

MINUTES
HOUSE HEALTH & WELFARE COMMITTEE

- DATE:** Monday, February 06, 2012
- TIME:** 1:30 P.M.
- PLACE:** Room EW42
- MEMBERS:** Chairman McGeachin, Vice Chairman Bilbao, Representative(s) Loertscher, Shepherd, Thayn, Wood(27), Guthrie, Roberts, Rusche, Chew
- ABSENT/
EXCUSED:** None
- GUESTS:** Matt Wimmer, Bev Barr, Paul Leary, Department of Health & Welfare (DHW); Kurt Stembridge, State Government Affairs; Heidi Low, American Cancer Society; Melissa Machacek, Jared Nye, Mike Slulton, All Seasons Mental Health; Tony Poinelli, Idaho Association of Counties; Debbie Johnson, Idaho Resident; Chris Culp, Mental Health Providers Association; Ed Hawley, State of Idaho Administrative Rules Division; Max Greenlee, Risch Pisca; Christine Pisani, Developmental Disabilities Council; Matt Kaiserman, Gallatin; David Simnitt, Medicaid; Tony Smith, Benton Ellis; Jim Baugh, Disability Rights of Idaho; Katherine Hansen, Community Partnerships of Idaho; Elizabeth Crirer, Veritas Advistors LLP; Kathie Garrett, National Alliance on Mental Illness; Kris Ellis, Idaho Midwifery Council.
- Chairman McGeachin** called the meeting to order at 1:34 p.m.
- RS 21067:** **Rep. Rusche** presented **RS 21067**, legislation that bans the use of tanning beds by minors, unless prescribed by a physician. Classified as a known human carcinogen, he cited various studies that have found tanning beds to be harmful to anyone under 18 years of age. Rep. Rusche stated that the marketing targets youth and providers believe it's healthy. More than thirty states have either banned tanning bed use by minors or require parental permission.
- MOTION:** **Rep. Roberts** made a motion to introduce **RS 21067. Motion carried by voice vote.**
- RS 21123:** **Tony Poinelli**, Idaho Association of Counties, presented **RS 21123**, legislation that deals with mental health laws and stipulates that the county paid facility reimbursement rate be the contracted rate, the Medicaid rate, or, in the case of a freestanding mental health facility such as Intermountain Hospital, the Medicaid rate of a near-proximity hospital. He also said that a court ordered commitment serves as a release of information.
- MOTION:** **Rep. Rusche** made a motion to introduce **RS 21123. Motion carried by voice vote.**
- Chairman McGeachin** directed the Committee to remember that the following rule dockets are part of **H 260** and direction by the federal government.
- DOCKET NO. 16-0309-1201:** **Matt Wimmer**, Bureau Chief, Division of Medicaid (the Department), presented **Docket No. 16-0309-1201**, which aligns the rules with federal requirements and the state Medicaid program changes by requiring coverage of tobacco cessation, including nicotine replacement therapies, for all participants.
- Responding to questions, **Mr. Wimmer** stated that all available products are part of the nicotine replacement and tobacco cessation requirements of the Affordable Care Act (PPACA), with no modification available to individual states. Mr. Wimmer said he could provide the drug list to the committee.
- MOTION:** **Rep. Rusche** made a motion to accept **Docket No. 16-0309-1201.**

In answer to additional questions, **Mr. Wimmer** explained that removal of any medication from the drug list would take either federal action or a concurrent resolution, with little federal latitude. Physicians have to sign a statement that the risks and benefits have been discussed with the patient, who has made an informed course of action decision, with no requirement that a drug is prescribed. He stated that no female Medicaid participants to date have accessed Chantix or other nicotine replacement therapy.

Rep. Rusche spoke in favor of the motion, citing his clinical experience and stating that the decision to use any drug should be up to the patient and physician on an individual basis with an understanding of the risk of both the disease and the medications.

Rep. Wood(27) spoke in favor of the motion, stating that all medications have a risk benefit ratio that has to be balanced. He said the decision is between the patient and the physician, with consideration of extenuating circumstances. He concluded that options need to be left open.

Chairman McGeachin spoke in opposition to the motion, stating concerns about drugs like Chantix and studies that link them to increased rates of depression and suicide, noting that the Federal Aviation Agency has banned the use of Chantix by pilots. She said that the Millennium Committee refused funding for this issue and emphasized that just because the Federal Drug Administration (FDA) approves something doesn't mean its best for Americans.

Rep. Bilbao spoke in opposition to the motion, stating that he is concerned about allowing the federal government to dictate medication without personal physician input. He would prefer a statement in the legislation that it's up to the patient's personal physician to make the medication recommendation.

**ROLL CALL
VOTE ON
MOTION:**

Roll call vote was requested on **Docket No. 16-0309-1201**. **Motion failed by a vote of 3 AYE and 7 NAY. Voting in favor** of the motion: **Reps. Wood (27), Rusche, Chew. Voting in opposition** to the motion: **Reps. Bilbao, Loertscher, Shepherd, Thayne, Guthrie, Roberts, McGeachin.**

**SUBSTITUTE
MOTION:**

Rep. Loertscher made a motion to reject **Docket No. 16-0309-1201**.

In answer to questions from the committee, **Mr. Wimmer** stated that without a concurrent resolution **Docket No. 16-0309-1201**, which passed the Senate, would be approved, even if rejected by this committee. Future changes to this rule could state that physicians are not required to prescribe specific medications.

**VOTE ON
SUBSTITUTE
MOTION:**

Chairman McGeachin called for a vote on the motion to reject **Docket No. 16-0309-1201**. **Motion carried by voice vote.**

**DOCKET NO.
16-0309-1103:**

Matt Wimmer, Bureau Chief, Division of Medicaid, presented **Docket No. 16-0309-1103**, legislation that defines the benefits for Medicaid dental services in accordance with **H 260** and changes the dental service for non-pregnant adults to emergency benefits only.

Debbie Johnson, Idaho Resident, spoke in opposition to **Docket No. 16-0309-1103**, describing her daughter's condition and the difficulty of regular and emergency dental visits. She stated that most dentists do not have hospital privileges and the one dentist they found with such privileges has not been renewed by Medicaid. She is unsure of the outcome the next time her daughter needs dental services and emphasized that this is a big barrier for severely handicapped patients and families.

Jim Baugh, Disability Rights in Idaho, spoke in opposition to **Docket No. 16-0309-1103**, stating that he understands the changes are in compliance with the rules established last year, that statute takes precedence, and the changes are considered a temporary removal of services. He requested a review of this change and a return to the previous care.

Kathryn Hansen, Community Partnerships of Idaho, spoke in opposition to **Docket No. 16-0309-1103**, and described the plight of a gentleman with Downs Syndrome and his care provider. She stated that the emergency visits only cover tooth pulling and abscesses. Ms. Hansen added that other health conditions can be affected by dental disease.

Paul Leary, Administrator, Division of Medicaid, was invited to answer questions from the committee. He stated that the provision for case-by-case treatment is provided in the budget for health and safety, and dental care that is a medical need can be covered under this category. He said the Department and the dental association are tracking this population and would appreciate stories shared during the meeting reported to his or **Mr. Wimmer's** office. Mr. Leary explained that in order to determine if the need for medical coverage exists, the Department's Medical Director has a physician-to-physician consultation to identify the appropriate benefit. He said they also have a dental consultant on staff.

Christine Pisani, Idaho Council on Disabilities, asked for clarification of the rule. She said the option to address dental health under health and safety was unknown to her before now. She thought that prevention was completely cut and emergency services were the only way dental issues could be covered.

- MOTION:** **Rep. Roberts** made a motion to approve **Docket No. 16-0309-1103**.
- SUBSTITUTE MOTION:** **Rep. Chew** made a substitute motion to reject **Docket No. 16-0309-1103**.
- ROLL CALL VOTE ON SUBSTITUTE MOTION:** **Rep. Chew** requested a roll call vote on the substitute motion to reject **Docket No. 16-0309-1103**. **Substitute motion failed by a vote of 2 AYE and 8 NAY**. **Voting in favor** of the motion: **Reps. Rusche and Chew**. **Voting in opposition** to the motion: **Reps. Bilbao, Loertscher, Shepherd, Thayn, Wood(27), Guthrie, Roberts, McGeachin**.
- VOTE ON ORIGINAL MOTION:** **Chairman McGeachin** called for a vote on the motion to approve **Docket No. 16-0309-1103**. **Motion carried by voice vote**. **Reps. Rusche and Chew** requested they be recorded as voting **NAY**.
- DOCKET NO. 16-0309-1106:** **Matt Wimmer**, Bureau Chief, Division of Medicaid, presented **Docket No. 16-0309-1106**, which updates procedures and requirements for medicaid reimbursement for midwives.
- MOTION:** **Rep. Rusche** made a motion to approve **Docket 16-0309-1106**. **Motion carried by voice vote**.
- DOCKET NO. 16-0309-1107:** **Matt Wimmer**, Bureau Chief, Division of Medicaid, presented **Docket No. 16-0309-1107**, legislation that aligns annual medicare caps for the same services provided by physical therapists, occupational therapists, and speech therapists. Services in excess to the cap are allowed in keeping with children's services, or, for adults, when proper documentation is provided.
- MOTION:** **Rep. Thayn** made a motion to approve **Docket No. 16-0309-1107**.
In response to a committee question, **Mr. Wimmer** stated that there is an appeals process for medical necessity determinations.
- VOTE ON MOTION:** **Chairman McGeachin** called for a vote on the motion to approve **Docket No. 16-0309-1107**. **Motion carried by voice vote**.

DOCKET NO. 16-0310-1103: **Matt Wimmer**, Bureau Chief, Division of Medicaid, presented **Docket No. 16-0310-1103**, which defines dental service benefits in accordance with **H 260**. The revisions limit dental services to emergency benefits only for non-pregnant adults, complete the move of all participants into managed dental care, and remove the fee-for-service language.

Marilyn Sword, Director, Council on Disabilities, spoke **in opposition to Docket No. 16-0310-1103**, stating that, as in the previous docket, there is concern about the impact of this legislation on people with developmental disability services. Ms. Sword said that the legislation states that complaints and appeals are handled through a process between Idaho Smiles and the Department and doesn't speak to how an individual can appeal the lack of services. She encouraged greater clarification in the rules.

In response to a committee question, **Mr. Wimmer** stated that there are actively enforced adequacy standards for managed care contract members and he will gladly make them available to the committee.

MOTION: **Rep. Wood(27)** made a motion to approve **Docket No. 16-0310-1103**.

SUBSTITUTE MOTION: **Rep. Chew** made a substitute motion to reject **Docket No. 16-0310-1103**.

ROLL CALL VOTE ON SUBSTITUTE MOTION: **Rep. Chew** requested a roll call vote on **Docket No. 16-0310-1103**. **Motion failed by a vote of 2 AYE and 8 NAY. Voting in favor** of the motion: **Reps. Rusche**, and **Chew**. **Voting in opposition** to the motion: **Reps. Bilbao, Loertscher, Shepherd, Thayn, Wood(27), Guthrie, Roberts, McGeachin**.

VOTE ON ORIGINAL MOTION: **Chairman McGeachin** called for a vote on the motion to approve **Docket No. 16-0310-1103**. **Motion carried by voice vote**. **Reps. Rusche** and **Chew** requested they be recorded as voting **Nay**.

DOCKET NO. 16-0310-1005 **Pat Martelle**, Program Manager, Office of Mental Health & Substance Abuse, Division of Medicaid, presented **Docket No. 16-0310-1005**, legislation that promotes improved quality, effectiveness and efficiency in the delivery of psychosocial rehabilitation (PSR) services by requiring that unlicensed workers obtain national certification consistent with the requirements of the United States Psychosocial Rehabilitation Association (USPRA).

In response to questions, **Ms. Martelle** stated that feedback indicated concern about the cost of the certificate, although she was unsure of the exact cost. Establishing Idaho licensure was a previously considered alternative.

Chris Cole, Idaho Health Providers of Idaho, testified that the exam cost is under one-thousand dollars. He stated that PSR licensure legislation did not pass during the 2010 legislative session.

MOTION: **Rep. Wood(27)** made a motion to approve **Docket No. 16-0310-1005**. **Motion carried by voice vote**.

ADJOURN: There being no further business to come before the committee, the meeting was adjourned at 3:01 p.m.

Representative McGeachin
Chair

Irene Moore
Secretary