



# Children, Families, Health and Human Services Interim Committee

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## 56th Montana Legislature

### SENATE MEMBERS

MIGNON WATERMAN, PRESIDING OFFICER  
DALE E. BERRY  
EVE FRANKLIN  
BOB KEENAN

### HOUSE MEMBERS

LOREN L. SOFT, VICE PRESIDING OFFICER  
BOB LAWSON  
TRUDI SCHMIDT  
CAROLYN SQUIRES

### COMMITTEE STAFF

SUSAN BYORTH FOX  
RESEARCH ANALYST  
DAVID NISS  
STAFF ATTORNEY  
LOIS O'CONNOR  
SECRETARY

## MINUTES

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed. Committee tapes are on file in the offices of the Legislative Services Division. **Exhibits for this meeting are available upon request. Legislative Council policy requires a charge of 15 cents a page for copies of documents.**

Fifth meeting of Interim  
Room 172, State Capitol  
June 21, 2000

### COMMITTEE MEMBERS PRESENT

Sen. Mignon Waterman, Presiding Officer  
Sen. Dale E. Berry  
Sen. Eve Franklin  
Sen. Bob Keenan  
Rep. Trudi Schmidt  
Rep. Carolyn Squires

### COMMITTEE MEMBERS EXCUSED

Rep. Loren L. Soft, Vice Presiding Officer  
Rep. Bob Lawson

### STAFF PRESENT

Susan Byorth Fox, Research Analyst  
Lois O'Connor, Secretary

### VISITORS

Visitors' list (ATTACHMENT #1)

### COMMITTEE ACTION

- Approved the minutes from the February 25, 2000, meeting

### CALL TO ORDER AND ROLL CALL

The meeting was called to order by Sen. Waterman, Chair, at 8:30 a.m. Roll call was noted; Representatives Lawson and Soft were excused.

Sen. Keenan **moved** that the minutes from the February 25, 2000, meeting be approved. Motion carried unanimously.

## **STANDING AND OTHER REPORTS**

### **CHIP UPDATE**

**Mary Noel, Department of Public Health and Human Services (DPHHS)** provided a children's health insurance plan (CHIP) update. (EXHIBIT #1)

In answer to Committee questions from the February 25, 2000, meeting, Ms. Noel said that approximately 60% of the parents whose children prove to be Medicaid eligible follow through with the process. Approximately 95% of the parents who follow through with the process, their children become enrolled in Medicaid. In addition, the CHIP application does not ask if children live on reservations so the number of Native Americans enrolled in CHIP who live on reservations is unable to be calculated. Committee members said that possible estimates on the number of Native Americans could be received from zip codes for residency and the Tobacco Prevention Committee.

Sen. Waterman asked how many children were rejected by CHIP because they were eligible for Medicaid. Ms. Noel said that the Department received applications for approximately 12,000 children and, of those, 26% are potentially Medicaid eligible. Sen. Waterman said that she was disturbed by the fact that at a time when many children are uninsured, having 1,500 eligible children for one program or the other are not getting insured. She asked if there was a way that people could apply for CHIP and if they are told that they make too little money and may be eligible for Medicaid that they are automatically screened for Medicaid. If they are not Medicaid eligible, they then become eligible for CHIP. Ms. Noel said that in Montana, if a child is potentially eligible for Medicaid, the parent needs to go to the county office, have a face-to-face interview, and supply supporting documents of income. **Nancy Ellery, Health Policy and Services Division, DPHHS**, added that the Department is attempting to establish an umbrella name for all of the health care programs so that when a parent applies for health care, they will not know what "slot" that they will be put in. However, a barrier to doing this is that the eligibility policies between the programs are very different, such as the asset requirement for Medicaid but not for CHIP. Another way to remove the barriers to Medicaid is to get rid of the Medicaid name.

Sen. Keenan asked if recruitment for Medicaid was illegal. Ms. Ellery said that recruitment for Medicaid was legal under Medicaid rules. However, the Department has been hesitant to conduct outreach to get

more people on Medicaid because it has to ask the Legislature for more money because Medicaid is an entitlement program. Currently, because of welfare reform, there has been a push at the federal level that when someone leaves a cash assistance program, that states make every effort to see what other programs they may be eligible for. **Laurie Ekanger, Director, DPHHS**, added that every public assistance office is designing a plan to conduct outreach, explore customer service, and have customer service training. The employees will be taking their services into the community rather than having people show up at the offices, in addition to eliminating the asset test and integrating all health care programs into a single eligibility process.

Rep. Squires was concerned that only 6,000 children have been enrolled in the CHIP program to date and that CHIP's funding was not being used for enough publicity to inform the public. She recommended a media blitz for 30 to 60 days to reach the goal of 10,000 children instead of letting the money revert to the general fund or other places. She said that the secret to the success of CHIP and to get more children, particularly the Native American population, enrolled in the program is to receive more money in order to receive matching funds. Rep. Squires also believed that there was not enough CHIP staff to get the applications processed in a timely manner.

Sen. Berry asked how many counties had an advocate such as Ravalli County. Ms. Noel said that 13 communities have covering-kids advocates through the covering kids grant administered by Healthy Mothers Healthy Babies (HMHB). There are also 33 other outreach contracts signed by the Department in various other communities.

Sen. Waterman asked if the covering-kids advocates were held to some type of standard. Ms. Noel said that the advocates are not subjected to a certain number of children that they have to enroll but that they were subject to very detailed reports submitted to the state HMHB office. The state HMHB is, in turn, accountable to the state. Sen. Waterman requested information on the number of contacts made, the number of applications given out, and the number of applications received by the covering-kids advocates for each contract.

Rep. Schmidt asked if covering-kids advocates were successful, why did all the counties not have them. Ms. Noel said that the covering-kids grant did not include enough money for more than the current 13 advocates.

The Committee requested draft legislation to integrate all health care programs into a universal eligibility application and to eliminate the asset test for Medicaid to be reviewed at the August meeting.

## **DEVELOPMENTAL DISABILITIES FUTURE STUDY**

**Joe Mathews, Disability Services Division, DPHHS**, said that House Bill No. 2 requested that the Division establish a committee to review what should be done with the two developmental disability residential facilities (EastMont Human Services Center and the Montana Developmental Center). The final report will be available for Committee consideration at the August meeting.

Mr. Mathews said that changes in the developmental disabilities system will have a future impact on what will be done to residential facilities and community-based services. The Division is working to provide a seamless system whereby people will be referred based on need and what the Division is able to provide. At the same time, litigation to ensure that state programs provide services to people with disabilities in the most integrated settings possible is going on across the country. Community providers are struggling with maintaining direct-care staff and are unsure whether they have the capability of serving the severe needs of the people leaving the residential facilities. He added that Title XX, the social services block grant, is the funding source for community-based services and it is currently being considered for massive cuts (a possible 66% cut) by the U.S. Congress. Montana uses Title XX funds to fund many of the Division's services.

Sen. Waterman requested that the Committee read the Division's report and consider the issue very carefully, reminding them that Montana targeted its Title XX funds almost exclusively for developmental disabilities services. Adding to the problem is a clear lack of funding for providers in that there is a 38% disparity between the funding for state employees providing services in institutions and private-sector employees providing services in group homes. There is also between 300 and 400 people waiting to receive developmental disabilities services. Decisions and action on the Developmental Disabilities Advisory Committee report will be an August agenda item.

Sen. Keenan asked how the Division was reducing the waiting list and requested an update on the dual diagnosis issue discussed at the last meeting. Mr. Mathews said that the Legislature gave the Division funding to go to an individualized services model. However, people may not be receiving every service that they need but a number of people are receiving a single service. Regarding the dual diagnosis issue, Mr. Mathews said that at present, professional dialog is ongoing with the Dr. Charles Marlen family to find the most proper setting for their daughter who is currently housed at the Warm Springs State Hospital. Staff is working to determine whether a more appropriate placement for the daughter would be the Montana Developmental Center. However, she has had some serious behavioral problems and staff

is waiting before a final decision is made. In addition, there is a lack of psychiatric services at the Montana Developmental Center.

## **MENTAL HEALTH**

**Bonnie Adee, Mental Health Ombudsman, Office of the Governor**, provided an overview of the Mental Health Ombudsman Report. (EXHIBIT #2)

Sen. Keenan said that the mental health system treats diagnoses rather than individuals and diagnoses can change. He believed that the focus within the system should be on case management and school-based mental health referrals and services.

Rep. Schmidt asked what Ms. Adee's legislative recommendations would be. Ms. Adee said that any legislation should commit to coverage for the most acute and seriously mentally ill children through Medicaid. Given that Medicaid is the payer of last resort, it would provide a safety net for seriously ill children who have other insurance coverages that have preexisting clauses that rule out mental illness coverage. Legislation should also address the parity loopholes that still exist.

Rep. Squires asked if discussions have been held with providers about the Medicaid issue. Ms. Adee said that some providers are committed to serving the public mental health population and have programs built around Medicaid rates. However, increased provider rates have not kept up pace and are desperately needed.

## **HJ 35 SUBCOMMITTEE**

The HJ 35 Subcommittee requested the following draft legislation:

- to clarify community commitment laws (no option for conditional revocation for community commitment); and
- to clarify the Medicaid managed care statutes (solvency for insurance and what should managed care operations meet the solvency requirements similar to other insurances).

The Subcommittee also discussed the following issue:

- whether to raise the cost of the Mental Health Access Plan to 150% of poverty (at what level can there be solvency); and
- whether the DPHHS was compliant with Medicaid rules for implementing new programs (they were not in compliance with regard to the PACT pilot program);

Sen. Franklin said that the Subcommittee also endorsed the Mental Health Oversight Committee recommendation on the training and education for law enforcement to deal with people with serious mental illness. Other issues reviewed were the Warm Springs State Hospital move, that it was over

target in terms of numbers of patients, and that there was a \$1.5 million deficit in the Addictive and Mental Disorders Division's (AMDD) budget that is directly related to Warm Springs. The Subcommittee also reviewed Magellan and Department data which indicates a discrepancy in the amount of money paid to the Department by Magellan and the amount of the money that the Department paid to the providers over the last two months.

**Lois Steinbeck, Legislative Fiscal Division**, added that the Subcommittee also reviewed a \$3.6 million general fund overrun in the mental health services budget. Approximately \$1.5 million of the \$3.6 million, the Department attributes to the Warm Springs State Hospital. Other issues reviewed by the Subcommittee were a preliminary list of service reductions that the mental health program is considering. Staff comments are that most of the children's services reductions would result in direct cost shifts from Medicaid, which is funded 30% general fund to 70% federal funds, to the general fund foster care, juvenile corrections, and school budgets. The AMDD has yet to meet with the Child and Family Services Division, the Department of Corrections, or OPI to review the policies of the service reductions but have met with providers who essentially told them the same thing.

#### **MENTAL HEALTH OVERSIGHT ADVISORY COUNCIL**

Sen. Keenan provided an overview of the recommendation from the Mental Health Advisory Council. (EXHIBIT # 3) Sen. Keenan's concern was that the Advisory Council's recommendations were not a part of the Department's EPP process. As a result, many of the recommendations must be revisited in the 2003 session.

Once again, Sen. Waterman reminded the Committee to give Committee staff any proposed draft legislation that they may want to review. She said that draft proposals from all of the different committees and advisory councils will probably be reviewed by the Committee. She also requested that Committee staff draft legislation that reflects the concerns raised by Bonnie Adeo, particularly the possibility of a co-payment for services to cover severely mentally ill people.

#### **PROJECT ON THE UNINSURED AND THE ALPHA CENTER**

Ms. Ellery provided an overview of the Key Elements in the State Planning Grant Proposal. (EXHIBIT #4) Ms. Ellery requested a letter of support from the Committee for the state planning grant.

The Committee requested that staff write a letter of support for the grant.

#### **FOSTER CARE**

**Chuck Hunter, Child and Family Services Division, DPHHS,** provided a brief summary of the foster care review process. (EXHIBIT #5) Mr. Hunter said that other issues that need to be discussed before draft legislation is requested are: (1) how to properly fund the system; (2) how to address the staffing needs; and (3) the preferred start up time for the citizen review board model (whether it should be phased in or implemented all at once statewide).

Sen. Waterman requested the proposed foster care legislation and a few suggestion to improve the bill are forthcoming, particularly from District Court Judge John Larson. She said that one of the concerns about the legislation is in regard to the open deliberations of the citizen review boards. The Committee will consider this legislation at its August meeting.

Sen. Keenan requested an update on the Division's budget overrun. Mr. Hunter said that the Division has recalculated the foster care benefit side to see if it could replace general fund with TANF and Title XX funds. As a result, approximately \$500,000 of general fund will be recovered along with approximately \$500,000 from in-home services. The current projection is an approximately \$200,000 shortfall in general fund at the end of the year.

Rep. Schmidt asked under what authority the current citizen review boards were being formed. Mr. Hunter said that the current statutes allows communities to decide whether they want to pilot a citizen review board model. The new proposed legislation is allowing for citizen review boards statewide as the only formal system.

#### **AREA 7 - AGENCY ON AGING**

Sen. Waterman cautioned the Committee that the Department is currently undergoing an internal investigation regarding this issue that may result in criminal charges and she was unsure whether it was appropriate for the Committee to be deeply involved in it. An update on the investigation will be given at the August meeting and the Committee will take appropriate action, if needed, at that time.

**Mike Hanshew, Senior and Long Term Care Division, DPHHS,** said that one of the Division's responsibilities is to administer the programs for senior citizens funded under the federal Older Americans Act. The funds are administered through 11 area agencies on aging at the local level. In December 1999, the Division was notified by the Department's auditors that as part of an audit of the Area 7 Agency on Aging, which serves older Native Americans on reservations, that evidence of possible theft and misappropriation of federal and state funds was found. The Division took control of the Agency's records, recovered any unspent funds (approximately \$200,000), and returned the records for a more in-

depth investigation by the Department auditors. The investigation was completed in April 2000 and the Division was told that, in addition to suspicions of possible theft, there were significant problems with the recordkeeping and accounting systems of the private, not-for-profit corporation that administered the grant. As a result, the Division cancelled the contract and enter into direct contracts with the tribes for a period of time to ensure that payments were continued for the services provided on the reservation. The Division is currently seeking a longer-term alternative that includes a Native American based governing body to administer the programs and funds.

**Jonathon Windy Boy, Chippewa Cree Business Committee**, provided written comments and recommendations to address the funding distribution for Title III funds. (EXHIBIT # 6)

**Joanne Wolf Black, Northern Cheyenne Tribe, and Judi Houle, Chippewa Cree Tribe**, expressed the following concerns regarding this issue: (1) the closure of three feeding sites leaving 120 elders without food; (2) problems with the tribal/state contracts; and (3) the Department's lack of responsibility in the oversight and monitoring of Area 7 and making sure that the bonding of the corporation was in place.

Sen. Waterman asked that responses as to why there was not adequate oversight of Area 7 and what is being done to resolve the problem be provided the Committee at its August meeting. She also requested responses from the Division regarding the recommendations provided by Mr. Windy Boy. She added that the contractual language is an issue between the Department and the tribes and should be resolved at that level.

Sen. Franklin asked about the lag time for the distribution of funds. Mr. Windy Boy said that from fiscal years 1996 through 1999, the tribes have had no reimbursement from the state through the Area 7 Agency on Aging, but the problem itself has been ongoing since 1993. He added that the Older Americans Act prohibits the tribes from receiving direct funding from Title III and the funds must come through the state. Mr. Hanshew added that the Division is in the process of getting the contracts in place. Once that is done, the tribes will be paid in a lump sum for all services in the period of time that is covered by the contract, which is from December forward. Following that, the funds that were recovered from Area 7 and any additional restitution as a result of any criminal charges will be distributed to each tribe on a percentage basis.

**Lena Belcourt, Legislative Analyst, Chippewa Cree Tribe**, clarified that even though there was tribal representation on the governing board, the governing board was often left out of all major decisions that happened in Area 7, making this issue nontribally driven.



## **ALTERNATIVES FOR THE TANF BLOCK GRANT**

**Pat Gervais, Associate Fiscal Analyst**, presented a brief visual overview of Flexible Spending of TANF and State Maintenance of Effort (MOE) Funds, of which a detailed summary of the presentation can be found in her report of the same name. (EXHIBITS #7 and EXHIBIT #8 respectively)

Sen. Keenan asked if there was a difference between the Title IV-E and TANF adoption options. Ms. Gervais said that under the Title IV-E Adoption Program, states cannot means test if the child is a Title IV-E eligible child. There is an entitlement to the adoption subsidy and it is not based upon the adoptive parents needs. Under a TANF option, states would have to review the financial resources of the adoptive family if the child was not a Title IV-E eligible child and if the adoptive family was a needy family. However, the definition of "needy" for the TANF option could be different than the cash assistance definition of "needy", making it possible for the TANF option to be defined as 200% of the federal poverty level rather than at the cash assistance level.

Rep. Squires said that during the 2000 Special Session, the Legislature asked for additional funding from TANF to be put toward the HRDCs and their summer youth programs. She asked why she received a letter stating that it was unwise to shift the money into those programs. Ms. Gervais was unsure, adding that summer youth programs can be funded with TANF dollars under the third and fourth purposes of TANF which involves supports to families and teen pregnancy prevention. Rep. Squires asked how much of the TANF block grant remained. Ms. Gervais said that the Department estimates that as of June 30, 2000, there will be \$11 million of unexpended prior year TANF block grant funds remaining. However, recent regulations tightened up on the use of carryover funds and they can only be used to provide services which are assistance (basic food, clothing, and shelter needs). Nonassistance services, such as work support services that do not effect a person's timeclock, would have to be provided out of current year funds. The Department is estimating that as of June 30, 2000, it will have \$38 million of current federal fiscal 2000 grant funds unexpended. She said that the challenge is to spend the current year grant in conjunction with spending the carryover funds which carry bigger restrictions.

Sen. Waterman asked if the unexpended funds from previous years would be rolled into the \$11 million. Ms. Gervais said that the unexpended amount from previous years is the \$11 million and is not a part of the \$38 million. On June 30, 2000, the \$38 million if unexpended at September 30, 2000, would then become carryover funds. The Department has indicated that it intends to transfer \$12 million of the \$38 million to Title XX and the Child Care Development Fund prior to the September 30 federal fiscal year end.

Rep. Squires asked if the Department had made any other transfers. Ms. Gervais said that the Department transferred \$5.7 million to Title XX and the Child Care Development Fund and \$1.3 million to the Developmental Disabilities Division for Title XX to account for the reduction in Title XX funds out of a prior grant. Rep. Squires asked if taking in account all of the transfers, were funds available that could have been used for the summer youth programs. Ms. Gervais said that there are available funds in the current year grant for those programs.

Sen. Waterman asked how many current TANF participants will hit the timeclock in 2002 and what is the likelihood that the state will use all of the TANF funds by September 2002 when TANF ends. Ms. Gervais said that there is currently 4,500 TANF participants and a majority of the caseload will hit the timeclock in 2002. She added that if carryover funds are only used to fund assistance costs, it is projected that in fiscal year 2002, there will not be enough carryover funds to fund assistance and current year block grant funds will have to be used. As a result, there is a much greater likelihood that more of the TANF funds will be spent. However, there are many upcoming issues as the state approaches FAIM Phase II in the 2001 session and future planning until the block grant is reauthorized.

**Bob Tallerico, Human and Community Services Division, DPHHS**, said that the Department's philosophy is to use TANF funding to get people to work and to keep those who are at work. Several of the ideas that are ongoing in the drafting of FAIM Phase II are as follows:

- increasing the child only grant to between \$200 and \$300 from its current \$100;
- individual development accounts for qualified individuals;
- refundable income tax credits;
- increasing outreach and out stationing of DPHHS employees to help qualified people;
- vehicle ownership program; and
- transferring \$2.85 million to the Child and Family Services Division and \$1.3 million to Program 10 from the Title XX funds.

Mr. Tallerico said that FAIM Phase II is very expensive and, even though TANF is flexible, the state must be careful to not use any federal grant to supplant the general fund that is in place.

**Kim Brown, FAIM Project Development Manager, DPHHS**, stated the following:

- 25 public meetings have been held around the state;
- 11 focus groups were developed to help establish the FAIM Phase II draft plan and the focus groups developed 142 recommendations of which some are duplicates;
- The recommendations are being categorized within five categories: administrative, legislative, other entities, system changes, and further research;
- The Department is currently costing out the recommendations and estimate what the price tags may be;

- The Department is also assigning some issues for further development, such as postsecondary education;
- The broad direction for FAIM Phase II are as follows:
  - ± support for working families -- diversionary programs;
  - ± transitional services -- support services for people who have left cash assistance;
  - ± assistance with the standard of living for those currently in the FAIM program;
  - ± an intensive approach for those people who are approaching their 60th month;
  - ± considering the restoration of full Medicaid benefits to adults; and
  - ± reviewing sanction changes.
- The general theme for FAIM Phase II is as follows:
  - ± more choice for the participants; better assessments; co-locations--experts in the county offices of public assistance to provide service as well as taking the Department's services out to other areas; individualized programs, activities, treatments, case managements, and assessments; diversion and transitional or followup services; holistic and comprehensive services; reducing the caseload or adding more staff; training improvements and increases; a team approach to case management; programs and policies should be created to further encourage self support; consistent post secondary education policies across the state rather than county by county; and economic development and its importance.
- The Department is working toward tribal cultural awareness and sensitivity training for staff; and
- The Fort Belknap Reservation has an approved tribal TANF plan with an implementation date of October 1, 2000.

Sen. Waterman requested that Committee members receive a copy of the Department's draft plan for FAIM Phase II as soon as it was available and that it be on the August agenda for further discussions of the issues that require legislative change.

Sen. Waterman asked for clarification on the issue remaining with respect to post secondary education. Ms. Brown said that there are those who believe that if postsecondary education is to be allowed as a work activity for people in the TANF program, there should be an additional work requirement tied to it, such as using 25 hours of their schooling as a work activity along with 10 additional hours, for example, as work study. There are also those who believe that any activity that the Department says is allowed should be allowed without additional strings tied to it. She added that postsecondary education is not considered an allowable work activity by the federal government, and the reason Montana is able to use it within the realm of its TANF program is because of the waiver. Sen. Waterman said that as a member of the sanctions workgroup, every recommendation made was tied to reducing the caseload and increasing staff. She asked why these recommendations were not included in the Department's EPP proposals. Mr. Tallerico said that the EPP for FAIM Phase II has not been submitted and will not be until the Department has had an opportunity to firm up the costs. There is no general fund within the FAIM Phase II proposal; it is all federally funded much like program 16 (appropriation project for the FAIM

program through the Department's budget committee) which contains an outline for specific uses for the FAIM funding.

Rep. Squires said that she is part of a retraining and relocation program that includes displaced homemakers and FAIM participants who are running up against the timeclock. These people are full time students with high GPAs and their biggest concern is being required to participate in the 25 work hours while still maintaining a family. She recommended reviewing the cases, and if a person is taking a maximum credit load, then give them some time and eliminate the work requirement.

Rep. Schmidt provided a Time Magazine article that referred to the success of Minnesota's welfare reform. (EXHIBIT #9)

### **DPHHS EPP PROPOSALS**

Ms. Ekanger provided a copy of the Department's proposed legislation for the 2001 session. (EXHIBIT #10) The legislation is a fluid list and it contains \$90 million in new general fund requests. The Department's top priorities are provider rate increases, expanding access to publically funded health care services, removing the asset test in Medicaid, and maximizing specific services. Each DPHHS Division provided the Committee with their priority list. They are as follows:

- Disability Services Division (Joe Mathews, Administrator)
  - provider rate increases, develop a better community infrastructure, particularly in the arena of developmental disabilities, to attract and keep direct care staff in the communities, and to maintain Title XX funding.
- Addictive and Mental Disorders Division (Dan Anderson, Administrator)
  - general increase in provider rates and substantial increases in psychiatric services, particularly in the rural areas;
  - increase and improve access to services;
  - expand the availability of Medicaid funding for chemical dependency services using existing earmarked alcohol tax money to leverage federal money;
  - expand the eligibility to mental health services from 150% to 200% of poverty;
  - eliminate the asset test;
  - increase training for law enforcement, mental health system entities, and chemical dependency entities;
  - one-time start up funds for two behavioral health facilities (no-wrong door program) to deal with crisis in communities that involve mental illness, chemical dependency, and a combination of the two; and
  - propose legislation to clarify the authority on who is to provide the education program for minors in possession, who sets the criteria for the program, and who approves the program.
- Health Policy and Services Division (Nancy Ellery, Administrator)
  - to increase access to health care and to provide an increase in provider rates;

- to expand transitional Medicaid from 12 months to 24 months;
- to increase funding for tobacco prevention and communicable disease programs;
- to continue the implementation of the state trauma grant; and
- to restore operational funding for the certificate of need program.
- Human and Community Services Division (Bob Tallerico on behalf of Hank Hudson, Administrator)
  - 95% to 98% of the Division's general fund budget is used to meet the TANF maintenance of effort or food-stamp for Medicaid match money;
  - to increase general fund by \$3 million of which \$1.7 million will be used to leverage federal dollars to increase child care services;
  - to maintain the REACH (energy assistance) and elderly refugee program grants; and
  - propose legislation for the FAIM budget and to create a uniform funding source for the TANF eligibility determination costs associated with food stamps and Medicaid for nonassumed counties.
- Child and Family Services Division (Chuck Hunter, Administrator)
  - a proposal that attempts to balance the Division's workload with its staff by diverting children from the system, by eliminating the need for placement, by reunifying children with their families faster, or by providing permanent placements faster;
  - increase funding for CAPS support and training to reduce staff time on the computer and increase their time working with children and families;
  - a proposal to centralize the intake process statewide;
  - foster care and day care provider rate increases; and
  - full funding for travel contracts and new funding for postadoptive services.
- Senior and Long Term Care Division (Mike Hanshew, Administrator)
  - to increase provider rates and access to services;
  - to decrease the crisis in rural nursing homes by using the county funds to match federal funding through intergovernmental transfers;
  - to decrease the waiting list for services;
  - to increase the number of adult protective services employees across the state;
  - to request funding to staff the new 15-bed unit at the Montana Veterans' Home in Columbia Falls; and
  - a voluntary registry for home care workers.

Ms. Ekanger added that the Department will also request \$25,000 in general funding for support of the Intergovernmental Coordinating Committee for Prevention which is a statutorily mandated committee that works to coordinate prevention activities.

Sen. Franklin asked for a clarification of the no-wrong door program for the behavioral health facilities. Mr. Anderson said that the no-wrong door program acts as a mental health crisis program for people who are also intoxicated. It is envisioned that it will be a nonhospital-based detoxification program and a place where a person detained for possible involuntary commitment to the Warm Springs State Hospital could be treated.

Sen. Waterman requested a brief commentary on each of the Divisions' legislative proposals at the August meeting.

### **PUBLIC COMMENT**

**Tanya Gartner, Parent of a mentally ill child**, said that parents of mentally ill children need program lifelines and access to a child psychiatrist is very limited to nonexistent. Her family did not qualify for Medicaid because her husband's income was too much and she did not work so that her family could qualify for the mental health family services program (nonMedicaid). For financial reasons, she had to return to work and their eligibility for the mental health family services program ceased. After frantically looking for other services and after her son was put on a waiting list, she had no choice but to give up custody of her son in order for him to get treatment. Ms. Gartner is awaiting criminal charges for medical neglect because she had to sign a paper stating that she would no longer pay for her son's treatment.

Sen. Waterman asked what will happen to Ms. Gartner's son now that he is a ward of the state. Mr. Hunter said that if the Division makes the determination that Ms. Gartner's son is a child that falls into the abuse and neglect category, Medicaid will pick up the cost of his care. However, there is the legal quandary of whether this is a case of neglect. If the child is not determined to be in the neglect category, there is not a state program available to provide assistance, other than the medical needy program. Sen. Waterman requested that the Department continue to work with Ms. Gartner and keep the Committee apprized of the situation.

**Kirk Astroth, Chair, Children's Trust Fund**, provided written comments on the Children's Trust Fund and the Montana Collaboration for Youth. (EXHIBITS #11 and #12 respectively) The Children's Trust Fund will approach the 2001 Legislature with policy initiatives that will help make a difference in the lives of children and families.

**Dick Paulson, Director, Healthy Mothers Healthy Babies**, will provide another media blitz on covering children throughout the whole realm of health care. He provided the booklet ABC's of Health Care Coverage: Is Your Child Missing Out?: A Parent's Guide to Health Care Insurance and Programs for Children in Montana. (EXHIBIT #12) HMHB is also producing a document that can be used by all coverage program workers. It includes a description of each of the programs, what services they provide, who is eligible, and what are the application policies.

Sen. Waterman asked if HMHB was addressing the gap between the 60% of families who are successfully referred to Medicaid from CHIP and those who are not eligible. Mr. Paulson said that

Covering Kids advocates help families fill out the application form and makes sure that it is sent in. However, once the application is sent in, the Department must followup with the family to find out if they were accepted. HMHB tries to keep track of the families that have called HMHB to make sure that they were not lost in the process. The biggest difficulty is identifying those families who are losing their coverage.

### **MONTANA DENTAL ACCESS COALITION**

**JoAnne Dotson, Public Education Workgroup; Marlinda Fulton, Data Collection Workforce; Mary Beth Frederis, Dental Workforce Analysis Workgroup; and Mary McCue; Finance and Policy Development Workgroup**, provided summaries of the Montana Dental Access Coalition's strategies and activities. (EXHIBIT # 13)

Sen. Waterman requested that any draft legislation proposed by the Coalition be sent to the Committee prior to the August meeting.

### **CONCERNED CITIZENS OF BUTTE**

**Ed Randall, Concerned Citizens of Butte**, provided a list of Butte residents who supported the philosophy of the Concerned Citizens. (EXHIBIT #14) Mr. Randall said that citizens from Butte met to discuss ways to assist children who were being abused and who were having a difficult time being placed in foster care because there was no place to put them. The workload in Butte is continually increasing while the workforce is decreasing and the Butte community believes that family preservation has taken precedents over the safety and welfare of the children. He said that in 1999, 75% of all births in Butte were Medicaid children and 800 families are currently under some form of DPHHS program. He suggested that:

- the safety and welfare of children should take precedent over all else, including the preservation of families;
- early identification, evaluation, and intervention should be established;
- temporary placements for children who are removed from dangerous environments should increase and that they be funded by the state;
- professionally staffed permanent placements are needed for children whose families are involved in child abuse;
- a significant financial investment in services is needed;
- more training, education, and accountability by the DPHHS staff are needed;
- more education and resources for foster families are needed;
- intensive services for families with addictions, mental health illness, and significant lacks of parenting skills are needed;
- recruitment for adoptive placements and ongoing support for the family and child are needed;

- significant changes to the statutes need to be made to reinforce that children's safety and welfare come before family preservation, including but not limited to, sharing information on a need-to-know basis to ensure that confidentiality is preserved;
- school attendance issues need to be addressed; and
- family courts should be available as an alternative to Youth Court.

Sen. Keenan said that no one wants to talk about the impacts of pornography on children or the impacts of gambling on families. The state continues to pour money into programs without taking any steps to identify and address what part of the cause is. Mr. Randall said that gambling and alcohol are serious problems in Butte, bankruptcies are increasing, families are disintegrating, and there are many different issues that are causing the Butte children to be severely abused. The community knows that they are being abused and the state knows that they are being abused but nothing is being done about it. The state says that it wants the family to stay together because it is better for the child and it is cheaper. It was Mr. Randall's opinion that it was not going to be cheaper in the long run and it is not better for children when they were being severely abused.

Sen. Waterman said that there are basic problems existing that communities need to address, whether it be alcoholism, gambling, or poverty. Although she understood Mr. Randall's feelings, she was unsure whether removing children from the home will solve the problems for the families or the children. The state needs to address the problems of families so that they do not get to the point that they are abusing their children.

**Bob Haley, Butte Literacy, Inc.**, said that the state needs to admit that some families need to be separated and the children need a stable place to go, such as a large facility or group home that provides long-term care for children.

Rep. Squires said that on the other side of the coin, the state has been severely "raked over the coals" for taking children from the home too early. She said that the Legislature has never funded the foster care program adequately and it has never put enough caseworkers in place since it became a part of DPHHS. She asked that Mr. Hunter respond.

Mr. Hunter said that the Child and Family Services Division requested \$40 million for the biennium in new spending which is needed to make the foster care system work in the way it needs to work. He said that the safety and welfare of the children should take precedent over family preservation which is stated both in state and federal statutes. However, in the next breath, both statutes state that in each case, every effort must be made to reunify parent and child. There is also an immediate need for more shelter facilities for temporary placements, more intensive-levels of care facilities, and more foster families, but



the answer to the problems is funding. There also needs to be more training for care givers and more recruitment for fos-adopt families. It was Mr. Hunter's opinion that, ultimately, the one thing that will improve the system is when the Department can adequately devote caseload time to cases as they exist to meet the needs.

### **SOCIAL SECURITY NUMBERS, RECREATIONAL LICENSES, AND CHILD SUPPORT**

**MaryAnn Wellbank, Administrator, Child Support Enforcement Division, DPHHS**, provided written comments that included the requirement, origin, and purpose of including SSNs on hunting, fishing, and conservation license applications; the consequences of noncompliance with the law; and the objections to the SSN requirement. She also provided a copy of a memorandum from Amy Pfeifer, Child Support Enforcement Division that included an update on State of Kansas v. U.S. Department of Health and Human Services challenging the constitutionality of amendments to the child support enforcement program enacted as part of the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) (EXHIBITS #15 and #16 respectively)

Sen. Berry asked how much money has been collected since the use of SSNs began. Ms. Wellbank said that to date, the Division has not located anyone since the Department of Fish, Wildlife, and Parks is not automated. Sen. Berry asked if the use of SSNs could have been postponed for another year. Ms. Wellbank said no, adding that the federal statute requiring the use of SSNs does not state "subject to automation".

Sen. Waterman asked how much money has been collected since the use of driver's license numbers began. Ms. Wellbank said that the use of driver's licenses numbers does not begin until October 1, 2000. However, the Division is able to enter the Department of Justice database and run a match to identify people but it does not keep track of how many.

Rep. Schmidt asked how much money has been collected by the Division. Ms. Wellbank said that in 1999, the Division collected \$50 million for child support but it does not keep track of the different tools used to collect the money.

### **3-YEAR PROJECT ON FOLLOWING ADULT AND JUVENILE OFFENDERS**

**Mary LaFond, Office of Budget and Program Planning**, provided the report A View From the Inside Out: A Two-Year Opportunity to Follow Offenders through the Corrections System. (EXHIBIT # 17)

Sen. Keenan said that he spoke with the MSP psychiatrist about the offenders who have attention deficit and hyperactivity disorder (ADHD) and was told that he does not ever look for ADHD or fetal alcohol syndrome (FAS) or fetal alcohol effect (FAE). Ms. LaFond said that she also spoke with the Department about dually diagnosed offenders and those with ADHD, FAS, and FAE because she found many offenders with ADHD in her study. She did not ask who the Department's outside monitor was but she would find out.

Sen. Waterman asked why presentence investigations (PSI) were not required for every offender if it contains valuable information, such as if an offender has mental health problems. Ms. LaFond said that PSIs are ordered by the Judge who may know the offender and the offender's criminal history and feels comfortable sentencing the offender without a PSI. **Susan Fox, Research Analyst, Legislative Services Division**, added that there is a requirement that PSIs are to be conducted on every offender but Judges can get around it by stating the reasons for not conducting the PSI. Another reason is that some offenders receive deferred or suspended sentences and are not headed to prison. That means if the sentence is revoked and the offender goes to prison, a PSI would have been helpful but will not be there. There is also a variation in caseloads among the probation officers who conduct PSIs.

Sen. Keenan said that Washington is putting money for testing at the end of the third grade. Children learn to read for three grades. Beginning in the fourth grade, they read to learn. He will be introducing legislation based on the Washington program because he believed that children who do not read by the end of the third grade fall behind, get angry, and begin to act out. Ms. LaFond said that teachers are caught in the middle and DPHHS and OPI are discussing the possibility of having mental health counselors in the schools.

#### **TOBACCO SETTLEMENT SUBCOMMITTEE**

Rep. Schmidt provided an update of the activities of the Governor's Advisory Council on Tobacco Prevention and a map of community-based tobacco use prevention programs by county, June 2000. (EXHIBITS #18 and #19 respectively)

Sen. Berry commented that the tobacco settlement has a huge bullseye on it, and if CHIP, tobacco use prevention, and the proposed tobacco trust is taken out of it, the settlement is spent. He cautioned the public health employees to not rely on the tobacco settlement to solve all of the health problems.

**Terry Johnson, Principal Fiscal Analyst, Legislative Fiscal Division**, provided information on the tobacco settlement money distributions if SB 13 is approved by the electors. (EXHIBIT #20)

**OTHER BUSINESS**

Ms. Fox provided a copy of the final rule for the CHIP, a brochure NO Healthy Start in Montana: State Enrollment Process Prevents Children From Accessing CHIP and Medicaid, and the report State Income Tax Burdens on Low-Income Families in 1999: Assessing the Burden and Opportunities for Relief. (EXHIBITS #21, #22, and #23 respectively) Copies of the latest Montana Administrative Register that includes an amendment for the accreditation standards for provider programs of community-based developmental disability services and for the reimbursement for institutions for mental diseases and copies of the latest financial compliance audit of the DPHHS by the Legislative Audit Division will be made available to Committee members if requested.

Sen. Waterman commented that she has received concerns from both Legislative staff and employees of the DPHHS about some communication breakdowns between Legislative staff and the Department. She ask that Committee staff work with the Department and her to resolve the problems. She said the Legislature is entering a very critical time when Legislative staff needs to provide legislators with independent information and analysis and Legislative staff needs the ability to access the information.

The next Committee meeting is scheduled for August 17, 2000.

There being no further business; the meeting adjourned at 4:25 p.m.

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