lessons learned, including working with providers; a Native American advisory committee; developing of relationships with providers and MCOs; care coordination; and electronic visit verification for providers;
- workforce development, about which Ms. Smith-Leslie stated that the HSD has been working with FQHCs to increase the workforce and use of telehealth;

- provider networks, regarding which Ms. Smith-Leslie stated that MCOs are required to report on which providers are in networks. The HSD has also called providers to find out whether they are accepting new patients. She stated that the results of that survey are available and show better results than expected;
- HSD improvement in SNAP and Medicaid application processing, including individuals who have been dropped off Medicaid rolls. Secretary Earnest said that he would be happy to get to the bottom of the matter;
- sole-source contracting by MCOs for durable medical equipment suppliers. Secretary Earnest stated that he sees a "significant role" for the HSD to ensure adequacy;
- reducing the cost of hepatitis C treatment;
- the provider fees that legislation from the 2017 regular session would have imposed on hospitals to increase Medicaid matching funds. Secretary Earnest stated that the funds would have only raised reimbursement for hospitals and not for any other Medicaid services. Committee members and members of the audience disputed this assertion;
- fee-for-service enrollment. Secretary Earnest stated that Native American recipients and family planning enrollees are enrolled in fee-for-service plans. He emphasized that benefits under the family planning category are very limited;
- behavioral health provider Valle del Sol was going to leave the state. Secretary Earnest stated that Valle del Sol has renegotiated reimbursement with MCOs and is now viable;
- regarding fee agreements and the HSD's role, Secretary Earnest explained that MCOs set reimbursement rates for providers, but the HSD establishes a floor. The HSD does not know what providers are paid on an individual basis;
- whether HSD would support legislation affording due process for providers accused of fraud. Secretary Earnest stated that the HSD did not support previous legislation, will "continue to be very clear about the opportunities in the rules to ensure procedural certainty" and is considering whether to make changes to procedural rules;
- the possibility of the HSD making contractual agreements to remediate any potential fraud allegations;
- a request that the HSD address billing challenges faced by a DD provider in Las Cruces, which Secretary Earnest agreed to do;
- copayments for emergency department visits that are not emergencies. Ms. Smith-Leslie stated that the HSD is working within federal parameters to establish the \$8.00 copayment;
- that Medicaid for foster youth continue to age 26;
- exemptions to Medicaid copayments, including for diabetes care, preventive services and pregnancy services;
- accountability under the self-directed Mi Via waiver;
- the lack of MCO contracts for UNM;
- MCO payments to providers, including payment delays. Ms. Smith-Leslie said that the HSD is exercising a significant amount of oversight and monitoring of claims

payments. The HSD is also implementing information technology system changes to assist oversight and data analytics potential; and

- a request that the Medicaid program provide a chart that compares Medicaid reimbursement with Medicare and other states' Medicaid reimbursement.

Adjournment

There being no further business before the committee, the chair adjourned the meeting at approximately 5:50 p.m.