

**MINUTES OF THE
SOCIAL SERVICES APPROPRIATIONS SUBCOMMITTEE**

Room 30 West House Building, State Capitol Complex

January 28, 2014 p.m.

Members Present: Sen. Allen M. Christensen, Co-Chair
Rep. Ronda Rudd Menlove, Co-Chair
Rep. Daniel McCay, House Vice Chair
Sen. Deidre M. Henderson
Sen. Luz Robles
Sen. Brian E. Shiozawa
Sen. Todd Weiler
Rep. Rebecca Chavez-Houck
Rep. Edward H. Redd
Rep. Earl D. Tanner
Rep. Tim M. Cosgrove
Rep. Paul Ray
Rep. Marc K. Roberts

Members Absent: Sen. Evan J. Vickers
Sen. Peter C. Knudson
President Wayne L. Niederhauser
Rep. Brad L. Dee

Staff Present: Mr. Russell T. Frandsen, Fiscal Analyst
Mr. Stephen C. Jardine, Fiscal Analyst
Ms. Paula Winter, Secretary

Note: A copy of related materials and an audio recording of the meeting can be found at www.le.utah.gov.

1. Call to Order/Approval of Minutes

Co-Chair Menlove called the meeting to order at 2:00 p.m.

Co-Chair Menlove suggested that the beginning of the agenda could be held until more of the Committee was in attendance and opened up the time for questions from anyone to David Patton, PhD., Executive Director, Utah Department of Health (UDOH).

Rep. Redd queried about a document distributed by Michael Hales, Deputy Director, Utah Department of Health (UDOH) in December of 2013, entitled Increased Medicaid Program Efficiencies. He referred to 1B in the document entitled Paying Providers for Packages of Services Delivered. Michael Hales, DOH, responded with the information that these are options for payment. Rep. Redd requested clarification of what it means for packages of services

delivered versus an entire episode of an illness. Mr. Hales stated he did not have a specific example but in the end the idea was to provide incentives for providers to focus on quality outcomes rather than being limited by the payment methodologies of the past.

Rep. Redd also inquired about streamlined plan for enrollment and client education. He requested clarification about how this was working. Mr. Hales explained how that process works. He stated that as needs increase this is a way to provide information for clients over the internet in a more convenient way if necessary.

Rep. Redd asked further about the provider access portal. He asked Mr. Hales to explain in the prior authorization for certain medications about the turnaround time for that and also asked if that is done by phone or online. Mr. Hales replied some are done on the phone with a 24 hour turn-around time for prior authorization. There was continued conversation about the process.

Since Items 1-5 were covered in the morning meeting Co-Chair Menlove proceeded to item #6 on the agenda.

6. Department of Health's Executive Director's Operations Base Budget

http://le.utah.gov/lfa/reports/cobi2014/LI_LAA.htm)

Russell Frandsen, Fiscal Analyst, directed the Committee to the link on line and explained how to access it.

A. Expenditure trends that may be of interest

Mr. Frandsen explained that staff looked at expenditure trends to see which ones had a 15% increase from FY 2011 to FY 2013. The result was:

a. Data processing current expense increased \$539,100 or 20%

Mr. Frandsen explained the reason for the increase and answered an inquiry from Rep. Menlove about the increase being a DTS (Department of Technology Services) across the board rate increase.

A. Other State Funds

a. Kurt Oscarson Children's Organ Transplant Account

<http://le.utah.gov/interim/2014/pdf/00000893.pdf>)

Mr. Frandsen explained how this account is funded and how it is used. He stated that the fund

is on a trajectory to reach zero. The Department of Health (DOH) is in the process of improving oversight of the fund.

b. Organ Donation Contribution Fund

<http://le.utah.gov/interim/2014/pdf/00000903.pdf>)

Mr. Frandsen explained that this fund receives donations from Department of Motor Vehicles (DMV) optional donation when licenses are renewed. He explained how to read the information. Staff recommended that this item be moved to the expendable funds and accounts of the budget bill.

<http://le.utah.gov/interim/2014/pdf/00000631.pdf>, #6B)

Rep. Menlove asked whether the public had been adequately informed about increasing the amount of contributions being received.

David Patton, PhD., Executive Director, Department of Health, explained about the concerns he had for the funds. One of the concerns was that a lot of the money went to the advertiser. The contract with the advertiser has been stopped and a better way of educating is being investigated. He stated that educating the tax preparers is a large part of that equation. Rep. Menlove and Dr. Patton continued discussing the fund.

Rep. Menlove suggested approving the motion from this morning since there was a quorum.

MOTION: Sen. Christensen moved to approve staff recommendation 6F from the Other Funding Issues for Approval.

Mr. Frandsen explained that the motion was for the staff recommendations for the dedicated credits increases presented this morning and the other funds issued for approval which were also discussed this morning.

Rep. Tanner clarified with Mr. Frandsen what this motion addressed.

The motion passed unanimously with Sen, Knudson, Sen Henderson, Sen. Vickers, Rep. Roberts, President Niederhauser and Rep. Dee absent for the vote.

A. Federal Funds in the Department of Health – Issue Brief

<http://le.utah.gov/interim/2014/pdf/00000860.pdf>

Mr. Frandsen referred to line items from the table in the Brief. He also clarified that these funds

are for operation of programs and are not related to Medicaid funds.

<http://le.utah.gov/interim/2014/pdf/00000631.pdf>, #1C)

B. Three proposed Performance Measures to include in Appropriations Acts via Intent Language.

<http://le.utah.gov/interim/2014/pdf/00000631.pdf>, #9A)

Robert Rolfs, Deputy Director, Department of Health (DOH), explained the three performance measures targeted which are: 1) electronic death records, 2) electronic birth records, and 3) data security records.

Sen. Christensen referred to the electronic birth records section and asked about births in hospitals and if that is necessary. He also asked about the purpose of recording these electronically. Mr. Rolfs clarified for him and they continued to discuss.

Rep. Menlove inquired about the electronic death records and would it increase timely accessibility to the records. Mr. Rolfs replied that is the intention but there are also many factors that play into that result.

Rep. Redd commented that there is a system in the state that assists physicians in doing their job in a timely manner to assist that process with death certificates.

Mr. Frandsen explained the motions on the motion sheet and what the voting for or against them would mean.

C. Agency requests for Nonlapsing Authority
<http://le.utah.gov/interim/2014/pdf/00000631.pdf>, #3K)

David Patton, PhD., Executive Director, Department of Health (DOH), explained that the DOH has a non-lapsing request on the Executive Director's Operations (EDO) line item. He continued that if there were surplus funds the money would be used mainly for the Department of Technical Services (DTS) hosting because of the significant increase in servers used as well as purchase of computers and software and training of employees. The request is up to \$225,000.

Rep. Menlove had a question about DTS services and inquired if the DTS charges have been compared with other markets. Dr. Patton replied that the technologists they work with are DTS embedded people and there is a regular market survey done to see if the services are comparable with the private sector services. Dr. Patton continued to explain what is further being done. Rep. Menlove asked whether it would be good to have DTS explain when they could get their servers consolidated and Dr. Patton agreed to that.

MOTION: Sen. Christensen moved to allow the non-lapsing funds up to \$225,000 for the Department of Health.

Rep. McCay questioned approving the motion previous to receiving information from DTS. Rep. Menlove concurred with that.

MOTION: Sen. Christensen withdrew the motion.

Rep. Tanner clarified with Mr. Frandsen about the amount being requested for funding and if it were approved above the \$225,000 what would happen with the overage.

MOTION: Sen. Christensen moved to approve the following motions for the Department of Health's Executive Director's Operations line item from the sheet entitled "Social Services Subcommittee – Motions for Subcommittee Consideration" dated 1/14/2014 12:47 PM: 1C, 6B, and 9A.

Rep. Redd clarified the items on the motion with Mr. Frandsen.

Motion passed unanimously with President Niederhauser, Rep. Dee, Sen. Knudson, Sen. Henderson, Sen Vickers, and Rep. Roberts absent for the vote.

7. Department of Health's Family Health and Preparedness Budget
http://le.utah.gov/lfa/reports/cobi2014/LI_LNA.htm)

- A. Funding reductions and revenue options
(<http://le.utah.gov/interim/2014/pdf/00000702.pdf>)
- a. Begin to Charge a \$15 Background Check Fee for 13,000 Child Care Workers – Mr. Frandsen reviewed the proposal. He stated the agency is opposed to this fee as they feel it would negatively impact the child care industry.

Sen. Christensen clarified the licensure costs and the background checks and asked for a definition of child care worker. Mr. Frandsen gave several examples of those who would be involved. Rep. Menlove stated that educators pay \$60 for their background checks. She reminded the Committee that there are many others that also are required to pay for a background check and asked Dr. Patton to speak to the objection. Sen Christensen questioned what kind of background check are we getting for \$15 versus \$60 and Dr. Patton explained. Dr. Patton continued by commenting that this item is not in the Governor's budget and that imposing fees on private citizens is not a practice. He also explained that the Childcare Licensing and Advisory Committee has looked at the two fee increases and have said they are not opposed to the fee and therefore the DOH would not oppose it.

Rep. Cosgrove asked for information on how the background check was covered before this proposal. Dr. Patton indicated that prior to this there would have been no fee and the department would have appropriated funds to cover the cost. Rep. Cosgrove also inquired about the type of background check the \$15 fee would cover.

Dr. Marc Babitz replied that this would not include an FBI check but would include a check of all the data bases in the state.

Sen. Robles clarified where payment for the background checks is currently coming from and it was explained that the total costs of the child care budget is about \$1 million matched by the federal government for a total of a little over \$2 million. Sen Robles and Dr. Babitz continued to discuss the parameters of the costs and coverage by the Department.

Rep. Menlove indicated that the public may not know which child care facilities are licensed or not licensed but there will be legislation in the future to address that.

Sen. Henderson requested information about some child care facilities being licensed and some being exempt. Dr. Patton explained by giving varying illustrations of 3 types of facilities for child care. Sen Henderson asked what the concern is for having people pay their own fees. Dr. Patton clarified that for her.

Rep. Menlove suggested that a motion could be entertained or the Committee could wait.

MOTION: Sen. Christensen moved to approve the implementation of a \$15 fee for background checks fee through the Department of Health

Sen. Weiler commented that he has recently had experience with the fee situation regarding his own family and believes the fee amount to be reasonable.

Dr. Patton informed the Committee that all daycare providers and workers are required to be licensed and do a background check and that there is no way of knowing if the group that is not checked participates in that licensing.

Motion passed unanimously with Sen. Knudson, Sen. Vickers, Rep. Redd, President Niederhauser, Rep. Dee and Rep. Tanner absent for the vote.

Mr. Frandsen clarified on some points with the request amount and informed Sen. Robles on her previous question.

- b. 20% or \$5 Increase in Annual Child Care Facility Licensure Fees – Mr. Frandsen explained that child care licensure fees have not been raised for some time and also explained that child care centers currently pay a \$25 annual fee and a \$1.50 fee per child while home care providers pay the \$25 fee with no per child fee. Each 20% increase in fees would bring in about \$14,200. He continued to explain where the funds would be deposited and a comparison of surrounding states fees along with the rationale for the amounts proposed.

Rep. Cosgrove and Mr. Frandsen conversed about the amount being asked to increase and the last time an increase was made. Rep. Cosgrove also inquired about how the information of an increase would get to the child care providers especially about the use of the fee.

Mr. Frandsen stated that the final approval would come through a bill later in the session.

Marc Babitz, Division Director, Department of Health (DOH), explained that an increase in licensure fees has not taken place in the 9 years he has been at the Department and commented that if the increase is finalized all the providers would be notified immediately and would be informed that the money is going back to the General Fund because you are being supported through appropriations from the Legislature.

Sen. Christensen and Dr. Babitz discussed the \$1.50 amount per child charged to child care facilities and not to home care facilities. Mr. Frandsen informed Sen. Christensen that the amount chosen for the increase in licensing fee is somewhat random. The fiscal analyst originally proposed doubling the fees and the agency indicated that might be too much of an increase.

MOTION: Sen. Christensen moved to increase the licensing fee for child care providers to \$6 and an increase of \$.25 per child in larger facilities.

Rep. Ray inquired how much in the negative in this program. Mr. Frandsen suggested that currently fees bring in about \$50,000 vs total costs of \$2 million.

Rep. McCay asked for clarification on the fee being raised. Sen. Christensen explained that and Dr. Babitz enumerated what the items are that make up the \$2 million cost. They continued to discuss the purpose of the training offered and the costs involved as well as the point system involved in the system. There was more conversation between Dr. Babitz and Rep. McCay about the visits which are also part of the program. Dr. Babitz stated that the licensure program is designed to meet the public good. Rep. McCay voiced concern about the fee and whether or not the legislature is meeting the public good by implementing this and other practices outlined. Dr. Babitz recounted that when he began in his position there were many violations and unsafe conditions with the child care program and over the years evidence has been collected and those concerns have been addressed. The issues being dealt with now are much different. Dr. Babitz offered to prepare more information on the findings.

Sen. Robles requested to know how many facilities of the 1,300 licensed are those that take 8 – 16 children compared to the number of facilities that take more children and wondered if the standards and regulatory components differ for the home daycare centers versus the facilities.

Dr. Babitz replied that they are split about in half between centers, which includes approximately 30,000 children, and home day care. Sen. Robles also inquired how many of those children receive Temporary Assistance for Needy Family (TANF) funds.

Rep. Ray asked about additional inspections if a care center is on probation and wondered what that was based on. Dr. Babitz replied the additional inspections are based on the violation. Rep. Ray also inquired about the cost to do an inspection. Dr. Babitz replied that it takes two people for a day to do the visit for a center and one person for a day for the homes, but he did not know the exact money figure. Rep. Ray suggested some ways to save costs in the program. Mr. Frandsen informed the Committee that there is a \$25 fee already in place during the probation years and stated he would verify that.

MOTION: Sen. Christensen restated his motion to approve an increase in annual licensure for Child Care Facilities of \$6 and add a \$.25 per child fee.

The motion passed with Sen. Henderson, Rep. McCay, and Rep. Roberts voting in opposition and President Niederhauser, Rep. Dee, Sen. Vickers and Rep. Tanner absent for the vote.

Rep. Menlove skipped agenda item #7 and proceeded to item #8

8. Annual Audit of the Department of Health by the State Auditor
(<http://le.utah.gov/interim/2014/pdf/00000813.pdf>)

Van Christensen, Audit Director, Utah State Auditor's Office, was joined by John Dougall, State Auditor, and Melanie Henderson, Audit Supervisor. Mr. Christensen explained that this was a federal audit and shared the mission statement of the office. He reported that there were 4 audit findings in the Department of Health (DOH). The number one and two findings are the most significant findings and had to do with Medicaid and Children's Health Insurance Program (CHIP) eligibility and will be discussed at a later date.

Timing Requirements of Health and Safety Standard Surveys for Nursing Home Facilities

Ms. Henderson reported on the findings from the surveys which checked 97 facilities and compared 2012 to 2013 and indicated an improvement in timeliness.

Follow up Provider Visits

Ms. Henderson explained about the immunizations and follow up visits of the providers of the vaccines for children. She reported that the concerns of accurate record keeping, proper eligibility determination and safeguard of the vaccines. Twenty-five sites were checked with 22 of the sites having no deficiencies and 3 that did but were followed up with to correct those deficiencies.

Mr. Christensen summarized by saying that there are a lot of large programs in the DOH with a number of compliance requirements and to find errors like the ones mentioned are not of the greatest significance. He also stated that the trends in the information show an improvement.

7. Department of Health's Family Health and Preparedness Base Budget

http://le.utah.gov/lfa/reports/cobi2014/LI_LNA.htm)

A. Expenditure trends that may be of interest

Mr. Frandsen discussed the following information:

- a. Transfers – Medicaid
- b. Current Expense
- c. DP Current Expense
- d. Capital Outlay

Mr. Frandsen referred to Motions for Subcommittee Consideration, #1E

(<http://le.utah.gov/interim/2014/pdf/00000702.pdf>)

A. Other State Funds

- a. Autism Treatment Account

(<http://le.utah.gov/interim/2014/pdf/00000852.pdf>)

A. Information Technology Projects

Mr. Frandsen spoke briefly about the Early Childhood tracking project.

B. Federal Funds in the Department of Health – Issue Brief

(<http://le.utah.gov/interim/2014/pdf/00000860.pdf>)

C. Federal Funds Introduction

Mr. Frandsen clarified why reserves are necessary at times and used the example of the reserves that were able to be used to cover situations during the government shutdown.

D. Agency explanation of Federal Reserves over three months

Dr. Marc Babitz, Division Director Department of Health (DOH), spoke about three Federal grants that the DOH is in charge of that have reserves over three months. They are: 1) Baby Watch, 2) Maternal Child Health Grant (MCH), and 3) Home Visiting Program. Mr. Babitz also explained whether or not some of the reserves could be used to fund other internal needs.

Rep. Redd asked for information regarding the recent government shutdown and if and how the reserve funds were used to keep programs running. Dr. Babitz gave examples of how those programs were not curtailed during the shutdown. Mr. Frandsen added comments about how a lengthier shutdown period would have been handled. There continued to be conversation about reserve funding.

Rep. Roberts asked for clarification on the reserve funds and how they develop. Dr. Babitz and Rep. Roberts continued with the clarification and explanation of the reserve funding.

E. Performance Measure Trends – Department of Health (DOH)

- a. Results of the Centers for Disease Control's State Readiness Score for Emergency Preparedness - Mr. Frandsen reported on the improvements made in responsiveness to distribution of supplies.
- b. Number of Functional Regions Statewide with Coordinators for Emergency Medical System of Pre-hospital Care- Mr. Frandsen explained the terminology and breakdown of how the system has changed.
- c. Average Days to Approve Placement of Medicaid Clients in Nursing Home Facilities – Mr. Frandsen indicated that this addresses the number of days involved average days in approving placement of Medicaid clients in nursing home facilities. The trend in this area has been negative.

Rep. Redd asked why this particular trend has gone down and David Patton, PhD., Executive Director, Department of Health (DOH), explained that there is a larger caseload and no increase in staff along with new people needing to be trained doing the work in this area and process. Rep. Menlove joined in on the conversation along with Mr. Frandsen, who clarified about the nursing home situation and the timing for pay received. Michael Hales, Deputy Director, Department of Health (DOH), offered further clarification.

A. Three Proposed Performance Measure to include in Appropriations Acts via Intent Language (<http://le.utah.gov/interim/2014/pdf/00000631.pdf>, #9B)

Dr. David Patton, Director, Department of Health (DOH), reviewed the 3 performance measures

the DOH will be reporting on. Rep. Menlove inquired whether there were other reports of measure on the children they will be evaluating and suggested that multiple measures would be valuable in the Early Intervention program which would indicate parent satisfaction, parent perception, and, rankings that could be gleaned from independent ratings as well as evaluation in the third grade to determine possible placement in special education.

- B. Agency requests for Nonlapsing Authority (& transfer of 4 Full Time Equivalent (FTE) Nurses Request (<http://le.utah.gov/interim/2014/pdf/00000631.pdf>, #3L, 3M, 3N, 3O, 3Q, 3R, 3S, & 6C)

MOTION: Sen. Christensen moved to approve the following motions for the Department of Health's (DOH) Family Health and Preparedness from the Social Services Subcommittee – Motions for Subcommittee Consideration dated 1/24/2014 #1C, 1E, 3L, 3M, 3N, 3O, 3Q, 3R, 3S, 6C and 9B.

Mr. Frandsen clarified what the approval of this motion would accomplish. Rep. Tanner asked for clarification on the non-lapsing authority for these motions and also asked if the funds would be used for the same purposes if there is funding available.

Rep. Menlove indicated that item 9B would be left off the motion and will be discussed later.

The motion passed unanimously with President Niederhauser, Rep. Dee, Sen. Knudson, Sen. Shiozawa and Rep. Ray absent for the vote.

9. American Rehabilitation and Recovery Act (ARRA) Funds Approval – Department of Health (<http://le.utah.gov/interim/2014/pdf/00000843.pdf>)

Russell Frandsen, Fiscal Analyst, referred to the base budget and a pass-through amount (<http://le.utah.gov/interim/2014/pdf/00000631.pdf>, #5A & 6E). He stated that this is a technical fix for clarification and requires a motion to change it. Mr. Frandsen reviewed the information on the Brief:

1. The Analyst recommends that the Social Services Appropriations Subcommittee approve increase ARRA funds of \$36,143,400 for FY 2014 and \$36,198,000 for FY 2015 for the Department of Health.
2. The Analyst recommends the adoption of intent language for all line items with new ARRA funding in FY 2014 and FY 2015 except Medicaid Optional Services.

Sen. Christensen asked for more information on the \$14 million increase on Electronic Medical Records and Mr. Frandsen explained that it is incentive payments to adopt electronic health care records and to achieve meaningful use.

Rep. Redd asked for further clarification on the Medicaid Optional Services and why all the funds were not spent. Dr. Patton responded to the inquiry and Rep. Menlove suggested that the discussion be moved to the next meeting if there were questions. Rep. Tanner questioned

whether any of this information affects the telehealth movement.

MOTION: Rep. Redd moved to approve the use of ARRA funds as outlined in the brief including the suggested intent language.

Motion passed unanimously with Sen. Christensen, President Niederhauser, Sen. Knudson, Rep. Dee, and Rep. Ray absent for the vote.

Sen. Henderson referred back to a motion already passed and item 3L in that motion and language dictating the use of non-lapsing funds. She stated that according to the language the non-lapsing funds are limited to one-time use to enhance existing programs and be spent on a prioritized list of one-time projects but they cannot be used to enhance existing programs or create a new program. Sen. Henderson questioned whether the training for staff included in 3L is enhancing an existing program. Dr. Patton explained that the training offered is continuation of ongoing activities which are already operating.

Rep. Henderson asked for clarification with staff about non-lapsing funds and also requested voting on each of the items approved in a previous motion of which item 3L was part.

Rep. Menlove granted that request to be addressed on Friday morning and there will be discussion and a revote on the items # 1C, 1E, 3L, 3M, 3N, 3O, 3Q, 3R, 3S, and 6C on Friday, January 31, 2014.

MOTION: Rep. McCay moved to adjourn the meeting.

Co-Chair Menlove adjourned the meeting at 4:57 p.m.