

MINUTES
SENATE HEALTH & WELFARE COMMITTEE

- DATE:** Monday, February 06, 2017
- TIME:** 3:00 P.M.
- PLACE:** Room WW54
- MEMBERS PRESENT:** Chairman Heider, Vice Chairman Souza, Senators Martin, Anthon, Agenbrood, Foreman, and Jordan
- ABSENT/ EXCUSED:** Senators Lee and Harris
- NOTE:** The sign-in sheet, testimonies, and other related materials will be retained with the minutes in the committee's office until the end of the session and will then be located on file with the minutes in the Legislative Services Library.
- CONVENED:** **Chairman Heider** called the meeting of the Senate Health and Welfare Committee (Committee) to order at 3:09 p.m.
- APPROVAL OF MINUTES:** **Senator Foreman** moved to approve the Minutes of the January 17, 2017 meeting. **Vice Chairman Souza** seconded the motion. The motion carried by **voice vote**.
Senator Jordan moved to approve the Minutes of the January 25, 2017 meeting. **Senator Martin** seconded the motion. The motion carried by **voice vote**.
- PRESENTATION:** **Catastrophic Health Care Cost Program FY 2016 Annual Report. Kathryn Mooney**, Program Director for the Catastrophic Health Care Cost Program (CAT Fund), presented its annual report (see Attachments 1 and 2). **Ms. Mooney** informed the Committee the CAT Fund has been in existence for many years and began when Idaho counties pooled their money to assist in recovering costs of medical claims within the county hospitals. When that process became too cumbersome, the Legislature created the CAT Fund in 1991. The CAT Fund is funded by the State and administered by a board of directors (CAT Board). In 2010, the CAT Board contracted with the Idaho Association of Counties to serve as program administrator. S1158 (2011) recodified the CAT Fund and added the Director of the Department of Health and Welfare (Department) and four legislators to the CAT Board.
- Ms. Mooney** advised the CAT Fund process starts when providers submit applications to the Department. In FY 2010 there were approximately 6,700 applications, and the number has declined to 5,000 applications in FY 2016. Formerly, the counties received all applications to determine eligibility, but submitting all applications to the Department has streamlined the process and provides the Department with information on the volume and type of claims. Approximately ten percent of applications are determined by the Department to be Medicaid eligible before consideration by the CAT Fund.
- Ms. Mooney** said the biggest year for the CAT Fund was FY 2011 with \$38 million in expenditures. The CAT Fund is the payer of last resort, and the counties go through every other possible payment program for a person before the CAT Fund pays a claim. The cost per case has remained steady.

Ms. Mooney stated diagnosis data is used to determine how many of the applicants are residents, whether documented or undocumented, and the type of care provided. The largest categories of expenditures are for mental health issues or ongoing treatment for medical issues such as cancer and heart problems. In FY 2016, combined county and CAT Fund payments totaled \$33 million. Of that amount, mental health expenditures are borne about 99 percent by the counties.

Ms. Mooney commented legal and administrative costs total approximately \$7 million statewide. The CAT fund spends about \$380,000 for administration. By the time indigent care is considered by the CAT Fund, it is strictly for determining eligibility for payment. The CAT Fund has three employees who pay bills, receive reimbursements and revenues, provide training, act as liaison with case attorneys, and support the counties.

Ms. Mooney said the county case load has shown a small increase in FY 2016. For the first time, the counties are now spending more on indigent care than the CAT fund because many cases involving ongoing follow-ups and cancer care are being handled by other resources such as the Health Insurance Exchange (Exchange). The counties have been diligent in ensuring those who qualify for the Exchange are enrolled.

Ms. Mooney informed the Committee in 2010, the CAT Fund began a review process and hired a company to review all emergent cases totaling \$75,000 or more and all pre-authorizations to determine medical necessity. The review process has dramatically lowered costs and the legislative appropriation request from year to year.

Vice Chairman Souza inquired about the total administrative costs of the CAT Fund. **Ms. Mooney** answered at the State level, administration costs between \$360-380,000, of which a good portion is attributable to the contract with the Idaho Association of Counties. The total administrative costs for the counties is \$6.9 million.

Senator Jordan expressed her understanding that the cost of ongoing care is decreasing because pre-existing conditions can no longer be denied. **Ms. Mooney** replied that is partially correct. The Affordable Care Act (ACA) has cut ongoing care costs because the hospitals are getting patients signed up for insurance coverage. There was a program prior to the ACA that also saved the CAT Fund a significant amount of money. Based on research the CAT Fund has done, the CAT Fund is now only servicing 100 percent of poverty level.

Vice Chairman Souza asked how costs are recouped and whether there is an attempt made to collect repayment from someone utilizing the CAT Fund. **Ms. Mooney** responded a lien is placed on every case on behalf of the county and the CAT Fund. About \$2.5 to \$3 million is consistently recovered each year. **Vice Chairman Souza** mentioned she is aware Kootenai County has been working diligently to collect money to return back to the CAT Fund and inquired whether different counties are using different techniques and successfully sharing those methods with others. **Ms. Mooney** answered there is an annual training conference where the counties have an opportunity to share with each other. Collections is frustrating for the counties. For a number of years, Kootenai County hired a collection agency but ultimately determined they could handle collections in-house. Ada County has gone back and forth on collection methods but is currently handling collections in-house. **Ms. Mooney** recognized Kootenai County for returning nearly \$1 million to the CAT Fund of the nearly \$3 million expended in FY 2016.

Relating to Immunizations. Sarah Clendenon and Miste Karlfeldt introduced themselves to the Committee on behalf of Health Freedom Idaho to present **RS 25031**, the purpose of which is to clarify Idaho Code § 39-4802(2). Ms. Clendenon stated the law allows an Idaho parent or guardian to submit a signed statement to school officials in order to exempt a child from State-prescribed vaccinations for public school enrollment. The Department has since created an exemption form and mandates its use. The form contains unnecessary and possibly incriminating language that is far outside the scope of the law. Additionally, participation in the immunization registry is voluntary, and a parent is not required to disclose vaccination status to the State. By mandating the current form, which lists individual vaccines and demands confidential medical information, parents are unable to exercise their right to privacy and exemption without facing enrollment denial by schools.

Ms. Clendenon informed the Committee the draft legislation would modify Idaho Code § 39-4802(2) to add language stating the signed exemption statement does not have to be made on a required form. This clarifies the parent has a right to enroll their children in Idaho schools while maintaining privacy, the right to medical confidentiality, and the right to opt out of providing vaccination information to the registry.

Ms. Clendenon advised Health Freedom Idaho has attempted to work with the Department on this issue and the Department has been unsympathetic to the concerns expressed. The Department has refused to modify either the rule or the form (see Attachment 3).

Senator Foreman asked if there are any objections to the Department supplying a form as long as it doesn't have the statements on page 1 of the form. Ms. Karlfeldt answered she does not have a problem if the form aligns with the statute and asks for only name, date, and signature. She understands the need for a form to simplify making the statement, but it needs to be only a signed statement.

Vice Chairman Souza inquired what part of the form could be incriminating to a parent. Ms. Karlfeldt responded the first page of the form asks the parent to agree the parent is knowingly putting the child at risk by not getting vaccinations. Vice Chairman Souza asked whether it was true that the form instead says the parent is putting the child at risk of contracting the disease. Ms. Clendenon replied it is something to that effect. Vice Chairman Souza said she understands the concern, but the Department is trying to ensure parents are informed about individual communicable diseases if children are exposed and not protected by an immunization. There are pros and cons to all health care choices. If a parent does not understand the risk, the decision may or may not be a good one if the parent is not fully informed. Vice Chairman Souza stated she has spoken to several people who have a fear they are incriminating themselves or admitting they are less than an adequate parent, or that there might be some legal action taken against them in the future if anything happened. She asked for an explanation of where that fear is coming from based on the form. Ms. Clendenon responded she has done 11 years of vaccine research. The wording of the statements does not line up with her personal research. The form is only the Department's opinion.

Vice Chairman Souza suggested a parent could write a disclaimer in the philosophical exemption section that the parent did not agree with the Department's opinion and is still going to opt the child out of the vaccination. **Ms. Karlfeldt** answered she believes she would be putting her child at risk more by administering the vaccine than by opting out of it, and that choice is not addressed on the form. She would be fine with Vice Chairman Souza's suggestion, but many schools and day cares will not accept the form if any changes have been made on it. **Chairman Heider** commented the bill would eliminate the need for the form and it is not a discussion about whether or not a parent can get an exemption.

Senator Jordan asked what happens if a parent has not done as much research as Ms. Clendenon and Ms. Karlfeldt and the parent exempts the child from immunizations, and the child suffers ramifications from exposure. What would the Department say to the parent who asks why he or she wasn't informed about the dangers to the child. The form still offers the choice to parents and there is information given. **Ms. Karlfeldt** answered it would be between the doctor and the parent of the child. Parents get a lot of education from the doctor about the vaccines and the statute does not indicate it is the Department's responsibility to provide that information.

TESTIMONY: **Ingri Cassel** provided written testimony to the Committee (see Attachment 4).

MOTION: **Senator Anthon** moved to send **RS 25031** to print. **Senator Foreman** seconded the motion.

DISCUSSION: **Senator Martin** said he will support the motion and is not debating whether or not to immunize. Any procedure has positives and negatives. The language of the statute is very clear. **Senator Martin** has received responses from various school districts about the form. One response said the school does not accept handwritten forms. Another district stated the official Department form must be used, and the law does not allow parents or guardians to claim an exemption.

Senator Foreman stated Idaho Code is simple and clear. He applauds the Department for its concern, and the Department can fulfill its mandate to protect the public health by putting the disclaimer information on a separate sheet and handing it to parents when they turn in a signed exemption statement.

Vice Chairman Souza agreed that offering the information as education rather than a mandate leaves the decision in the hands of the parent.

The motion carried by **voice vote**. **Senator Jordan** requested she be recorded as voting nay.

RS 25153

Relating to Persons with Disabilities. **Richelle Vannoy** introduced herself to the Committee as the parent of a 13-year-old son with Asperger's Syndrome and Attention Deficit Hyperactivity Disorder (ADHD) to request a change to Idaho's implementation of the Americans with Disabilities Act. Her son has started to walk away from school since fifth grade, and middle school has been challenging. She recently took him out of school after the School Resource Officer handcuffed him and held him to the ground because he tried to walk home. Her son gets upset in school because of crowds, changes in assigned seating, or schedule changes. The school has created an Individualized Education Plan specifically for his needs that states he cannot be touched and if he starts to walk away from school, he needs to be followed and his mother contacted immediately so she can go to the school.

Ms. Vannoy said the ADA only allows dogs and miniature horses to be considered service animals. Some people can't handle dogs and she can't accommodate a miniature horse. Adding the possibility of a Savannah cat as a service animal would be another option. Savannah cats can be trained like dogs. There is a trainer in Denver, Colorado who breeds these cats specifically as therapy cats. The cats can be trained to stay on leashes and go in showers. Her son doesn't like water and it would help him to have a cat go in the shower with him to soothe him. Cats can be trained for car rides and detect meltdowns, and they can go in shopping carts. The ADA states service animals should be able to detect the onset of psychiatric episodes and lessen their side effects, and therapy cats can be trained to do this. Service animals should be able to provide safety checks or room searches, turn on or off lights as needed, keep individuals from self harm or harmful situations, and prevent possible meltdowns in the handler.

Ms. Vannoy has written to the trainer in Colorado and described her son's needs, and the trainer has guaranteed personalized training for the cat. There are stages for cats, ranging from F1 to F6, where F1 is like a wild animal and F6 is like a housecat. They were matched with an F5 cat for her son.

DISCUSSION:

Senator Martin asked the age of Ms. Vannoy's son. **Ms. Vannoy** answered he is 13. **Senator Martin** stated he has two grandsons with Asperger's Syndrome who are in their teens and doing extremely well. He expressed his best wishes for Ms. Vannoy.

Senator Foreman commented the infrastructure to support this change is already in place. The transportation companies are used to dealing with service animals. **Senator Foreman** asked if there are other animals besides cats this would apply to. **Ms. Vannoy** said she has heard some people rely on house cats, birds, and a few other animals. She is interested in the Savannah cat because it has the personality of a dog.

Senator Agenbroad asked whether there is a list of support animals that would be included. **Chairman Heider** said the legislation includes all kinds of support animals.

Senator Jordan mentioned there is a lot of new research being done with PTSD and Asperger's Syndrome. The language of the bill provides opportunities to make provisions for different needs and would still require licensing of service animals.

Vice Chairman Souza asked how a service animal is licensed or certified and what determines a service animal. **Ms. Vannoy** responded it is done through a federal government website under the ADA section. There are a number of websites where a person can simply order a service animal vest but that's not what she's trying to do.

Vice Chairman Souza commented she appreciates many people have needs that can be helped by true service animals. She is concerned about animals of all sorts being called service animals when they are not, and she has personally had that experience. She is highly allergic to dogs and cats, and there are a lot of people who bring an animal into a situation that would not normally be appropriate. They are not really service animals, the owners just want to bring them along. **Vice Chairman Souza** asked how society can help people who need service animals while still protecting the rest of the public from inappropriate behavior. **Ms. Vannoy** answered it is up to the people who have a service animal to get them properly registered and licensed through the right company. Anybody can go through a random fake website, but it is up to the restaurant or other place to ask for the proper documentation. It's the same problem with no smoking and there are smokers standing right by a building. There is not really a right and wrong, and she hopes people are respectful.

Vice Chairman Souza is looking for some notification or requirement in the RS that says the animal shall be a certified service animal through the ADA and any owner of public place such as a café or restaurant may ask to see the certification of that animal before allowing the animal into the establishment. She was told it is against the law in Washington State to ask for any proof an animal is a service animal. **Vice Chairman Souza** commented she is not quite sure the balance is right and asked if there is a requirement to carry or have on the animal some sort of notification it is a service animal. **Ms. Vannoy** said she believes there are requirements for service animals but does not know whether a public place is allowed to ask for documentation. Her sister has a service dog for epilepsy and was asked by a hotel in Idaho to show paperwork for her dog.

Senator Foreman said the bill allows people to ask for documentation and the documentation has to be signed by a licensed health care provider. Where he sees it being a problem is with air transport carriers who may have separate regulations.

MOTION: **Senator Martin** moved to send **RS 25153** to print. **Senator Foreman** seconded the motion. The motion carried by **voice vote**.

ADJOURNED: **Chairman Heider** adjourned the meeting at 4:09 p.m.

Senator Heider
Chair

Jeanne Jackson-Heim
Secretary