

Minutes of the Joint Legislative Oversight Committee

March 16, 2022

Room EW20, Capitol, Boise, Idaho



Cochair Representative Ilana Rubel called the meeting to order at 1:05 p.m. Attending the meeting were Senators Mark Harris (co-chair), Dave Lent, Michelle Stennett, David Nelson, Representatives Caroline Nilsson Troy, Paul Amador, and Steve Berch. Also present were Director Rakesh Mohan and other staff from the Office of Performance Evaluations (OPE). Audience members included the following:

Director Dave Jeppesen, Medicaid Administrator Juliet Charron, and Chief Financial Officer Aaron Howard, Department of Health and Welfare
Director Mel Leviton, State Independent Living Council
Director Christine Pisani, Council on Developmental Disabilities

Approval of minutes from February 24, 2022

Representative Berch moved to approve the minutes from February 24, 2022. Representative Lent seconded the motion, and it passed by voice vote.

Report presentation: *Medicaid Rate Setting*

Senator Lent moved to release the Medicaid Rate Setting report. Senator Harris seconded the motion, and it passed by voice vote.

Rakesh introduced the Medicaid Rate Setting report and noted that the report and one-page highlights will be available on OPE's website at the conclusion of the meeting. A letter with key findings and recommendations was presented on February 24 to be available for the March 1 budget setting. Rakesh asked Amanda and Ryan to present the report.

Ryan Langrill, principal evaluator, thanked contributors and stakeholders of the report and indicated that it is the fourth evaluation of the Medicaid program. Ryan summarized and spoke to challenges of the prior reports, noting the improvements OPE encountered during *Medicaid Rate Setting* around response time and resource sharing, the use of consultants, and stakeholder engagement.

Representative Berch asked if the term 'Medicaid' referred to the state or the federal level. Ryan clarified that it referred to the Division of Medicaid within the Department of Health and Welfare in Idaho, and that the state was responsible for administering the program within federal guidelines.

Ryan said that despite improvements, OPE still saw a pattern of rushed planning, frustrated stakeholders, and a lack of follow-through. Ryan said that Medicaid does not have the management capacity it needs to manage the \$4 billion dollar budget and serve the 400,000 individuals covered by the program. The consequence of this lack of capacity is that the Legislature does not trust Medicaid administration, the Medicaid program does not serve as a good steward, and that the division cannot effectively control costs. Medicaid needs a high-

caliber and well-resourced management team. Ryan noted that the intention of the report is to address the rate-setting process and underlying problems.

Ryan provided an overview of the rate setting process and the different ways that Medicaid uses to pay providers. Ryan noted that most billing codes are tied to Medicare and are updated each session. The codes not tied to Medicare make up most of the spending. He grouped them into two categories: codes that have not been updated recently and have fallen through the cracks, and home- and community-based services. Ryan spoke to some codes not having promulgated rules and gave the example of pediatric care not having a corresponding Medicare code. OPE recommends that the division promulgate rules to cover these unlinked codes for traditional medical services to ensure that it has the authority to review and update all codes it pays for in compliance with statute.

Ryan said that the second and largest group of codes was for home- and community-based services designed to help people with everyday activities to maintain their independence. These services help keep people from needing to move to a facility for care. In 2010, the Legislature eliminated many mechanisms in place to adjust these rates, requiring Medicaid to proactively ask for rate adjustments. Some of the rates haven't been updated since 2006.

Ryan said that cost surveys are the primary tool for Medicaid to ask for rate adjustments. This method has pitfalls as the sole method for rate setting. First, cost surveys capture only delivered services, and may miss places and populations not currently being served because of insufficient rates. Second, Medicaid is often a market-maker for providers of services and drives service models. Cost surveys do not tell if a service best matches Medicaid's goals. Third, cost surveys take a long time to conduct and implement, resulting in old data.

Ryan discussed rate review recommendations and elements. OPE recommends a regular rate review of all services that incorporates public and stakeholder input and the following six elements:

- a schedule that prioritizes and groups codes for review and is developed in conjunction with stakeholders
- a review of the payment method to ensure that the method adequately balances provider administrative burden with the division's informational needs
- structured and predictable times and forums for public and provider input
- explicit and publicly available information about the choices and assumptions made in developing the rate
- a consideration of whether services would be enhanced by allowing regional-, credential-, or population-specific rates
- a consideration of whether interim changes between major reviews are justified, and what the adjustment method should be

Ryan identified three management capacities that Medicaid will need to complete the review successfully. First, Medicaid needs a way to credibly commit to strategic initiatives. Second, Medicaid needs to be able to effectively engage with stakeholders. Third, Medicaid needs to communicate with lawmakers, stakeholders, and the public clearly and credibly.

Amanda Bartlett, principal evaluator, discussed monitoring and stewardship. Medicaid is the primary servicer of supports for vulnerable populations in Idaho. Amanda noted that Idaho currently has two categories of providers that are under Medicaid's responsibility. In the first, Medicaid serves as a type of insurance provider with professional standards, accreditation, and regulations to provide a layer of accountability. The second group of services and providers are much more dependent on Medicaid for their funding. Medicaid has a special obligation to be a good steward of those services and supports.

Amanda said that rate setting should be guided by well-operationalized measures of access, quality, economy, and efficiency. Medicaid should define the target level of access and quality provided to determine if programs are being run efficiently so that appropriate services are delivered at the appropriate level. Currently, quality is measured through audit-driven compliance reviews, individual case reviews, payment policy reviews, and complaint tracking for long-term care and social services reliant on Medicaid funding. The current approach focuses on problem avoidance, not return on investment and positive outcomes. OPE recommends that the division explicitly identify program goals, develop performance indicators, and embed these measures in the rate-setting process.

Amanda noted that the Legislature has authority over rate changes but lacks the information needed to fully understand the impact of its decisions. Amanda spoke to the trust issues that have developed between the division and the Legislature over the years. Without a more robust system of monitoring outcomes, it is difficult to track the impact of change from one year to the next. Amanda said that the division is afraid to ask for what it needs in terms of budget increases for technology, rate increases, and staffing. The Legislature should consider what it wants to control and what it wants to delegate to the division and invest accordingly. Amanda provided examples such as mid-year adjustments and more continuous interaction with the Medicaid program through the oversight committee. To be successful, the program needs the Legislature's leadership and support with funding and staffing. The division does not have the capacity to perform all its responsibilities well. The division should identify its key management needs and submit a budget request for the 2023 legislative session.

Representative Berch stated that OPE's recommendations are made to Legislature but that this issue starts with the governor's budget. He asked if OPE is limited to legislative recommendations. Senator Harris responded that the Governor makes recommendations to Joint Finance Appropriations Committee which set budgets. He recommended focusing on what the Legislature can do and waiting to hear the response from the Governor's office.

Representative Berch asked if Idaho tracks the number of authorized hours in comparison to the number of paid hours to quantify any gaps in services because of these problems. Ryan responded that he believes the data is available, but that the division doesn't track it as a regular part of oversight. Ryan said that this data could be available with sufficient data processing capabilities.

Representative Berch asked how Medicaid's compliance tracking works. Ryan responded that program staff could go into more detail. He explained that for long-term services and supports for seniors and people with disabilities, quality assurance staff perform document reviews to ensure providers are meeting their contractual obligations. Ryan indicated that there are compliance reviews. He believes that Medicaid reviews every service plan with individuals with developmental disabilities but was unsure about others plans.

Senator Harris thanked Amanda and Ryan for the report.

Dave Jeppesen, Director of the Idaho Department of Health and Welfare offered a response to the evaluation. He indicated that the perspective provided by the report is valuable, particularly in terms of staffing challenges. He agreed with the report and had no disagreements.

Director Jeppesen commented on the importance of providers solely dependent on Medicaid being able to know what the rate is and when it gets reviewed. He noted that the oldest rate hasn't been changed since 1999, creating a difficult situation for providers. He said that the services the report focuses on are delivered only by Medicaid to a population that needs these services. The primary goal of home- and community-based services is to allow individuals to stay home and out of institutional care. He explained that independence is more affordable for the state as well.

Director Jeppesen stated that these programs are important, and that Idaho needs to ensure that these providers can continue to operate and be financially viable. There is an opportunity to have better access, quality, economy, and efficiency from the program, and to have better tracking and oversight. He indicated a strong desire of the department and the Division of Medicaid to achieve these goals. He described wanting to focus on being proactive rather than reactive and noted the quality of the people working in his department. A recent employee survey indicated that 92% of the people that work in the department are mission focused.

Director Jeppesen spoke to the staffing challenges of his department in relation to the size and scale of the Medicaid program. He referred to the comparison in the report between the Division of Medicaid and the State Insurance Fund, which has 263 staff to administer \$250 million in benefits compared to Medicaid staffing of 213 to administer \$4 billion in Medicaid benefits. In private insurance companies, there would be between 1000 and 1500 staff to cover a program like this. He emphasized that there is not an issue with the quality of his staff, just the quantity.

Senator Harris asked if Director Jeppesen was seeing burnout with staff. Director Jeppesen responded that he has started seeing turnover. He indicated that they feel further behind at the end of the day than the beginning, and that there are too many new priorities taking over existing priorities.

Senator Harris asked if he sees that trend continuing. Director Jeppesen responded that there were three solutions to understaffing: to do less work and make hard priority decisions, to leverage contracting of services, or to add more staff and management capacity.

Representative Berch asked for clarification about the statement in the one-page highlights that says the Legislature does not trust administration, and that the administration is afraid to ask for what it needs. Director Jeppesen noted that there is a feeling that Medicaid is not the most popular program that the state runs, and that he believes this has led to hesitancy and concern in asking for what the program needs to operate. He noted that the program should have asked for more staff as more services were added.

Senator Troy thanked Director Jeppesen for his work in changing the culture and giving the Legislature confidence that the department is going in a good direction.

Senator Stennett recognized the Medicaid program team, and thanked Director Jeppesen for his work in communicating with the public and Legislature. She stated that the department needs more money and more people.

Senator Nelson moved to have the report presented to the corresponding germane committees and to conduct a follow up in one year. Representative Rubel seconded the motion, and it passed by voice vote.

Senator Harris moved to postpone the remainder of the agenda to a later date. Senator Lent seconded the motion, and it passed by voice vote.

The meeting adjourned at 1:55 p.m.