

**MINUTES**  
**of the**  
**ORGANIZATIONAL MEETING**  
**of the**  
**LEGISLATIVE HEALTH AND HUMAN SERVICES COMMITTEE,**  
**THE DISABILITIES CONCERNS SUBCOMMITTEE AND**  
**THE BEHAVIORAL HEALTH SUBCOMMITTEE**

**May 17, 2019**  
**State Capitol, Room 307**  
**Santa Fe**

The organizational meeting of the Legislative Health and Human Services Committee (LHHS) was called to order by Senator Gerald Ortiz y Pino, chair, at approximately 9:00 a.m. on May 17, 2019 in Room 307 of the State Capitol in Santa Fe.

**Present**

Sen. Gerald Ortiz y Pino, Chair  
Rep. Deborah A. Armstrong, Vice Chair  
Rep. Joanne J. Ferrary  
Sen. Bill B. O'Neill

**Absent**

Rep. Gail Armstrong  
Sen. Gregg Fulfer  
Rep. D. Wonda Johnson  
Sen. Cliff R. Pirtle

**Advisory Members**

Rep. Phelps Anderson  
Rep. Karen C. Bash  
Rep. Rachel A. Black  
Rep. Micaela Lara Cadena  
Rep. Rebecca Dow  
Rep. Miguel P. Garcia  
Sen. Linda M. Lopez  
Rep. William B. Pratt  
Sen. Nancy Rodriguez  
Rep. Patricia Roybal Caballero  
Sen. Antoinette Sedillo Lopez  
Sen. Elizabeth "Liz" Stefanics  
Rep. Elizabeth "Liz" Thomson  
Rep. Christine Trujillo  
Rep. Linda M. Trujillo

Rep. Zachary J. Cook  
Rep. Doreen Y. Gallegos  
Rep. Dayan Hochman-Vigil  
Sen. Gay G. Kernan  
Rep. Rodolpho "Rudy" S. Martinez  
Sen. Mark Moores  
Sen. Michael Padilla  
Sen. Mary Kay Papen  
Rep. Andrea Romero  
Rep. Gregg Schmedes  
Sen. William P. Soules  
Sen. Bill Tallman

**DISABILITIES CONCERNS SUBCOMMITTEE**

**Present**

Rep. Joanne J. Ferrary, Chair  
Sen. Nancy Rodriguez, Vice Chair  
Rep. Rachel A. Black  
Sen. Linda M. Lopez  
Rep. Elizabeth "Liz" Thomson

**Absent**

Sen. Mark Moores

**Advisory Members**

Rep. Deborah A. Armstrong  
Rep. Miguel P. Garcia  
Sen. Elizabeth "Liz" Stefanics

**BEHAVIORAL HEALTH SUBCOMMITTEE**

**Present**

Rep. Patricia Roybal Caballero, Chair  
Sen. Bill B. O'Neill, Vice Chair  
Rep. Phelps Anderson  
Rep. Rebecca Dow  
Rep. Christine Trujillo

**Absent**

Rep. Doreen Y. Gallegos  
Sen. Michael Padilla  
Rep. Andrea Romero

**Advisory Members**

Rep. Deborah A. Armstrong  
Rep. Karen C. Bash  
Sen. Gerald Ortiz y Pino  
Rep. Elizabeth "Liz" Thomson

Rep. Zachary J. Cook  
Rep. Dayan Hochman-Vigil  
Sen. Mary Kay Papen

**Staff**

Chris Pommier, Staff Attorney, Legislative Council Service (LCS)  
Lenaya Montoya, Staff Attorney, LCS  
Diego Jimenez, Research Assistant, LCS  
Erin Bond, Research Assistant, LCS

**Guests**

The guest list is in the meeting file.

**Handouts**

Handouts and other written testimony are in the meeting file.

**Friday, May 17**

**Welcome and Introductions**

Committee members and staff introduced themselves. A quorum was present.

**Financial and Legislative Update from 2019 Regular Session**

Mr. Pommier presented from a handout titled "2019 Health and Human Services Legislation Update" and updated the committee regarding legislation that was endorsed and passed during the previous session and that was subsequently signed into law. Due to the volume of chaptered legislation, Mr. Pommier grouped bills into various categories, including aging,

children and families, insurance, medicaid, scope of practice/licensure, health care workforce and more. The handout is in the meeting file.

There was a brief discussion among committee members regarding an addition to the work plan of a joint meeting with the Legislative Education Study Committee to discuss supports for children with disabilities and medical cannabis in schools.

RubyAnn Esquibel, principal analyst, Legislative Finance Committee (LFC); Eric Chenier, senior fiscal analyst, LFC; and Kelly Klundt, senior fiscal analyst, LFC, presented budget updates for health and human services agencies and programs. They distributed a handout titled "Review and Update of FY20 Appropriations". Ms. Esquibel reviewed slides 3 through 6 regarding the General Appropriation Act of 2019, recurring appropriations, reserve balances and the General Fund. In addition, Ms. Esquibel pointed out that public schools received an appropriation increase of 16%, representing 46.2% of total fiscal year (FY) 2020 spending, and that the legislature used the cash surplus to fund \$933 million in public construction projects and \$389 million in road projects.

Ms. Klundt then discussed statewide salary adjustments, the Children, Youth and Families Department (CYFD) and the newly created Early Childhood Education and Care Department (ECECD). Ms. Klundt told the committee that the CYFD will receive \$309 million in FY 2020 in recurring General Fund appropriations, up 10.4% over the FY 2019 operating budget, which does not include additional statewide salary increases, and she discussed early childhood spending. She then explained that the ECECD will include programs to support childcare assistance, home visitation, early pre-kindergarten, early educator professional development and pre-kindergarten services.

Committee members discussed various topics related to early childhood education and care, including the growing demand for pre-kindergarten, the vacancy rate in the Protective Services Division of the CYFD, which members understood to be approximately 16%, and the high turnover rate. A member pointed out that the definition of "early childhood" includes 12-year-old children. A member expressed the need to look for ways to improve education for children pursuant to the *Yazzie/Martinez* lawsuit by looking at other factors outside of the school day. David Abbey, director, LFC, pointed out programs such as extended school days, community schools initiatives and below-the-line spending to provide technical assistance to schools. Members suggested that the committee look at what community schools are doing and that there should be a way to track students who disenroll and re-enroll elsewhere so that those students do not fall through the cracks.

Ms. Esquibel reviewed slides 10 through 13 regarding the Human Services Department and Medicaid funding. Committee members discussed the Temporary Assistance for Needy Families (TANF) program and the Graduation, Reality and Dual-Role Skills (GRADS) program. Ms. Esquibel pointed out that there were declines in enrollment in both the TANF program and Medicaid. Members were concerned that if TANF program enrollment declines, then funding for

the GRADS program will also decline. A member pointed out that the GRADS program is very important to support teen parents. Ms. Esquibel pointed out that a school could leverage its at-risk funding to strengthen its GRADS program. Members further discussed the importance of the GRADS program. Members also discussed childcare assistance and pointed out that the state is required to continue supporting parents who need childcare assistance at incomes of up to 200% of the federal poverty level. A member pointed out that even when wages go up for families due to an increase in the minimum wage, those families lose hundreds of dollars per month in childcare assistance due to the "cliff effect". Ms. Esquibel then presented updates regarding the Medicaid Management Information System Replacement Project. Medicaid and child support computer systems received \$3 million from the Computer Systems Enhancement Fund and \$14.8 million in federal funds. Overall, April 2019 Medicaid projections estimate surpluses of \$3.9 million for FY 2018 and \$10.4 million for FY 2019 and a possible shortfall of \$2.4 million for FY 2020.

Mr. Chenier updated the committee regarding the Department of Health (DOH) and its Developmental Disabilities Supports Division. LFC handouts included report cards for various agencies and programs, but staff did not present on those report cards. The handouts are in the meeting file.

Committee members discussed the following:

- concerns about the lack of capacity in rural counties to respond promptly and accurately to state requests for proposals;
- program cuts during the previous administration and plans to reverse those cuts;
- the potential for the DOH to return to a focus on support services;
- early childhood services, domestic violence, childhood services and adverse childhood events;
- the need to discuss domestic violence programs moving from protective services to mental health services and school-based health clinics;
- the developmental disabilities waiver (DD waiver) waiting list, including that those on the waiting list are nervous about the new supports waiver, the number of slots that will become available and how rising costs for providing services removes available slots, which makes it more difficult to get people off of the waiting list;
- the new supports waiver that is being created for those who are on the DD waiver waiting list; and
- sufficient reimbursement rates for direct care workers.

### **New Mexico Health Law 101**

Mr. Pommier and Ms. Montoya presented from a handout titled "New Mexico Health Law 101". The presentation included overviews of various health and human services agencies and programs, including health insurance, services for developmentally disabled individuals, aging services, health care professional licensure and regulation, workforce education and behavioral health. The handout is in the meeting file.

## Public Comment

The committee heard public comment as follows.

- Johonniuss Chemweno, chief executive officer, Inverse Medical, Inc., requested that the committee include in the work plan an examination of the pros and cons of mandatory assignment of benefits. This was the subject of Senate Memorial 55 (2019), which did not pass the legislature.
- Pamela Stafford, public policy director, the Arc of New Mexico, discussed the Arc's priorities for the upcoming interim, including:
  - a lack of therapists and counselors with the capacity to provide services for people with developmental disabilities who have suffered trauma and a desire for capacity-building initiatives;
  - recommendations from the study on sexual assault on people with disabilities;
  - concerns regarding the DD waiver waiting list;
  - higher salaries and benefits for staff who support people with developmental disabilities;
  - concerns that the incident management system is overloaded;
  - the need to raise rates and remove people from the DD waiver waiting list; and
  - recommendations to invest money saved after settlement of the *Jackson* lawsuit in support services.
- Jim Jackson, former executive director, Disability Rights New Mexico, discussed the following issues:
  - a request that the committee examine education as it relates to children and youth with disabilities, particularly behavioral health, autism, school discipline, expulsions, school-to-prison pipelines and schools calling police regarding disciplinary issues;
  - the relationship among community benefit services, care coordinators and managed care organizations (MCOs);
  - community benefit services covered under Medicaid according to the New Mexico Administrative Code;
  - proper testing of recipients and clients necessary to provide adequate services; and
  - MCO conflicts of interest in assessing service recipients with third-party assessments.
- Ruth Hoffman, president, Board of Directors, New Mexico Conference of Churches, made the following requests:
  - that the committee look at issues of poverty and hunger; and
  - that the committee consider adding more money to a program called the Supplemental Nutrition Assistance Program (SNAP) State Supplement.
- Nat Dean, disability advocate, discussed the following issues:

- the evaluation of people with disabilities;
  - accounts for people with disabilities created under the federal Stephen Beck, Jr., Achieving a Better Life Experience Act of 2014, also known as ABLE accounts, and how those accounts work in New Mexico;
  - issues with the Service Animal Act, including the cost to replace a service animal, which can be as much as \$10,000, and enforcement of that act;
  - traumatic brain injuries; and
  - the DD waiver.
- Ellen Pinnes, representative, the Disability Coalition and the New Mexico Direct Caregivers Coalition, discussed the following issues:
    - the cause of Medicaid enrollment decline;
    - community benefit and personal care services;
    - the provision of support for activities of daily living at home being less expensive and patient preference for such support;
    - conflicts of interest in the assessment process;
    - an electronic clock system for direct caregivers; and
    - other direct caregiver workforce issues.
- Mary Feldblum, executive director, Health Security for New Mexicans Campaign, discussed House Bill 295 (2019), which proposed the Health Security Act, and the appropriation to fund a study of fiscal implications of that proposed act.
- Michael Coop, behavioral health and early childhood education advocate, discussed the PAX Good Behavior Game and pointed out that the game is evidence-based and classroom-based and increases self-regulation. Mr. Coop requested adding a presentation on the game to the work plan.
- Emily Kaltenbach, state director, New Mexico Drug Policy Alliance, discussed medically assisted treatment for opioid use disorder in corrections health care.
- Jason Thompson, lobbyist, New Mexico Athletic Trainers' Association (NMAT), requested that the committee add a presentation by the NMAT to the work plan.
- Eric Martinez, lobbyist, requested that the committee look at medically assisted treatment in the corrections health care system and that it examine technology that will help rural New Mexicans access health care.
- Abuko Estrada, supervising attorney for health care, New Mexico Center on Law and Poverty, requested that the committee's work plan include reviews of the following issues:
    - poverty and hunger;
    - direct caregivers;

- Medicaid buy-in;
  - the home visiting workforce;
  - childcare assistance; and
  - SNAP and Medicaid.
- Charlie Marquez, representative, New Mexico Health Care Association, requested that the committee examine issues with the Family, Infant, Toddler (FIT) Program and consider a DD waiver reimbursement rate increase.
  - Matt Munoz, government relations manager, University of New Mexico (UNM), expressed UNM's desire to host the committee and give a tour of its hospital to committee members.

### **2019 Work Plan and Meeting Schedule**

Mr. Pommier presented the LHHS, Disabilities Concerns Subcommittee and Behavioral Health Subcommittee proposed 2019 work plan and meeting schedule. The handout is in the meeting file.

Committee members discussed the meeting schedule, particularly focusing on the challenge of supporting the subcommittees in attracting members and maintaining a quorum during meetings. Members proposed various strategies and agreed to take the following actions: schedule subcommittee meetings on dates that are near LHHS meeting dates; hold all subcommittee meetings as joint meetings of the subcommittee and the LHHS while the subcommittee chair and vice chair run the meetings; and request that the New Mexico Legislative Council add all subcommittee members as advisory members of the LHHS.

Members made requests for additions to the work plan on the following topics:

- affirmative consent;
- the school-to-prison pipeline;
- the creation of a legislative department to monitor chaptered legislation to track implementation by the executive branch;
- presentations from the Children's Cabinet and how the state has been responding to the *Yazzie/Martinez* lawsuit;
- an examination of ways to support children outside the school day in order to improve educational outcomes, including fully funding the DOH's FIT Program to address the *Yazzie/Martinez* lawsuit in a more comprehensive way;
- a check-in with the DOH regarding success of the implementation of the provisions of the Safe Harbor for Nurses Act;
- DOH harm reduction reports;
- alcohol, particularly the sale of miniature liquor bottles;
- food security, particularly the new national hunger ratings and where New Mexico falls in those ratings;

- testimony from providers regarding domestic violence, sexual assault and home visits;
- donation of pharmaceuticals;
- donation of food, particularly factors preventing schools from donating food;
- an update at the end of the interim on the Fostering Connections Program;
- unmet needs in rural areas regarding telehealth and broadband;
- underserved communities and the providers in those areas;
- a review of legislation that was chaptered but never acted on from previous legislative sessions;
- lactation programs in corrections facilities;
- the dangers of contaminated prescription medication;
- a review of the rural health care practitioner tax credit for endorsement;
- a check-in regarding the cavernous angioma bill;
- medication-assisted treatment for opioid use disorder;
- the health effects of glyphosate;
- the possible health benefits of raising taxes on tobacco and e-cigarettes;
- the effects of hunger on education and the repackaging of leftover food for children to take home;
- training of counselors, school resource officers and other personnel at community schools to educate them on available community resources such as dental therapists and counselors;
- a report from the attorney general regarding settlement options available in the behavioral health lawsuit;
- bone marrow donation education;
- reports regarding whether children who are victims of trafficking are receiving services required by law;
- the impact of environmental pollution and its connection to public health;
- immunization issues, including the status of immunization exemptions in New Mexico;
- caregiver training before patient discharge and synchronization of prescriptions;
- implementation of an all-payer claims database;
- health care information technology;
- the rural health care workforce; and
- cannabis in schools.

Representative Anderson made a motion to set the budget for expert witnesses for the interim at \$6,000. The motion was seconded and passed unanimously.

### **Adjournment**

There being no further business before the committee, the meeting adjourned at 4:45 p.m.