

(Draft – Awaiting Formal Approval)
**MINUTES OF THE
SOCIAL SERVICES APPROPRIATIONS SUBCOMMITTEE**
Palmer Court, 999 South Main, Community Room, Salt Lake City, UT 84111
September 11, 2015 8:00 a.m.

Members Present: Sen. Allen M. Christensen, Co-Chair
Rep. Paul Ray, Co-Chair
Rep. Edward H. Redd, House Vice Chair
Rep. Rebecca Chavez-Houck
Sen. Luz Escamilla
Sen. Deidre M. Henderson
Rep. Sandra Hollins
Rep. Robert Spendlove
Rep. Raymond Ward
Sen. Todd Weiler

Members Excused: Rep. Melvin R. Brown
Rep. Bradley M. Daw
Sen. Mark B. Madsen
President Wayne L. Niederhauser
Rep. Earl D. Tanner

Members Absent: Sen. Alvin B. Jackson
Sen. Brian E. Shiozawa

Staff Present: Mr. Russell T. Frandsen, Fiscal Analyst
Mr. Stephen C. Jardine, Fiscal Analyst
Ms. Lorna Wells, 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

Co-Chair Christensen called the meeting to order at 8:20 a.m. He reminded the committee of the significance of the events 14 years ago.

2. DSPD Direct Care Salary Increase Report

Mr. Jardine discussed the [DSPD - Direct Care Salary Increase Report Summary](#) Issue Brief regarding the \$5 million state fund appropriation from the 2015 General Session. He mentioned that this was intended to raise wages for direct care service staff within the DSPD (Division of Services for People with Disabilities) contracted private providers. He stated there was intent language that this allocation was not to be used for administrators. He posed seven questions for committee members to consider.

Mr. Paul Smith, Director, Division of Services for People with Disabilities, reported on the status of this appropriation. [Budget Adjustment Update: Direct Care Staff Salary Increase](#). He mentioned that because the fiscal year had just begun much of the funding had not yet reached the system. They met with providers and developed a reporting mechanism. They presented this reporting tool to the fiscal auditors as well as the committee chairs.

Co-Chair Christensen asked if some of this money was being utilized for profit for the providers. He stated the intent of the appropriation was that the funding would go to those individuals who were providing direct care for at least 60 percent of their total hours worked.

Mr. Smith explained the requirements of the contract amendment state that providers must give a detailed report regarding where funds were going. He discussed the [Letter Sent to DSPD Providers](#). He stated that if the 60 percent requirements are not met, the money will be returned or held. He said that it is difficult to determine if the money is going to increase starting salaries.

Rep. Chavez-Houck asked if Mr. Smith could provide a breakdown of the types of staff positions and services provided. Mr. Frandsen showed a breakdown of the staff requirements. [Service Codes and Rate Increases of 10.5% for Services with Direct Labor Components](#) as well as a scope of work rate table. [Scope of Work Rate Table](#)

Mr. Smith said they are willing to prepare a more detailed breakdown if necessary, but it would be difficult to obtain because the companies involved are all structured very differently,

Sen. Weiler asked about the hourly rate of the behaviorists. Mr. Smith answered that his best guess would be a \$12 to \$30 per hour range.

Sen. Weiler understood the fiscal year has just begun. He would like to know what percentage of the new money being spent has gone to the \$8 per hour employees. Mr. Smith answered that this is very difficult to determine because of the complexity of the different providers. Sen. Weiler said that he has zero confidence the intent language of the appropriation to increase the beginning wage of \$8 per hour has been realized. Mr. Smith stated they would be willing to analyze this.

Mr. Clay Hiatt, Finance Director, Division of Services for People with Disabilities said the intent language didn't specify that the funding was to be utilized for only \$8 per hour workers. Mr. Hiatt said the starting wage has increased from \$8 to \$9.25. However, they felt the intent was for providers to give increases to all employees who worked with direct services. They will be willing to follow this directive if that is what is wanted.

Sen. Weiler asked Mr. Smith to report very specifically where the new money is going before the 2016 Legislative Session starts. It is his understanding that some behaviorists' salaries have now increased to \$60 per hour. Mr. Hiatt indicated that the increases are going to direct service workers.

Mr. Smith said that the provider systems are all set up differently, so it is difficult to determine exactly which employees received what increase. His understanding was to direct the appropriation to individuals spending 60 percent of their time in direct care. He stated that this new directive would require much more oversight and reporting, which would require additional staff and resources.

Rep. Redd reminded committee members that providing direct services to people with disabilities is very complicated. The services required are unique to each individual.

Sen. Escamilla said the intent language of the committee probably lacked specific directives. The major concern was the way the situation was presented, that there was a crisis in this industry because the minimum wage was so low. Sen. Henderson reiterated that the funding was to be used for the lowest paid workers, where the turnover rate is very high. She has constituents who were expecting increases that had not yet been realized, and they have seen the money go elsewhere.

Co-Chair Christensen indicated the chairs should have given Mr. Smith more direction regarding the intent of the appropriation. Mr. Mark Brasher, Deputy Director of Human Services indicated the committee was seeing an aggregate of the data. They looked at the base line regarding wages prior to the increase. They can get the data that is required.

Sen. Weiler indicated that his major issue is that the agencies can't report whether or not the \$8 per hour salaries have been increased. Mr. Smith indicated they can go to each provider and report back to the committee with this data.

Co-Chair Christensen indicated that an aggregate of the data for over 9,000 people could be prepared. He also stated that more off-line discussion could take place, and they welcome Sen. Weiler to take part in that discussion.

Mr. Charlie Luke, Executive Director, Utah Association of Community Services (UACS) indicated they were willing to work with the committee to gather the desired information. He indicated that at the UACS, the starting wage for direct care workers has increased from \$8 to \$9 per hour. He mentioned that the other major issue was the 87 percent turnover rate. He said that it is too early to see how the wage increases have impacted the turnover rate, but they should be able to report during session.

Rep. Chavez Houck indicated that providers may be implementing this increase in different ways, and this is why Legislators are hearing about it. She wanted to know if there is a way to establish more consistency. Mr. Luke indicated that by and large there is consistency. There are a few providers who have interpreted things differently.

3. ICF/ID Direct Care Salary Increase Report Summary

Mr. Frandsen discussed the [ICF/ID – Direct Care Salary Increase Report Summary](#) Issue Brief. This appropriation was intended to raise wages for direct care service staff in the Intermediate Care Facilities. He discussed the [ICF/ID Direct Care Staff Wage Increase Report](#) and the implementation and status of increasing salaries for direct care workers.

Co-Chair Christensen mentioned that Medicaid does have a moratorium and asked for clarification regarding the specific Utah code regarding this funding.

Mr. Michael Hales, Deputy Director, Department of Health reported on this moratorium regarding the certification limit. He indicated that ICF/ID (Intermediate Care Facilities for Individuals with Intellectual Disabilities) is governed by this moratorium which requires facilities to be close to 100

percent capacity. He indicated that many of these individuals with intellectual disabilities stay with the system for their whole lives. He said there are only 16 privately owned and operated ICF/ID facilities in the state. He discussed the importance of community-based placement and the need for expanded services. He reported that skilled nursing facilities are at 65 percent occupancy, often because they have a number of aging patients who pass away.

Co-Chair Christensen asked for clarification regarding Medicare and Medicaid.

Mr. Hales said that in the 1980s all skilled nursing facilities were covered by Medicaid so there was a lot of over building. Eventually the industry has stabilized and it is often in state statute to be at 65-70 percent occupancy. Recent federal policy has limited new Medicare facilities receiving accreditation. He stated that veteran's facilities are an exception.

Rep. Ward asked if the moratorium was state or federally based and asked for clarification about the individuals involved.

Mr. Hales reported the moratorium is in state statute, but the federal government will occasionally place limitations. He stated the level of care is based on the severity of the intellectual disability. The most severe are at the Utah State Developmental Center in American Fork.

Mr. Hales reported on appropriations of state funds and federal funds and the four types of providers targeted for the increases. He indicated that all had met their target and most exceeded their target. He stated there are very encouraging signs from the industry.

4. Approval of Minutes

MOTION: Co-Chair Ray moved to approve the minutes of all Social Services Appropriations Subcommittee meetings during the 2015 General Session (January 27, 28, 29, 30, February 2, 3, 4, 5, 6, 9, 10, 11, 12, 13) as well as the June 12, 2015 meeting. The motion passed unanimously with Rep. Spendlove absent for the vote.

5. DHS/DSPD USE of FY 2015 Non-Lapsing Funds in FY 2016

Mr. Jardine reported on the [DHS/DSPD Use of FY 2015 Non-Lapsing Funds in FY 2016](#). He indicated that DSPD has statutory language regarding these funds.

Co – Chair Christensen said that Item #6 - Department of Human Services Responses to In-depth Budget Review and Audit recommendations would be discussed at a future meeting.

7. Report on Local Authority Mental Health Medicaid Match.

Mr. Jardine reported that \$6.4 million was appropriated one time last year to assist local mental health authorities pay for their mental health Medicaid match. He stated the [Local Authority Mental Health Medicaid Match Report](#) poses at least two budget policy questions for Legislators.

Co-Chair Christensen indicated that shifting mental health funding to a county level has made it very difficult for them. He felt that this may be more of a state decision.

Mr. Lincoln Shurtz, Director of Government Affairs, Utah Association of Counties gave a brief [Medicaid Match History](#) discussing some of the long time historical agreements. He asked if this process needs to be changed.

Mr. Kyle Snow, representing the Local Mental Health Centers, discussed the county and state behavioral health partnership included in the [Local Mental Health Authority Appropriations Report](#). He explained the ten required services. He discussed the growing Medicaid population and funding. He explained that Medicaid eligibles have more than doubled but the General Fund appropriation has only gone up 20 percent. Mr. Shurtz expressed concern from the counties about meeting this increased demand.

Rep. Redd asked for clarification about the funding in context of the overall mental health and substance abuse budget. He stated that state funding has been flat lined for 15 years. He expressed concern that counties will not be able to provide the necessary services and might be forced to shift some services to other counties. He asked if the counties are incentivized to make the system work.

Mr. Snow asked for clarification on the intent language and how this can be funded without state participation. They are asking the state to agree to meet their end of the bargain. He said there is great local incentive to keep individuals out of hospitals and out of jails. They prefer to provide the services locally, which is a cost savings to the state. Mr. Shurtz indicated they are requesting \$6.4 million ongoing.

Sen. Escamilla asked about the current waiting list for services and how this would be impacted.

Mr. Snow indicated there is not a wait list for critical services; but there are waiting lists for long-term services. Mr. Doug Thomas, Director, Division of Substance Abuse and Mental Health, indicated there are some safety-net services available for these individuals. He summarized the [Local Authority Medicaid Match](#) issue.

Co-Chair Christensen instructed staff to put the \$6.4 million ongoing on the list to reconsider during the General Session.

Co-Chair Ray asked about screening for the Justice Reinvestment Initiative stating this is having a huge impact on counties.

Mr. Schutz indicated that most of the money for this went to Corrections not to community programs. He indicated there will be a cost for serving people in the communities. Mr. Snow indicated that money for screening is highly inadequate. Once individuals are screened, then what happens?

Co-Chair Ray expressed concern about people in jails in light of the fact that Medicaid will not fund these people which impacts the process.

8. Report on Office of Recovery Services Proposed Uses on Increased Fees from the 2014 General Session.

Mr. Jardine gave a brief overview regarding the status of the increased ORS fees to cover the costs of case processing. [Report on Office of Recovery Services Proposed Uses on Increased Fees](#) and discussed possible committee action.

Ms. Liesa Stockdale, Director, Office of Recovery Services gave background information regarding the increased payment processing fees. She reported that due to extensive programming requirements, this fee is not scheduled to be implemented until July 1, 2016. The current status of this project is that programming redesign documents have been drafted and are currently undergoing ORS's review process. Programming is on schedule for completion by July 1, 2016. Clients who will be affected by this fee change will be notified by mail before June 1, 2016. She also explained the caseload for each ORS worker.

Ms. Stockdale explained the payment processing fee was raised to 6% per payment up to \$24.00 per month. ORS is requesting the fee be reduced to a maximum of \$20 per month.

Co-Chair Christensen asked if ORS needs authorization to reduce fees.

Mr. Frandsen indicated that in statute the fees are maximum amounts, the agency can charge less than the maximum without authorization.

Sen. Escamilla was concerned about the case manager's responsibility to understand each situation and be aware of all of the changes that are taking place.

Ms. Stockdale also indicated that credit card processing fees have increased. The current ORS fee structure is based on \$1 per month if there is no worker involvement, \$2 for automated payment processing, \$5 if a case worker is involved, and \$6 if assistance was needed in making the payment.

Sen. Escamilla said that she is aware that trying to navigate the system is very difficult. She asked if there are payment alternatives. Ms. Stockdale said there are several ways to make payments.

Co-Chair Ray asked what the state's return would be if additional workers were hired. He asked about the critical need for an updated computer system. Ms. Stockdale indicated the current computer system is over 20 years old, and it would cost \$170 million to move to an updated computer system. She indicated that if a fee is charged, it first comes off of the federal financing system.

Co-Chair Ray indicated that it would be better to bring the updated computer system in phases rather than asking for it all at once.

Sen. Henderson asked what percent of the general budget comes from these fees. Ms. Stockdale indicated the overall budget is \$39 million and the proposed fee increase would be about \$1.2 million.

10. Quarterly Status Report on Replacement of Medicaid Management Information System.

Mr. Frandsen indicated that the [Report on Replacement of Medicaid Management Information System](#) was informational.

12. Follow Up on State Policy and Practice Regarding Drug Testing of State Job Applicants.

Ms. Jean Mills-Barber, Human Resource Management showed data regarding drug testing of state job applicants. [State of Utah Drug Test Data](#)

Co-Chair Ray asked how random drug tests were done. Ms. Mills-Barber indicated that the names of individuals who were given drug tests were randomly selected. She indicated that each agency determined how many tests were made. These tests are made on the spot.

Co-Chair Christensen asked which drugs are being tested and if users have figured out a way to avoid a positive test. He asked what happens when positives are found. Ms. Mills-Barber indicated the test is a standard five panel screen. She said the data indicates that individuals have not found a way to mask drugs in their system.

Co-Chair Ray asked what the cost would be to have pre-employment drug testing done at all agencies. Ms. Mills-Barber indicated that it is the agency's discretion whether they have pre-employment testing. She can get the costs involved to Mr. Jardine.

Sen. Escamilla asked what discipline was involved when results did come back positive. Ms. Mills-Barber replied that it is up to the agency. It depended on the severity and the position involved.

Rep. Redd asked if the results were all true positives, how many were determined to be false positives. Ms. Mills Barber said that Utah has chosen to mirror the federal approach. Two samples are prepared with all tests. One is tested and, if positive, the second sample is tested. If it is also positive, it is reviewed by two individuals. She indicated that employees can have that second sample re-tested by a separate and independent lab.

Co-Chair Christensen noted that drug testing is expensive for the state when there is such a low percentage of positive results. However, this is extremely important because of the state's liability risks should these tests not be administered.

9. Report on Options for State Laboratory to Serve More Government Entities

Mr. Frandsen introduced the concept of having the state laboratory serve more government entities. He discussed some of the barriers described by the Department of Health.

Co-Chair Christensen asked if it would be cost effective to have the State lab cover all services.

Dr. Joseph Miner, Executive Director, Department of Health stated there is a great potential to save tax payer money, but initially there were some investment costs involved.

Dr. Robin Atkinson Dunn, Director, Utah Health Lab indicated the lab could definitely save taxpayer money with an expansion of services. But, it would require looking into these areas, and preparing a more detailed analysis. She felt that some areas would be worthwhile, but others the expense would not justify the lab in doing that procedure.

Rep. Ward asked if Dr. Dunn was aware of tests that would be more cost effective at the state level. Dr. Dunn indicated that the TB (tuberculosis) test could be more cost effective at the state level. They could give more data regarding other possible services. Ms. Dunn indicated that the newborn screening services could also be cost effective at the state level.

13. Report on Highest Cost Individuals – Individuals Receiving Services in Excess of \$100,000 Total Funds Annually in Any Social Services Agency

Mr. Jardine explained the [High Cost Individuals Report Summary](#) Issue Brief. He also discussed the [Report on Highest Cost Individuals](#) prepared by the agencies involved.

Rep. Redd asked what is being done to prevent these high-cost situations from happening. Co-Chair Christensen indicated that prevention is prioritized very low. One way to prevent some of these high costs is to provide more services for expectant mothers with high-risk pregnancies.

Dr. Michael Hales, Deputy Director Department of Health, indicated that most individuals are on Medicaid. He stated that of the top ten individuals six are infants, and five of the six are pre-term deliveries. They have worked with accountable care organizations to try and provide better incentives among different providers. They are working to promote healthy eating and exercise as preventative measures.

14. Distribution of all General and Education Fund & Total Funds by Lowest Organizational Unit Possible.

Mr. Frandsen indicated that the chairs directed staff to show funding by the lowest organizational unit in each agency. They have prepared this information for discussion. It was noted that fees could be increased in the area of vital records.

[UDOH Lowest Organizational Unit Funding Description](#)
[LGAA DOH Medicaid and Health Financing](#)
[DWS Costs by Lowest Accounting Unit](#)
[DHS Costs by Lowest Accounting Unit](#)
[USOR Costs by Lowest Accounting Unit](#)

16. Review of Statutorily Required Reports

Mr. Frandsen said that at the last meeting, staff was asked to identify statutorily-required reports which might be eliminated from statute. [Review of Statutorily Required Reports](#). After careful review, Mr. Jardine and Mr. Frandsen together with the affected state agencies would suggest removing two reports.

Co-Chair Christensen will present a bill during the Legislative Session regarding this action.

15. Update on Funding of Requests for Appropriations Authorized During the 2015 General Session

Mr. Jardine gave an update regarding the funding of requests for appropriations authorized during the 2015 General Session.

Mr. Mark Brasher, Deputy Director, Human Services stated that Best Buddies and TURN have not yet been awarded. There was some confusion regarding the establishment of an Request for Proposal (RFP) process, which may take some time.

Co-Chair Ray asked for clarification. Mr. Brasher indicated the associated language was very vague in the final appropriations bill. Mr. Paul Smith indicated that by the end of September the RFP will be ready to go for both TURN and Best buddies. It will then go out for bid.

17. Detailed Explanation of How Federal Block Grant Spending is Approved.

Mr. Frandsen explained the [How Federal Block Grant Spending is Approved](#) Issue Brief. He explained the changes that have taken place in spending grants and what the money can be used for. He specifically explained some of the larger funds.

19. Tour of Services at Palmer Court

Mr. Frandsen explained the committee would be traveling in four different vans to tour some of the homeless services in the area. The vans would then take committee members to Saint Vincent DePaul Dining Hall for lunch. After lunch the vans would take committee members to the Utah Independent Living Center for the afternoon meeting.

Mr. Matt Minkevitch explained the purpose of Palmer Court and some of the services offered. He stated that it was a solution to homelessness and was a way to grow a better community.

MOTION: Co-Chair Ray moved to recess. The motion passed.

The meeting was recessed at 11:25 am.

Sen. Allen M. Christensen, Co-Chair

Rep. Paul Ray, Co-Chair