

MINUTES  
**SENATE HEALTH & WELFARE COMMITTEE**

**DATE:** Monday, February 20, 2017

**TIME:** 3:00 P.M.

**PLACE:** Room WW54

**MEMBERS PRESENT:** Chairman Heider, Vice Chairman Souza, Senators Martin, Lee, Harris, Anthon, Agenbroad, Foreman, and Jordan

**ABSENT/ EXCUSED:** None

**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 3:04 p.m.

**APPROVAL OF MINUTES:** **Senator Anthon** moved to approve the Minutes of the February 6, 2017 meeting. **Vice Chairman Souza** seconded the motion. The motion carried by **voice vote**.

**Senator Agenbroad** moved to approve the Minutes of the February 8, 2017 meeting. **Senator Harris** seconded the motion. The motion carried by **voice vote**.

**Senator Jordan** moved to approve the Minutes of the January 24, 2017 meeting. **Senator Martin** seconded the motion. The motion carried by **voice vote**.

**GUBERNATORIAL APPOINTMENT:** **Vote on the Reappointment of Janet Penfold to the Board of Health and Welfare.** **Senator Martin** moved to send the Gubernatorial reappointment of Janet Penfold to the Board of Health and Welfare to the floor with recommendation that she be confirmed by the Senate. **Vice Chairman Souza** seconded the motion. The motion carried by **voice vote**.

**Vote on the Reappointment of Tom Stroschein to the Board of Health and Welfare.** **Senator Agenbroad** moved to send the Gubernatorial reappointment of Tom Stroschein to the Board of Health and Welfare to the floor with recommendation that he be confirmed by the Senate. **Vice Chairman Souza** seconded the motion. The motion carried by **voice vote**.

**S 1060** **Relating to Health Care.** **Rebekah Hall** was recognized and introduced herself to the Committee on behalf of the Idaho CMV Advocacy Project (Project) to present **S 1060**. **Ms. Hall** advised her third child, Keira, was born with congenital cytomegalovirus (CMV). **Ms. Hall** introduced Keira to the Committee.

**Ms. Hall** explained she had no knowledge of CMV until her daughter was born severely affected with congenital CMV. It was difficult to find information about CMV but she finally was able to learn enough to become something of an expert on the disease. Several years later, she is disappointed that many people, including health care professionals, have never heard of CMV. Lack of awareness affects Keira who faces inadvertent discrimination by caregivers and others who believe Keira has an infectious disease. **Ms. Hall** feels her daughter is treated like something to be avoided rather than like a child to be loved.

**Ms. Hall** said the proposed legislation will provide education to prevent the infection of numerous infants with CMV as well as combat current misinformation. The Project's goal is to make complete and accurate information easily available to all Idahoans. To demonstrate the critical need, a 2010 survey of the American Council of Obstetricians and Gynecologists revealed only 44 percent of doctors routinely counsel their patients about CMV. Also in 2010, the National Institute of Health reported the most important reason a CMV vaccine has not been developed is the insufficient education about the problem of CMV, particularly in women of child-bearing age and the lay public. In 2015, an article was published showing the overwhelming effectiveness of CMV awareness and hygienic precautions in prevention the transmission of CMV to babies in utero.

**Ms. Hall** informed the Committee the Project needs the participation of the Department of Health and Welfare (Department), and the Department has been supportive. The Department believes it can realistically commit to spending \$5,000 in the first year. This is a good start, and it will allow for publication of educational materials and distribution to doctors' offices and day care centers. It will also help create a State-sponsored website regarding CMV. The Project hopes to expand funding to include personnel to conduct a more comprehensive public education plan and eventually CMV testing for newborns who fail the initial hearing screen.

**Ms. Hall** provided the Committee with a binder of information (see Attachment 1) regarding the Project, information about CMV, letters of support, a bibliography of scholarly peer-reviewed articles, samples of education and awareness flyers, and a copy of Utah legislation that was the model for **S 1060**.

**Senator Lee** asked if there is a state doing a good job with CMV education that could provide a model to help Idaho get up to speed quickly. **Ms. Hall** answered the state doing the best job is Utah, and its Department of Health has an ideal CMV public health website giving comprehensive information on prevention and treatment.

**Vice Chairman Souza** inquired what time frame would be required to have actual educational materials in physician offices. **Ms. Hall** responded it will likely take a year or two or more because additional funding will be needed, but for the first year, \$5,000 is a reasonable expectation from the Department.

**Senator Agenbroad** asked what caused the change in the fiscal note for the bill. **Ms. Hall** replied the Project had a steep learning curve in bringing this legislation and had a good response to the bill. However, there was a misunderstanding between the Project and the Department regarding how much funding the Department could commit this fiscal year. The Project's goals have not changed, but the expectations are different.

**TESTIMONY:**

**Erica Jensen** introduced herself to the Committee to speak in support of **S 1060**. **Ms. Jensen** is a parent who was diagnosed with CMV during her second pregnancy. She was carrying triplets and lost one baby early in the pregnancy. Subsequently, she was sick with cold symptoms and tested positive for mononucleosis. When she expressed concerns to her doctor about her symptoms, he consulted with a specialist for a second opinion. The specialist, Dr. Bobrowski, recommended Ms. Jensen be tested for CMV, and the test was positive.

**Ms. Jensen** read a letter from Dr. Bobrowski in support of **S 1060** (see Attachment 2).

**Ms. Jensen** has been a registered nurse for 12 years and remembered reading only one paragraph about CMV in nursing school. Many of the doctors told her it was extremely rare, and when she returned to work at the hospital, she found not one of her coworkers was familiar with CMV. She went on to receive two immunoglobulin infusions as treatment for CMV and delivered two healthy girls a few months later who were CMV free.

**TESTIMONY:**

**Jessica Rachels** was recognized to testify in support of **S 1060**. She introduced her husband and children to the Committee. **Ms. Rachels** said when she was pregnant with her second child, she worked as a child care provider. She was never informed about CMV or that working at a child care caused her to be at higher risk for infection. The American Academy of Pediatrics recommends child care workers should be counseled about the risk of CMV and tested for CMV.

**Ms. Rachels** did not learn anything about CMV until after the birth of her daughter Natalie, who was diagnosed with congenital CMV. **Ms. Rachels** commented as a child care worker, she washed her hands numerous times throughout the day. When pregnant, she recalls not always making it a priority to wash her hands before eating snacks or lunch. She doubled up on tissues when wiping children's noses thinking that was sufficient protection, and often she did not wash her hands immediately since there was no sink nearby. She did not know she was putting her unborn child's health at risk. If she had been provided education about CMV, her daughter's outcome might have been different, and she would have gladly taken steps to protect her daughter.

**Ms. Rachels** informed the Committee her daughter suffers from cerebral palsy, has undergone 10 surgeries, and has had several types of devices implanted to improve her quality of life. The State of Idaho has spent \$1.1 million to assist with these surgeries and treatments. Over the course of one year, the State could save \$100,000 or more for each child that is prevented from having severe disabilities caused by CMV. Education will provide expectant mothers with information to significantly decrease the chances of their unborn children contracting the virus.

**Chairman Heider** asked if the Project's goal was for the Department to spread CMV education around the State. **Ms. Rachels** responded yes.

**TESTIMONY:**

**Patrick Rachels** introduced himself to the Committee to read a letter from Claire Szewczyk in support of **S 1060** (see Attachment 3).

**TESTIMONY:**

**Dieuwke Dizney-Spencer** introduced herself as the Deputy Administrator for the Division of Public Health at the Department of Health and Welfare to answer questions from the Committee.

**Chairman Heider** asked if the Department has a current plan to provide information about CMV. **Ms. Dizney-Spencer** replied the Department does not have an active campaign regarding prevention of CMV. She has met with representatives from the Project, and the Department is willing to assist with developing factual information that can be distributed Statewide.

**Vice Chairman Souza** inquired why the funding was cut so drastically from initial proposal, and whether the Department sees the CMV educational program as important to those affected by CMV and the State. **Ms. Dizney-Spencer** answered the original estimate was based on the State of Utah's budget to implement and maintain the more comprehensive Utah CMV program that includes a screening component. The Department derived its \$5,000 estimate based on annual funding for a similar educational program for women considering abortion services, which includes similar printing, mailing, and website services.

**Vice Chairman Souza** asked for further explanation of the funding for the availability of abortion services and why it is the State's job to inform people about abortion services. She further inquired whether it has to do with last year's ultrasound bill. **Ms. Dizney-Spencer** replied she does not recall the exact legal reference but it began prior to the ultrasound bill. There is a law stating the Department must provide a packet of three booklets of factual information to any woman considering receiving an abortion within the State. **Vice Chairman Souza** stated she is not seeing the connection between the two issues, but it is disturbing to see the difference in the amount of funding for such an important and preventative education program. She asked what is the process for changing the funding within the Department. **Ms. Dizney-Spencer** responded she did not intend to draw a comparison between the two programs but was using the other program to demonstrate the amount needed to distribute information through a website and printed materials. The \$5,000 amount is a good starting point. There is a possibility to co-brand existing information, and if the cost to develop information can be minimized, it is easier and less expensive to distribute the information. The Department has additional suggestions for placing information in Women Infants Children clinics and at conferences and educational presentations held around the State.

**Chairman Heider** asked if the Department feels screening is important to prevent CMV. **Ms. Dizney-Spencer** answered CMV screening is not preventative but would involve screening of newborns to see if the child has been infected. Utah's program provides CMV screening when a child fails its newborn hearing test. Preventive education can be done without including a screening component, which would take some additional work. **Chairman Heider** asked if the Department has enough concern about CMV to help doctors be able to screen for CMV and implement preventative measures. **Ms. Dizney-Spencer** responded the Department is very willing to do anything possible to assist with prevention efforts. Adding mandatory screening would have to be accomplished through legislation.

**Senator Jordan** inquired whether it is the Department intends to work with cities that license day cares to ensure the cities are informing day care licensees of this issue. **Ms. Dizney-Spencer** answered yes and stated Ms. Rachels has already contacted the Idaho STARS program. CMV education is being added to training for child care providers.

**Senator Lee** commented it is difficult to find maternal health information on the Department's website. There are many things pregnant women need to know that were not common knowledge in the past, like the importance of avoiding cat litter boxes, and everything possible needs to be done to increase CMV awareness. **Senator Lee** asked for confirmation that the Department stands ready and willing to help with this effort.

**TESTIMONY:**

**Lisa Hettinger**, Deputy Director at the Department, introduced herself to respond to the question. **Ms. Hettinger** advised the Department has been actively working on a new website to make things easier to find. The site is called Live Better Idaho and a big component will be accessing information in the community to make current information more accessible. The Department has been working aggressively with other partners that have information like CMV prevention to continue the outreach. All divisions in the Department are looking at their areas of expertise and coordinating with partners to gather information. The Department intends to use existing information as much as possible and needs some time to look at the screening component. Many health plans already pay for that type of screening, and more research is needed to see if money will be required to implement a screening program. If so, it will be brought forward at the next legislative session.

**Chairman Heider** asked if **S 1060** is passed this year whether the Department will be more proactive in allocating funds to this endeavor. **Ms. Hettinger** replied the Department will be working to figure out exactly what would be required to implement a screening program and whether funding for screening would be necessary.

**MOTION:**

**Senator Martin** moved to send **S 1060** to the floor with a **do pass** recommendation. **Senator Lee** seconded the motion. The motion carried by **voice vote**.

**TESTIMONY:**

**Chairman Heider** recognized Stephanie Beedman to come forward to make a comment. **Ms. Beedman** explained she is a Boise State University student who is at the Statehouse on a field trip from Lewiston. She happened to walk into the Committee and found the topic very interesting. She is a brand new grandmother and was also a day care provider for 10 years at a facility with 150 children. Her daughter currently works at a child care center with about 100 children and recently gave birth. She never heard of CMV and is breathing a sigh of relief that her daughter and the baby did not contract it.

**H 43**

**Relating to Medical Assistance. Matt Wimmer**, Administrator for the Division of Medicaid, introduced himself to the Committee on behalf of the Department. The Department is requesting this law change to allow support of behavioral health services for children with serious emotional disturbance in families with incomes up to 300 percent of federal poverty level. These children are at significant risk for poor life outcomes, including unemployment, criminal behavior, justice system involvement, incarceration, and suicide.

**Mr. Wimmer** informed the Committee behavioral health services for this group of children are currently provided through the Division of Behavioral Health using State general funds. Shifting coverage of these services to the Medicaid program will allow the Department to use federal matching funds to serve more children with significant needs. It will also enable the Department to comply with the settlement agreement in the Jeff D. lawsuit and allow the Department to provide services that will have a significant, long lasting, and positive impact on these children's lives to enable them to reach their full potential.

**Mr. Wimmer** explained the Department is in the process of developing a system of care that will better meet the needs of these children under the name Youth Empowerment Services, a child-centered provider team approach to care. Under this model, a care coordinator will work with the child, family, service providers, and natural community supports to facilitate a comprehensive approach to care that will help ensure good outcomes and a better life for these children.

**Mr. Wimmer** advised the net fiscal impact is neutral. There is a fiscal impact to the Medicaid budget of approximately \$1.18 million in State general funds, but the impact is fully offset by a reversion from the Division of Behavioral Health's budget. There is also a need in the Medicaid budget for \$2.97 million in federal spending authority for the change. This offset is permanent and will carry forward into future budget years as well as the increase in federal funds. The impact is incorporated into the Department budget recommended by the Governor's office.

**Senator Foreman** asked how 300 percent of federal poverty level was determined as the cut-off. **Mr. Wimmer** answered that is the point today at which families are fully responsible for behavioral health services under the Division of Behavioral Health. It also relates to federal limitations on access to those funds. **Senator Foreman** asked if it is correct that the future impact on the General Fund could double from \$1.18 million to \$2.36 million. **Mr. Wimmer** replied the fiscal impact noted on the bill is for one-half a fiscal year. The \$2.36 million represents a full fiscal year. **Vice Chairman Souza** asked if the bill shifts funding from the General Fund to Medicaid. **Mr. Wimmer** responded that is correct.

**Vice Chairman Souza** asked how the term "serious emotional disturbance" is defined and who determines the diagnosis to know children fit into this definition. **Mr. Wimmer** answered that "serious emotional disturbance" requires a child be diagnosed with a mental health disorder in the *Diagnostic and Statistical Manual of Mental Disorders, 5th Edition* (DSM-5) used by mental health practitioners and physicians. In addition to having a diagnosis, the child needs to have a significant level of functional impairment that impacts daily life, or the child is unable to do the things one would expect a child of their age to do.

**Senator Jordan** inquired if there are estimates or examples of future costs and situations that can be avoided by providing these mental health services.

**Mr. Wimmer** replied he does not have any quantifiable data, but it is known if children can be reached before teenage years, there is significant potential for savings in juvenile corrections, reduced foster care, and other state services.

**Senator Foreman** said he read the Jeff D. settlement agreement over the weekend and asked if there is any flexibility if the proposed change did not pass in its exact form presented. **Mr. Wimmer** answered the State has obligations under the agreement and can either use federal funds or more expensive State General Funds to fulfill the obligations.

**TESTIMONY:**

**Jim Baugh** introduced himself as Executive Director of DisAbility Rights Idaho (DRI), a private non-profit organization that provides free legal and advocacy services and public policy analysis concerning the impact of legislation on Idahoans with disabilities. **Mr. Baugh** stated he supports **H 43**. The Jeff D. lawsuit was filed by a legal aid organization about 35 years ago but DRI has peripherally participated in the case through amicus briefs from time to time and occasionally advised and assisted in crafting the settlement. To comply with the settlement and have an adequate children's mental health system would not be possible without an increased commitment of State General Funds. Idaho is always in the top six states for child suicide rates and always in the bottom two to three states for per capita expenditures on children's mental health services.

**Mr. Baugh** commented this bill will not solve Idaho's mental health services problem, but it is a good step forward with zero General Fund impact, and it will allow the State to take a huge step forward in complying with the settlement. The Medicaid model is the best way to go in this case because it is the best at comprehensive mental health services. The Department has thought this through very well, and it seems to be the only sensible thing to do.

**TESTIMONY:**

**Christine Pisani** of the Idaho Council on Developmental Disabilities and **Jennifer Griffis** provided written testimony (see Attachments 4 and 5).

**Senator Foreman** said he read a statistic that 20 percent of children under the age of 18 have some sort of serious mental health issue, and asked if it is accurate. **Mr. Baugh** replied mental health statistics are very interesting. The category "seriously emotionally disturbed" is frequently used in many statutes and it doesn't always mean the same thing. In the federal Individuals with Disabilities Education Act, the definition is not the same as in the Idaho Code. That number might include all children with a serious mental health diagnosis or who meet some definition of "serious emotional disturbance." He thinks 20 percent is quite high to meet the Idaho statutory definition, but he does not have a better number to provide.

**Senator Jordan** thanked the Department for bringing forward this solution. It makes a lot of sense, and it may never be known how many children this helps. **Senator Jordan** commented a school counselor friend had three elementary school students in one week who either attempted or planned suicide, and this help is needed.

**MOTION:**

**Senator Jordan** moved to send **H 43** to the floor with a **do pass** recommendation. **Vice Chairman Souza** seconded the motion.

**Vice Chairman Souza** observed the CMV legislation could prevent a large impact to people's lives but only \$5,000 will be spent, while millions will be devoted to treating serious mental health issues. This bill is important and needed, but it is also important to focus on prevention of issues whenever possible.

**Senator Foreman** commented he agrees with Vice Chairman Souza but he believes in taking a balanced approach to prioritize a limited number of dollars. The State is off to a good start with the CMV issue, and he is sure it will be increased as time goes on.

The motion carried by **voice vote**. **Chairman Heider** acknowledged the Department's efforts to address the many issues facing people in the State of Idaho to get the care they need.

**ADJOURNED:**

There being no further business at this time, **Chairman Heider** adjourned the meeting at 4:12 p.m.

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Senator Heider  
Chair

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Jeanne Jackson-Heim  
Secretary