

Minutes of the Joint Legislative Oversight Committee

March 15, 1995

Senate Majority Caucus Room

Boise, Idaho

The meeting was called to order at 7:05 a.m. by Co-chair Senator Bruce Sweeney. Members present were Co-chair Representative Bruce Newcomb, Senator Grant Ipsen, Representatives Kitty Gurnsey, Marvin Vandenberg, and John Alexander. Staff members present were Nancy Van Maren and Margaret Campbell.

TOPIC SELECTION

Co-chair Sweeney requested that the committee move immediately to the consideration of background papers, because time was limited. Ms. Van Maren said the OPE staff prepared four background papers regarding Medicaid as a result of committee questions at its 1/31/95 meeting: the Healthy Connections Program, Medicaid Services for Children with Disabilities, Waivers from Federal Medicaid Program Requirements, and Reimbursement Rates for Personal Care Services.

(Senator Reents joined the meeting in progress.)

The Healthy Connections Program

Ms. Van Maren said the OPE contacted the Healthy Connections program staff to learn more about current evaluation efforts, including the data being gathered. Program officials had developed a system to demonstrate to the federal government and others that Healthy Connections was cost effective. OPE staff had identified a few concerns with the system and how data was being measured and reported. An OPE report could explain the shortcomings and design means to address them. Ms. Van Maren cautioned that the data were preliminary, because the program was relatively new. In addition, there was a substantial delay in getting program results from the system for a number of reasons. For example, providers have up to a year to submit claims, resulting in a minimum 60 day delay in getting good data. According to the department, it takes 10 to 11 months before 90 percent of the claims against Medicaid are processed. In addition, the program would be implemented statewide before a report could be released. Overall, Ms. Van Maren said that timing may not be right for this study.

Representative Alexander asked why hospitals were sitting on claims, and whether the committee should look at reasons for the time delay. Ms. Van Maren clarified that she was not sure how long hospitals took on average. Part of the delay also had to do with the interaction of Medicare and Medicaid billing systems. This was also a factor in a potential topic having to do with speech and occupational therapy found under Tab 4.

Medicaid Services for Children with Disabilities

Ms. Van Maren said the committee had asked a number of questions about PCS services and the scope of services that it covers related to children with disabilities. OPE staff met with members of advocacy groups and parents of children with disabilities to understand their concerns in response to the proposed Katie Beckett legislation this session. Staff also met with department officials and received their response to the parents' and advocates' concerns. Overall, parents who were requested to contribute monetarily to their children's care said they did not want to have to pay for a system of services that did not work well.

Ms. Van Maren said there was a complex matrix of individuals and services involved. As a result, there were at least two potential ways to approach this study. First, a study could look at what services are possible under state law, what other states have done to deal with similar issues, and what options would cost. Second, a study could look at the coordination of services for disabled children. Where is the overlap or duplication? This study could sort out the avenues and present the facts to the committee. The second would be lengthier than the first.

Representative Vandenberg said he received many complaints in this area, including complaints about the requirement that a child be annually re-examined, even though his or her condition would never change. Also, the provider requirements are so great that no one in the field qualifies to provide the service. Ms. Van Maren said parents and advocates had relayed similar concerns.

Waivers from Federal Medicaid Requirements

Ms. Van Maren said the OPE had identified three conditions under which Idaho could receive waivers from federal Medicaid service requirements. The first group was Section 1915(b) waivers. They require services to be cost effective and efficient. A waiver is required when the department wants to provide services non-uniformly, or if services could restrict a patient's freedom to choose. Healthy Connections holds the only 1915(b) waiver in the state.

Section 1915(c) waivers relate to the provision of home and community-based services. They allow exemptions from certain requirements as long as clients are more likely to remain in the community as a result. Idaho has two of these waivers to provide additional PCS services: one for the developmentally disabled and the other for the aged and disabled.

The third group of waivers are from Section 1115 of the Social Security Act. These are primarily research and demonstration waivers. They are harder to get, but allow somewhat more flexibility in the services provided. Idaho does not currently have any waivers under this Section.

Ms. Van Maren said the OPE looked at the requirements for the waiver process and the costs involved. While the federal government requires that waivers be cost effective and efficient, an OPE study could look at all the factors involved and determine whether they really are. A study could describe federal requirements, other states' procedures, potential impact, cost comparisons, and then describe what Idaho has opted to do. Also, it could be structured to look specifically at the potential Bridges to the Future waiver, and include cost analysis.

(Senator Parry joined the meeting in progress.)

Representative Alexander asked about the potential cost savings of a waiver study. Ms. Van Maren said that any cost savings would be in clarifying the process and identifying future potential. If OPE staff looked at the federal requirements and state choices, they may be able to identify future possibilities, and their potential costs or cost savings.

Reimbursement Rates for Personal Care Services

Ms. Van Maren said this paper was specifically requested at the last committee meeting. There were some concerns voiced about the Medicaid reimbursement rate being much higher than that which the actual PCS provider was paid. By statute, the Department of Health and Welfare reimburses PCS agencies for personal care services at 1.55% of the prevailing wage for PCS attendants. The percent is intended to cover costs of travel, administration, training, payroll taxes, and fringe benefits. However, agencies are not required to pay their attendants 1.55% of the prevailing wage.

PCS independent providers are to be reimbursed at a level above the prevailing wage, but the level is not established as a specific percentage. Currently, it amounts to about 1.22% of the prevailing wage, according to department data. By statute, they are required to include costs to cover training, workers' compensation, social security, and liability insurance.

Ms. Van Maren said there were two issues that could be looked at in a study. First, OPE staff could conduct a salary survey of the 43 PCS agencies to see what providers were actually paid. Second, OPE could look at the process by which the department establishes the prevailing wage. Currently, the department conducts a salary survey every year, although department officials believe the process may not be efficient.

Representative Alexander asked if hourly/visit figures under PCS included other costs besides wages. Ms. Van Maren said the WAHR was a standard hourly wage, and the hourly/visit figures did include other costs. Senator Sweeney said that he thought the 1.55% factor in the overhead costs of the agencies. Ms. Van Maren said there had been a push to create provider agencies to ensure supervision over the PCS attendants. The verbiage in the 1990 amendments stated a preference for agencies over independent providers.

Senator Ipsen said he was concerned about the push to group providers into agencies, as it might lower their incomes, due to the taxes, etc. He still had not been able to find whether the law exempts them from paying income tax on some of the PCS payment. There was a meeting a few weeks before, at which a compromise had been struck to allow providers to belong to associations.

Ms. Van Maren said that the IRS had recently clarified its interpretation of the employees' relationship to the department. The department saw itself as responsible for dispersing PCS wages and did not want to hold back social security contributions, but now the IRS required the department to withhold the employer and employees' portions of the social security tax. This

could be affecting Bridges to the Future. Senator Ipsen said that was part of the problem. The income tax question, where they have worked out a compromise, should be "closely looked at." Co-chair Sweeney said that the real question may be whether providers are considered independent contractors. Senator Ipsen said "this was something the committee needs to know and we should sit down and arrange an interview so we can find out exactly what has happened."

Representative Gurnsey asked where the Katie Beckett legislation stood at that time. Senator Ipsen said that both resolutions had died in committee. He had written a letter to Linda Caballero, Director of the Department of Health and Welfare, requesting a delay of implementation until July 1, 1995. He indicated concern over three things: excessive paperwork, duplication, and lack of respite care. He added that some of the issues dealing with waste will probably require a waiver because of federal requirements.

Senator Ipsen said that in 1993 the legislature, as explained in the OPE background paper, instructed Health and Welfare to find ways to reduce and recover costs on Medicaid. The department began with services to chronically-ill children. This had created a sore spot for advocates and parents of children with disabilities. He said the problem was not what the parents got, it was in cutting back and the perceived loss of money. We had to follow through on what had been requested. "I think there is a real opportunity for agreement there and I think they will start within the next two weeks working this out."

Representative Gurnsey said she was about to make a motion to have the staff follow-up on the complex matrix of services and potential overlap, but questioned whether it would be worthwhile if the department was already going to be doing this.

Senator Ipsen said the department should be given a couple of months to work the issues out. He suggested the OPE follow its progress closely, and if they had not moved forward in two months, he recommended interceding.

Representative Alexander said that he saw the sliding cost scale situation and the friction that exists in requesting contributions. He said there also seemed to be a matrix problem. He thought the committee could distinguish between the two and still have a legitimate topic for evaluation. Any duplication of administration is where the savings would come from.

Senator Ipsen reiterated that he had specifically addressed three concerns in his letter to Ms. Caballero. Representative Alexander asked Ms. Van Maren if there were other areas the OPE could check into while the Department of Health and Welfare worked on those problems. Ms. Van Maren said she thought there were several issues involved. She said it would be worth knowing where state and federal regulations limit the changes that could be made. If the committee requested this study, she would work closely with Ms. Caballero and her staff to not duplicate their efforts.

Senator Reents suggested going through the criteria for topic selection to help get a clear picture of these studies. She asked Ms. Van Maren which report would result in cost-savings. Co-chair Sweeney reminded the committee that there was a list of other topics to also consider. Senator

Reents said that at the Monday meeting there seemed to be an understanding that the committee would request one of these papers for a full study.

Representative Gurnsey asked Ms. Van Maren what the OPE had done with the State Travel Management study. Ms. Van Maren said the State Travel Management study was due out this summer. The OPE staff were currently working on it.

Representative Gurnsey said she thought the Katie Beckett study should be left alone, and that the OPE should follow-up on the 43 different PCS agencies' wage information. She said it would not require a large amount of staff time to do a survey. The OPE should then move on to study public education transportation.

Senator Reents asked Ms. Van Maren for her opinion on which report would result in the most cost savings to the state. Ms. Van Maren said she thought the greatest potential from the four reports appeared to be in studying the overlap and duplication of services having to do with Medicaid Services for Disabled Children.

Senator Reents asked about state control and evidence of deficiency. Ms. Van Maren said the state was involved in all the background issues, even if federal requirements were also involved. Medicaid Services for Children with Disabilities, waivers, and Healthy Connections all had some "evidence of deficiency."

Senator Ipsen said Ms. Caballero had indicated a desire to operate more efficiently. He said there had already been more change occur under her supervision than he had seen in the past two years. He was concerned that the OPE's involvement would take time from her accomplishment of these things. He said it would be better to wait and give her time to settle down for a year before looking at the direction of the programs. The programs were changing so fast, like the Bridges program, that a study done today would have to be changed tomorrow.

Ms. Van Maren reminded the committee that they had discussed Bridges to the Future at the meeting on Monday, and had wanted to know whether it was moving ahead. There was interest in looking at whether the program was a good idea because it added services. Senator Ipsen said he was uneasy with the Bridges to the Future program and said it should be looked at closely. It had the potential of costing more money. He added that there was nothing for the committee to do in terms of Healthy Connections because the program already had to report on its cost effectiveness. The waivers were an ongoing process. He said he was not sure time would be well spent on Medicaid Services for Children with Disabilities. PCS was the biggest sieve in the Health and Welfare program and probably circumvented legislative intent. At some point now, or after Ms. Caballero had a chance to look at it closely, it could be pursued. He said the information provided had helped the level of understanding, but thought perhaps most issues should be left alone at this point.

Senator Reents asked which report would be timely. Ms. Van Maren said a waiver study would be timely in the sense it would always be an issue, and be beneficial to compile good information

for the Legislature for future references. It would not provide big cost savings, but could provide a foundation for better decisions in the future.

Senator Reents said she wanted to support what Representative Gurnsey had said about needing a background paper on the public school transportation issue. She said it had been very difficult to get any information on this issue, and both education committees had been very frustrated. There seemed to be no incentive at the local level for cost savings because the state picked up most of the cost. In addition, a public school transportation issue would be timely and respond to what the Legislature wanted from the committee. However, the committee had to decide on a performance evaluation before a full year went by without a completed study.

Senate Parry said he had heard more concern expressed over the Bridges to the Future program than any other program. He said he was uneasy with the program and felt it needed to be watched closely before it got out of control. Senator Ipsen said there were two things he would follow closely: parental share and Bridges to the Future.

Senator Reents moved to do background work and prepare an evaluation proposal on public school transportation as it related to bussing. Representative Gurnsey seconded the motion.

Representative Alexander said that although Ms. Caballero would be working on issues related to Medicaid Services for Children with Disabilities, the OPE staff could participate in getting good quality information. He said it was an opportunity to take care of duplication and redundancy; the committee was developed as a tool to help agencies.

Senator Sweeney asked about the OPE's capabilities. Ms. Van Maren suggested that one way to do this with the limited staff would be to decide on one of the four Medicaid studies and request a background paper on education transportation for release at the April meeting. The Medicaid study could begin after the background paper release (around May 1), and the transportation study could begin when the travel study was complete. Then both releases would be later in the fall, but in time to develop any necessary legislation.

Senator Reents asked if there was concern about a switch to a new area of study. Ms. Van Maren said her only concern was the time investment in Medicaid. Senator Reents said she liked Ms. Van Maren's suggestion to do a background paper on public education transportation and focus on a selected area of study in Medicaid after the background paper is finished in April. She said she liked the idea of waiting a short period of time before starting the Medicaid paper to give the Department of Health and Welfare time to make progress.

The motion was passed unanimously by voice vote.

Representative Alexander moved to have the OPE staff develop a workplan and proceed on Medicaid Services for Children with Disabilities as a report. The motion was seconded by Representative Vandenberg.

Representative Vandenberg said he would like to see a check on the overlap of services because it would represent cost savings. Representative Gurnsey suggested working with Health and Welfare to encourage them to look at duplication concerns. Representative Alexander said that there were seven or eight areas that the OPE could focus on, and they would be able to work on those aspects without duplicating the department's efforts.

Senator Ipsen asked if the committee was there to help develop new programs, or to check for deficiencies in existing programs. He said he was concerned that proceeding on the parental share or Katie Beckett program would be duplicating the department's efforts.

Ms. Van Maren said she would make every effort to find out what the department was doing, and not duplicate their efforts. If the department was covering it all, she would report that to the committee in April. By waiting until April, the department had six weeks lead time. Senator Ipsen said he felt good about that decision. If something was not done by April, the OPE should start the study.

The motion was passed unanimously by voice vote.

Co-chair Sweeney said the next committee meeting was April 27, the day before the Legislative Council Meeting. He said the January minutes would be reviewed at that time.

The meeting was adjourned at 8:00 a.m.