

**MINUTES OF THE  
SOCIAL SERVICES APPROPRIATIONS SUBCOMMITTEE**  
Room 30, House Building, State Capitol Complex  
WEDNESDAY, JANUARY 25, 2012

MEMBERS PRESENT: Sen. Allen M. Christensen, Co-Chair  
Rep. Bill Wright, Co-Chair  
Rep. Bradley G. Last, House Vice-Chair  
Sen. Patricia W. Jones  
Sen. Peter C. Knudson  
Sen. Wayne L. Niederhauser  
Sen. Todd Weiler  
Rep. Jim Bird  
Rep. Rebecca Chavez-Houck  
Rep. John Dougall  
Rep. David Litvack  
Rep. Daniel McCay  
Rep. Ronda Rudd Menlove  
Rep. Kraig Powell  
Rep. Evan Vickers

MEMBERS EXCUSED: Sen. Margaret Dayton

MEMBERS ABSENT: Sen. Luz Robles  
Rep. Larry B. Wiley

STAFF PRESENT: Mr. Russell Frandsen, Fiscal Analyst  
Mr. Stephen Jardine, Fiscal Analyst  
Mr. Gary Ricks, Fiscal Analyst  
Mrs. Diane Pope, Committee Secretary

Note: A copy of related materials and an audio recording of the meeting can be found at [www.le.utah.gov](http://www.le.utah.gov)  
A list of visitors and a copy of handouts are filed with the committee minutes.

## **2. Introduction**

Co-Chair Wright called the meeting to order at 8:17 am.

## **3. Approval of the Minutes**

There were no minutes for consideration.

### **1.A. Unfinished items from the Previous Agenda--Report on Increasing Public Awareness of Reporting Medicaid Fraud**

#### **1.A.1. Department of Health**

Dr. David Patton, Executive Director, Department of Health (DOH), discussed the difference between fraud, waste and abuse. Reporting fraud is the responsibility of several departments. The Department has five main areas of focus in preventing fraud, waste and abuse. First is annual training for providers. Second, there is a quarterly Medicaid bulletin that includes a section on fraud. Third is the DOH website for the public with a hot link found on the home

page. Fourth, when an individual is determined to be eligible for services, they are provided with a member guide. Fifth, the DOH has a fraud unit with internal audits.

Rep. Wright clarified that fraud is on both the patient and provider side and asked what Dr. Patton would estimate as the percentage of fraud. He also inquired if services were taken away from a recipient that is conducting fraud.

Dr. Patton said that the auditors put fraud at about three percent. There are a lot of controls, especially with the addition of the Office of the Inspector General. Dr. Patton indicated Medicaid benefits could be taken away even if the recipient qualifies for services.

Rep. Litvack asked if the committee was going to receive a copy of the auditor's report.

Mr. Russell Frandsen said the report was on the schedule but that Rep. Litvack could obtain a copy sooner.

Rep. Litvack asked Dr. Patton how the DOH realizes the savings within the department budget. He was concerned about budget cuts and wanted the committee to be cautious.

Dr. Patton responded that the department has had four Medicaid audits. The DOH is now compliant with all requirements from the audits. Approximately \$31 million has already been removed from the budget in anticipation of savings based on the recommendations.

Sen. Jones asked if there was a way to promote the good work and legitimate use of Medicaid because it seems that only problems make the news. She also wanted to know if the department would provide some of this information.

Dr. Patton said that in most cases mistakes are being made, not with intent to defraud. Medicaid is a temporary support system where provider's get some reimbursement for services that they would normally end up providing without compensation. It's a cooperative system where everybody is giving a little. The department has difficulty keeping providers because of the reduced rates.

Sen. Jones asked all of the departments to give the committee a perspective of the scope of the problem and why there is a role for Medicaid. She also wanted clarification of what is fraud, waste and abuse.

Dr. Patton answered that the size of the problem is small but even 3% amounts to a lot of money. For the most part, individuals are just not understanding the program, or they are trying to get an edge. He defined fraud, waste and abuse as when a provider is not following the rules of Medicaid reimbursement, then it is classified as payment in error, or fraud, waste and abuse.

#### **1.A.2. Department of Human Services**

Mr. Palmer DePaulis, Executive Director, Department of Human Services (DHS), indicated that the Department works in conjunction with the DOH. He commended Mr. Lee Wycoff, Inspector General, for pulling the departments together. The DHS provides the same kind of policy

training on fraud, waste and abuse for both employees and providers. There is a link on the DHS website, as well as a hotline. When a significant case is found, it is turned over to the Office of the Inspector General (OIG). The Department has amended all service contracts including providing for Federal requirements. THE DHS has a pamphlet with all the information for reporting fraud.

Rep. Evan Vickers inquired how the Department determines if it's just a clerical mistake or actual fraud. He expressed concern that an individual or provider might be punished unjustly.

Mr. DePaulis indicated that cases would be identified by the auditors and if it's determined that it's improper coding, then new training would be given. The money would be recovered from the next installment. If the case is determined to be fraud, then it would be referred to the OIG.

### **1.A.3 Department of Workforce Services**

Mr. Geoff Landward, General Council for the Department of Workforce Services (DWS), excused Ms. Kristen Cox, Executive Director. The department's main focus in terms of Medicaid fraud is determining eligibility. DWS tries to educate the public through several mediums. Jobs@utah.gov is the number one website of all the Utah.gov websites, with a hotline number to report fraud on the home page. The department is expanding the use of social media. DWS uses the opportunity to educate the public when they are applying for eligibility, emphasizing the responsibility of the applicant and the need for accuracy. The department also uses this "point of sale" to train applicants about the consequences of fraud. Over 80 percent of customers are registered with "My Case," an online conduit where they can check on the status of their application. The department has ongoing training with the eligibility specialists to look for patterns that indicate fraud.

Rep. Chavez-Houck asked if there are prompts within the system to keep things up-to-date.

Mr. Landward indicated there are prompts to encourage updating of information.

### **1.A.4. Office of the Inspector General for Medicaid**

Mr. Lee Wycoff, Office of the Inspector General (OIG), indicated that fraud, waste and abuse are often grouped together but fraud denotes proven intent. In cases of fraud, the office will pursue prosecution. Abuse may be where an individual goes to the emergency room in excess. The department uses analysis to determine those individuals that visit ER's 10 to 15 times a year or more. There have been 619 individuals on Medicaid that have visited the ER more than 10 times this past year. One time is too much if it's just for a head cold. Those individuals are educated about urgent care versus emergency care. There has been an increase in coordination between departments with referrals going both ways. The OIG determines whether to prosecute or recover funds.

## **4. Budget Brief FY 2013: Department of Human Services**

Mr. Stephen Jardine presented the Department of Human Services (DHS) budget brief. There were seven different documents to discuss, the whole department and the six divisions. Each

brief begins with a summary and states what legislative action is suggested to be taken. Mr. Jardine talked about the entities covered by DHS; the Executive Director Operations, Division of Substance Abuse and Mental Health which includes drug courts, Division of Services for People with Disabilities, Office of Recovery Services which does child support collections, Division of Child and Family Services, and Division of Aging and Adult Services. Mental health, substance abuse and aging also pass through money to local areas and the programs are administered by local entities. There are three graphs on the first page of the budget brief. The first graph shows the general trend of the budget. The second graph illustrates the FTE history. The acronym FTE stands for full time equivalent. The third graph shows how the department is funded. As a point of clarification, federal Medicaid funds come into the Department of Health and are transferred to the Department of Human Services.

## **1.B Federal Funds Approval**

### **1.B.1. Issue Brief: Federal Funds in the Department of Health**

Mr. Russell Frandsen presented the handout, "Federal Funds in the Department of Health." It is proposed that the committee approve a \$99 million increase in federal funds for the current fiscal year, FY 2012, and approximately \$1.5 billion for FY 2013. Medicaid and CHIP constitute the majority of these funds.

### **1.B.2 Issue Brief: Federal Funds -- Department of Workforce Services**

Mr. Ricks reported on this issue brief on January 24, 2012.

### **1.B.3 Department of Human Services Federal Funds**

Mr. Stephen Jardine presented the handout, "Department of Human Services Federal Funds." Approximately 50 percent of the DHS funding is federal. The DHS is asking for an additional \$9.6 million in FY 2012 and propose a budget of approximately \$122.7 million for FY 2013. In the current fiscal year, FY 2012, targeted programs are being cut by 2.7 percent, and in the next fiscal year, FY 2013, all programs are expected to be cut by eight to nine percent across-the-board. A number of services are covered by DHS federal grants with \$25 million for child support enforcement, \$20 million for foster care, \$17 million for substance abuse treatment, and \$15 million for the general Social Services Block Grant.

### **1.B.4. Issue Brief: FY 2013 - USOR--Federal Funds**

Mr. Stephen Jardine presented the federal funds request for the Utah State Office of Rehabilitation (USOR). They received \$59 million for FY 2012 and are not asking for additional funds. The department is asking for \$59 million in FY 2013. Most of the funds go to rehabilitation services, with additional federal funds going to a program that provides disability determination for the federal government and a program for the blind and visually impaired.

Sen. Niederhauser wanted to know if these reports were all of the reports for this subcommittee and were there some areas that the committee didn't get reports for. He was concerned that all

reduction reports are taken into consideration because there will be cuts from the federal government.

Mr. Jardine referred to the Issue Brief: Department of Human Services Federal Funds where grants were indicated; other grants are reported under Medicaid. Not all grants have been reported.

Rep. Powell stated that he is going to support the motion to accept the federal funds for these programs. This process seems to anticipate a reduction in federal funds. Rep. Powell has heard that Utah is going to lose these funds. On one hand, Utah will be in trouble and on the other hand, the government needs to cut back. He appreciated Sen. Niederhauser's point.

Sen. Niederhauser wanted to support Rep. Powell. He felt that it was very insightful that the committee passed the law last year to require agencies present a contingency plan on how they will absorb federal cuts. These are hard cuts.

Sen. McCay wanted the committee to look at the money in terms of the fact that Utah owes \$0.40 on every dollar spent by the federal government. He feels that the current pace is unsustainable. The Subcommittee needs to be wise in managing Utah's money as we are weaned off of the federal funds.

Co-Chair Christensen commented that it is generally felt that cutting spending is important but no one wants the cuts in their department. Whatever the federal government cuts will impact the budget in Utah but it has to be done.

**MOTION:** Co-Chair Christensen motioned that the committee accept the supplemental federal funds request and the general federal funds request as presented to the committee. Sen. Dayton, Sen. Knudson, Sen. Robles, Rep. Dougall, Rep. Litvack, Rep. Menlove and Rep. Wiley were absent, and Rep. McCay voted against the motion. The motion passed.

#### **4. Budget Brief: FY 2013 - Department of Human Services, cont.**

Mr. Jardine referred the committee back to the Issue Brief for DHS. On the brief, the first action item asks the Subcommittee to approve the budget. The second action item asks the Subcommittee to adopt a fee schedule as outlined in the fee schedule brief. As the third action item, the Fiscal Analyst recommends that the committee forward to Executive Appropriations for further consideration an increase of \$3.5 million from the General Fund for the Federal Medical Assistance Program (FMAP) for Medicaid, foster care and adoption assistance programs. FMAP is a percentage based on a rolling average of per capita income in comparison to the national average. Utah averages about 70 percent FMAP. As the fourth action item, the Analyst suggests the committee approve the use of federal funds, as the committee has done.

#### **5. Issue Brief: Human Services - Follow-up on Previous Intent Language**

Mr. Jardine presented the brief on intent language. The DHS provided a response to each item of intent language. One of the items described an in-depth budget review. A DCFS audit was done in conjunction with the budget review. A brief on that item will be presented at a later

date.

Co-Chair Wright described intent language as a summary of things that need to be changed at the end of the year. He suggested that the committee needed to read the information and ask questions with some follow-ups.

Rep. Vickers wanted a clarification on item number 4 concerning the increase of \$3.5 million from the General Fund. He asked if this amount was based on required growth that has been talked about. Rep. Vickers inquired if this was "new" money.

Mr. Jardine explained it was not based on required growth. The expenditures may not change but the percentage of how much Utah pays in partnership with the federal government has changed. It changes every year. Mr. Jardine replied that it is new money but the expenditures were not. In essence, he said if the money is not approved, the expenditures would have to be reduced.

Mr. Jardine referred the committee to the Legislative action for the intent language. Division of Child and Family Services (DCFS) pilot projects were presented in an interim meeting without having a quorum so they were deferred. One had to do with drug testing, asking that parents in the system make a co-payment. The goal would be to save General Fund and increase accountability. The other program was a pay for performance program which was intended to speed up getting Medicaid funding for kids being placed in unlicensed relative foster homes. The Fiscal Analyst recommends the Subcommittee authorize the two DCFS pilot projects associated with the 2011 General Session intent language as discussed.

#### **8. Issue Brief: FY 2013 - DHS - Fees**

Mr. Jardine presented the brief on fees in the Department of Human Services. The fee schedule is shown on page two with a description for each fee found on pages five and six. There are no changes requested for FY 2013. The total estimated fees for FY 2013 are \$3.5 million. The three big revenue amounts are child support collection related fees. One of these fees brings in \$2.6 million. There are two fees struck from the chart relating to the pilot programs that were not voted upon. The Fiscal Analyst recommends the subcommittee adopt the fee schedule as shown. The Fiscal Analyst also recommends the Subcommittee approve the two proposed DCFS pilot programs.

Co-Chair Wright reminded the Subcommittee that at some point there will need to be an official motion on the fees and they will have to make some decisions.

#### **9. Issue Brief: FY 2013 - DHS - Required Reports by Statute**

Mr. Jardine reported on the issue brief concerning reports required by statute. These reports include DCFS reports concerning several items. The Division of Substance Abuse and Mental Health has a report on their program audits and one report on drug courts, and the Division of Aging and Adult Services on the Out and About Homebound Transportation Assistance Program.

Sen. Weiler wanted to know how the fees are determined, especially pertaining to the GRAMA (Government Records Access and Management Act) fees.

Mr. Jardine answered that the departments determine the fees based on costs.

Mr. Mark Ward, Deputy Director, Department of Human Services said the fees are not based on individual employees but on a predetermined rate statewide.

Sen. Weiler stated that he didn't feel a government agency should profit on GRAMA fees. He understands the fee schedules are used statewide but feels that doesn't make them right.

Sen. Niederhauser responded by indicating that the Subcommittee needs to look at the total cost of running a program, not just the wages for employees. The fees may actually be a good deal. In his own business, they charge \$30 to \$40 an hour for an employee's time.

Sen. Weiler appreciated Sen. Niederhauser's comments and restated that he doesn't feel government should profit off of those requests.

## **6. DHS - Follow Up on In-depth Budget Review**

Mr. Jardine presented the Department of Human Services Follow Up of the In-depth Budget Review issue brief. In summary, there were twenty nine recommendations made with 15 of them being major. This was a study assigned by the Executive Appropriations Committee. The Division of Child and Family Services performance audit was done in conjunction with the in-depth budget review. Looking at the legislative action items, recommendation number one requires the DHS to report back to the Subcommittee next year. Second, it was recommended DCFS decrease the number of office hours and increase their field time with the use of new technology and demonstrate that the technologies helped improve their work. The third major recommendation involves moving State Hospital funding to the counties since they are responsible for hospital placement. Fourth, it was recommended the state sell or lease five Division of Services for People with Disabilities' (DSPD) group homes to providers at market rates based on certain conditions. No other providers in the DSPD system have this unique arrangement. Fifth, the Analyst recommends the department move forward with its plan to exit the HK Tower lease in FY 2014. Sixth, it is recommended the Subcommittee review Output and Outcome Measures issue briefs associated with each division. Seventh, the Analyst recommends the department continue to develop reports for major budget areas below division level reports. Eighth, the Analyst recommends the use of certain statewide programs be reported with a comparison to current relevant population percentages. Ninth, the Fiscal Analyst recommends the DSPD report to the Office of the Legislative Fiscal Analyst by September 1, 2012 the detailed update as originally requested. Tenth and Eleventh, regarding Office of Recovery Services, the Analyst recommends the Subcommittee review the status reports and determine further actions, if any. Twelfth, no further follow up is necessary on items 3, 4, 5, 9 and 13.

Sen. Niederhauser wanted to know if DSPD is completely funded under the DHS budget.

Stephen Jardine explained that DSPD has an unusual arrangement. The program is run under

DHS but it is primarily funded under DOH with Medicaid funding. It can be very confusing for constituents as well as Legislators about where all the programs are funded.

Sen. Niederhauser asked if there was a way to restructure the programs so that it's not so confusing.

Mr. Jardine indicated that the possibility of restructuring will be addressed next Friday.

Sen. Niederhauser asked about the group homes and why the Analyst was addressing them.

Mr. Jardine wanted to review that item because it appears with these five homes the providers are getting preferential treatment over other group homes where the provider is responsible for the home.

## **7. Human Services Related Revenue Options**

Mr. Jardine presented the Issue Brief: Human Services Related Revenue Options. This brief discusses federal block grants, restricted funds, and non-lapsing carry forward monies. The total for these different sources, which are all one-time funding sources, adds up to about \$15.5 million. The Legislative action recommendations include transferring \$2.3 million from DCFS to DSPD because of an unexpected FY 2012 shortfall. The Fiscal Analyst also recommends that the Subcommittee authorize the use of \$3.8 million in social services block grant funds to modernize the DCFS case management system as will be discussed in a future issue brief. The third action item is for Legislators to consider a range of options: the Subcommittee may take no action, formally authorize the funds for these departments, or the Subcommittee can give one time funding within the limits of each funding source. Also listed in the brief are the priorities of the department for the use of the one-time funds. The department priorities may or may not be the priorities of the Subcommittee. There is a surplus in federal block grants in the agency. DHS would like to have a reserve of \$1.6 million for expected federal changes. The department also requests that \$19,100 be used for local government support and delivery of social services. DCFS would like to use \$1.9 for additional caseworker capacity as well as the \$2.3 million to be transferred to DSPD. The brief contains all of the descriptions of the different funds and how they are being proposed for use.

Mr. Frandsen asked the committee to please be on time to facilitate the speaker's schedule tomorrow.

**MOTION:** Sen. Niederhauser moved to adjourn the meeting. All were in favor.

Co-Chair Wright adjourned the meeting at 9:50 am.

Minutes were reported by Mrs. Diane Pope, Senate Secretary

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Sen. Allen M. Christensen Co-Chair

Rep. Bill Wright, Co-Chair