

**MINUTES OF THE
HEALTH AND HUMAN SERVICES APPROPRIATIONS SUBCOMMITTEE
THURSDAY, NOVEMBER 18, 2010, 8:30 P.M.
Room 210, Senate Building, State Capitol Complex**

Members Present: Sen. Allen M. Christensen, Co-Chair
Rep. John Dougall, Co-Chair
Sen. Margaret Dayton
Sen. Patricia W. Jones
Sen. Daniel R. Liljenquist
Rep. Rebecca Chavez-Houck
Rep. David Litvack
Rep. Ronda Rudd Menlove
Rep. Kraig Powell
Rep. Paul Ray

Members Excused: Rep. Ben C. Ferry
Rep. Keith Grover

Staff Present: Russell Frandsen, Fiscal Analyst
Stephen Jardine, Fiscal Analyst
Greta Rodebush, Legislative Secretary

Speakers Present: Palmer DePaulis, Department of Human Services
Stephen Jardine, Office of the Legislative Fiscal Analyst
Mark E. Ward, Department of Human Services
Gregg Buxton, Division of Facilities Construction and Management
John Nichols, Division of Facilities Construction and Management
Brent Platt, Department of Human Services
Cosette Mills, Department of Human Services
Brent Kelsey, Department of Human Services
Adam Trupp, Utah Association of Counties
Sarah Brenna, Salt Lake County Aging Services
Thomas Young, Office of the Legislative Fiscal Analyst
Rep. Ronda Rudd Menlove
Dr. David Patton, Department of Health
Michael Hales, Department of Health
Clifford Strachen, Governor's Office of Planning and Budget
David Walsh, Governor's Office of Planning and Budget
Dr. Jay Bischoff, Intermountain Medical Center
Dr. Patrick Luedtke, Department of Health
Ken Peterson, Department of Technology Services
Shauna Havey, Department of Workforce Services
Ally Isom, Department of Workforce Services
Dr. David Sundwall, Department of Health
Emma Chacon, Department of Health

Note: A copy of related materials and an audio recording of the meeting can be found at www.le.utah.gov.

A list of visitors and a copy of handouts are filed with the committee minutes.

1. Introduction and Approval of Minutes

Co-Chair Christensen called the meeting to order at 8:50 a.m. No action was taken on the minutes for February 11, 2010.

2. Formal Introduction of Palmer DePaulis

Co-Chair Christensen welcomed Palmer DePaulis as the new Executive Director for the Department of Human Services (DHS). Mr. DePaulis offered some introductory remarks and thanked Stephen Jardine and LFA team members for their work and preparation on the Department of Human Services In-depth Budget Review.

Sen. Jones welcomed Mr. DePaulis and stated that the committee is looking forward to working with him in this new assignment.

3. Human Services In-depth Budget Review

Stephen Jardine, LFA, explained that the Executive Appropriations Committee had the opportunity to hear the Human Services In-depth Budget Review on November 16, 2010. The Committee delayed action until the December meeting and referred the report to the Health and Human Services Appropriations Subcommittee for review and comment.

Mr. Jardine thanked Palmer Depaulis and the Department of Human Services for their support and cooperation. He also recognized LFA team members and the Office of the Legislative Auditor General auditors for their work on the report.

Stephen Jardine, LFA, presented the In-depth Budget Review. He directed his comments primarily to the Executive Summary on page 7 of the report, that included background information, the Department's mission statement, statutory authority, and 15 major recommendations (see page 7 of the report: <http://le.utah.gov/interim/2010/pdf/00001613.pdf>).

The 293-page In-depth Budget Review also included an analysis of each of the Department's seven divisions as well as buildings and vehicles. There were also three appendices: Appendix 1 - Department-wide Information and Appendix 2 - Division Specific Information (<http://le.utah.gov/interim/2010/pdf/00001614.pdf>); and Appendix 3 - Department and Division Information (11x17) (<http://le.utah.gov/interim/2010/pdf/00001615.pdf>).

After presenting the 15 major recommendations selected for Executive Appropriations consideration, Mr. Jardine responded to committee member questions.

Committee Discussion

Rep. Chavez-Houck asked how confidentiality will be maintained if the recommendation to explore alternatives to housing DCFS case workers in single, private offices is pursued. (Recommendation 2).

Mr. Jardine stated that those decisions will be made by the Department of Human Services.

Rep. Powell indicated that he would be willing to sponsor legislation that would provide legal authority for the Acute Rehabilitation Treatment Center program at the State Hospital (Recommendation 4).

Sen. Jones asked if the In-depth Budget Review projected any cost savings. She also asked if the agencies had provided any qualitative feedback. Mr. Jardine stated that the In-depth Budget Review is a management report and does not include substantive dollar amounts in terms of cost savings. In terms of feedback, the Department and other entities will likely be responding to the recommendations.

Sen. Jones commented that while past budget cuts have forced agencies to become more efficient there are qualitative questions that need to be addressed as well. She pointed out that real people are doing very difficult jobs. Mr. Jardine stated that the recommendation for the Division of Child and Family Services (DCFS) to establish a pilot program to help field workers become more efficient and effective indicates the Department's sensitivity to those types of issues (Recommendation 1).

Co-Chair Christensen stated that the recommendation that the departments realign priorities and decision making by moving State Hospital funding to counties, requires the Department and counties to either justify current funding arrangements or provide other funding options (Recommendation 3).

In regards to the recommendation that the Departments annually report distribution of services by county to the Legislature for: State Hospital Forensic Unit, Developmental Center, DCFS regional budgets, and DJJS detention and secure care facilities (Recommendation 15), Rep. Menlove asked if there was any data available to substantiate the number of people who meet Developmental Center acuity levels in other parts of the state. She was also interested in knowing what services they receive.

MOTION: Rep. Dougall moved to saunter for five minutes while the power was restored to the committee room. The motion passed unanimously with Sen. Dayton absent for the vote.

Co-Chair Christensen reconvened the meeting.

Mr. Jardine restated Rep. Menlove's request for the record. Mr. DePaulis indicated that he could provide some of this information.

Rep. Menlove stated that her request for data essentially expands Recommendation 15.

Human Services In-depth Budget Review (continued)

Mr. Jardine distributed an additional handout, "Selected Major Recommendations," and discussed fourteen additional recommendations.

Rep. Dougall noted that on November 17, 2010, the Legislature approved a consolidated Social Services Appropriations Subcommittee that expands over sight to all social services including the Department of Workforce Services. The change in structure will take will take effect in January 2011.

Rep. Dougall called attention to a yellow motion sheet, dated November 18, 2011, drafted by the chairs and staff.

Rep. Litvack stated that it would be appropriate to hear from DHS before the committee took any action.

Rep. Litvack directed his comments to Recommendation 6, under Item 2, recommending that the state sell the Division of Services for People with Disabilities (DSPD) group homes or lease them to providers at market rates. He asked about providers' ability to buy or lease DSPD group homes at market rates.

Mark Ward, Deputy Director, DHS, stated that the Department would need to further examine this recommendation and take into consideration adjustments to market rates, selling vs. leasing revenues, maintenance provisions with DFCM, and the impact on the providers.

Rep. Livack stated that it was not clear if Recommendation 6 was asking DHS to study the state sale or lease of the DSPD group homes, or was it asking DHS to implement the state sale or lease of the DSPD group homes. Rep. Dougall pointed out that the subcommittee could not take official action on these recommendations at this time. The subcommittee was merely looking at the research and providing comment to EAC. He stated that official direction requires intent language passed during the General Session.

Rep. Litvack requested that the wording of Recommendation 6 be amended.

Sen. Dayton spoke against taking any action on Recommendation 7 under Item 3 that DFCM and the department study how to best use 62,400 square feet of vacant building space and use or sell 250 acres of excess lands at the Development Center. Sen. Dayton understood that the Developmental Center would like to expand use and explore other opportunities at that site. She did not think that the subcommittee should consider selling it. Sen. Dayton also noted that legislation was passed several years ago stating that the Development Center cannot be sold without the vote of the Legislature and that the proceeds of the sale would go the Development Center.

Rep. Dougall asked if Sen. Dayton's concerns included the use of excess space as well. Sen. Dayton stated that there are many people who are interested in getting their children into these facilities. Reducing the amount of space would be problematic. She stated that we need to expand the use of the facilities.

MOTION: Rep. Dougall moved to adopt the four actions on the yellow motion sheet.

SUBSTITUTE MOTION: Rep. Litvack moved to accept the four actions on the yellow motion sheet dated November 18, 2010 with the following changes: delete Recommendation 6 from Item 2, and add Item 5 that directs staff to prepare a letter on behalf of the subcommittee to be signed by the two co-chairs directing the Department of Human Services to proceed with a plan to implement Recommendation 6. The motion passed unanimously with Sen. Liljenquist absent for the vote.

MOTION: Sen. Dayton moved to delete the last sentence on Item 3 on the yellow motion sheet that reads, "In delaying these recommendations, however, the committee indicates its general support for the concepts of efficiency and effectiveness contained in these recommendations." The motion passed with Rep. Dougall voting in opposition and Sen. Liljenquist absent for the vote.

4. Building Space Usage

Gregg Buxton, Executive Director, Division of Facilities Construction and Management (DFCM), introduced John Nichols, Real Estate and Debt Manager, DFCM, who presented the report.

DFCM prepared the report in response to intent language included in House Bill 2 of the 2010 General Session. The Legislature asked DFCM to review office space management for the Department of Human Services in conjunction with the office space availability and needs of all state agencies and report back to the Office of the Legislative Fiscal Analyst on or before January 1, 2011 concerning optimal facility utilization.

Mr. Nichols discussed office space allocation per employee, lease cost comparisons, decision process - leased vs. owned space, and private office utilization. The report indicates that DFCM has not seen a pattern of new leases or State-owned buildings driving an increase in the number of usable square feet per employee. The increase in recently vacated office space was attributed to recent personnel cut rather than over building or over leasing in new facilities.

DFCM has been successful in filling vacant space in state-owned buildings through consolidation moves and lease terminations. DFCM also continues to terminate vacant leases as they expire, or as DFCM is able to negotiate early terminations with landlords.

Rep. Chavez Houck asked about the building that the Department of Human Services formally occupied. Mr. Buxton stated that the building was sold to the LDS Church prior to the Department's move to the new building.

5. Performance Measures - DHS

Palmer DePaulis, Executive Director, Department of Human Services (DHS), briefly discussed four general goals that he is bringing to the department: collaboration, transparency, creativity and innovation, and outcomes and results. He stated that he would like these goals rolled up into dash boards that are easy to read and see.

Mr. DePaulis stated that DHS is reevaluating its current performance measures and intends to dovetail them with the measures outlined in the In-depth Budget Review. The Department is also looking at national benchmarks for performance standards that can be used among the divisions. Mr. DePaulis noted that the economy and budget cuts have affected some of the programs, in particular, DCFS and DSPD. The department will continue to monitor and address the declines and trend lines.

Sen. Christensen asked if there is any mechanism in place that rewards innovation in government. Mr. DePaulis noted that the Governor's Optimization Report mentions ways in which departments could

reward innovation within the state. He spoke in favor of rewarding innovations that create efficiencies, lower costs, and provide better services.

6. Report Required by H.B. 397

Brent Platt, Director, Division of Child and Family Services (DCFS), presented the report. He was assisted by Cosette Mills, Federal Revenue Manager, DCFS.

Mr. Platt discussed the changes required by the Centers for Medicare and Medicaid Services (CMS) that relate to the care of children and youth in the custody of DCFS. He also reviewed the history and the impact of these changes, how DCFS is addressing the impact of these changes, and ways the Department of Human Services and the Department of Health have consolidated administrative functions to meet the needs of these children who are affected by these changes.

Mr. Platt explained that CMS required the state of Utah to change how residential and mental health services are provided, funded and reimbursed through Medicaid. These changes impacted not only DCFS but also DJJS. They became effected July 1, 2010. Mr. Platt discussed three major changes: unbundling of services and payments, reimbursement for services in residential treatment centers with 16 or fewer beds, and provider enrollment and billing.

Rep. Litvack asked if Mental Health uses strategies that could help DCFS and DJJS work within CMS rules and meet the needs of clients. Mr. Platt stated that DCFS has been working collaboratively with the DOH's Medicaid staff, mental health, and the private provider community.

Mr. Platt indicated that these changes have been taxing, complex, and massive in scope but not entirely negative. Ultimately, these changes will support DCFS's philosophy and research that show that most children and youth achieve better outcomes in family home settings compared to residential treatment settings.

Mr. Platt indicated that he does not know the actual fiscal impact of these changes. DCFS and DJJS have partnered with the Department of Health, DSAMH, community mental health agencies and various contract provider organizations and multiple work groups to re-engineer the service delivery model and address these changes. They are also looking at ways to reduce the impact from the loss of federal funds and minimize the negative impact to children and families.

Sen. Jones asked how the workload for DCFS can be lessened. Mr. Platt stated that once the caseworkers understand the new process, the workload will not be too much different from what was done in the past. The Division has also been given the approval to hire 15 new caseworkers. He indicated that Mr. DePaulis has been very supportive as well.

Cosette Mills stated that last year's funding, \$7 million one-time and \$7 million ongoing, help offset a projected need of \$18 million. DCFS continues to look for ways to make improvements system wide. She mentioned looking at evidenced-based programs to identify good treatment methodologies, moving children out of residential care sooner, offering supplemental services to children in proctor families, and conducting quarterly assessments to better manage the flow of kids in residential care.

7. **Monitoring of County Programs, Auditing Oversight**

Department of Human Services

a. Review of Oversight and Audit Functions

Brent Kelsey, Deputy Director, Division of Substance Abuse and Mental Health (DSAMH), distributed the handout, "Review of Oversight and Audit Functions," dated November 18, 2010.

Mr. Kelsey reported on intent language that directs the Department of Human Services (DHS) to review all oversight and audit functions for streamlining and consolidation in an effort to maximize the effectiveness of the audit process and minimize the disruption to the provision of services.

To address this issue, DHS formed a Contract Monitoring Workgroup tasked with developing recommendations for Department leadership. The Workgroup evaluated monitoring processes and instruments, examined DHS policy, and discussed statutory requirements. The Workgroup identified ways to streamline DHS monitoring, maximize efficiency, and increase communication within DHS and with providers.

Mr. Kelsey stated that DHS accepted the Workgroup's recommendations and asked the Workgroup to track the Department's progress in implementing specific recommendations.

The report summarizes the list of recommendations and accomplishments to date by agency. Mr. Kelsey stated that thus far the outcomes have been very positive.

b. Report on Electronic Monitoring

Mr. Kelsey reported on intent language that requires the Division of Substance Abuse and Mental Health and the Division of Aging and Adult Services to forego site visits on county mental health, substance abuse, and aging programs during FY 2011 and conduct statutorily required monitoring through reports submitted by electronic or other means.

Mr. Kelsey stated that to date, DAAS has completed four electronic site visits in FY 2011 and DSAMH has completed three electronic visits. Both Divisions are currently involved in an additional visit. The report indicates that developing electronic monitoring protocol required a comprehensive review of monitoring practice and considerable creativity on behalf of Division and County Employees. The review led to some positive changes. However, both Divisions agree that electronic monitoring has an overall negative impact. Both Divisions and the Counties recommend that monitors return to the practice of on-site visits.

Mr. Kelsey said that electronic monitoring does save some money in terms of travel, but the logistics of monitoring shifts costs to the counties. The process now requires counties to gather a number of documents that must be scanned, faxed, or copied and shipped for review.

Rep. Dougall wanted to know why they are not turning this information into electronic files that can be shared with everyone. Mr. Kelsey highlighted a number of challenges that included interfacing six

different electronic health record systems within the counties. Rep. Dougall asked how the subcommittee could help with some of these issues.

Mr. Kelsey requested legislative permission to return to on site monitoring.

Rep. Litvack appreciates the use of electronic monitoring in finding efficiencies. However, electronic monitoring has created some inefficiencies. He supports changing the intent language to put the focus where it needs to be. He wanted to know if electronic monitoring leaves out some important elements that on site monitoring accomplishes. Mr. Kelsey stated that the face to face interaction that on site monitoring provides is extremely important.

Co-Chair Christensen commented that the intent language expires at the end of FY 2011. Therefore, the Divisions can return to regular monitoring at the end of the fiscal year. Mr. Kelsey stated that electronic monitoring will play a role in the monitoring process.

Adam Trupp, General Counsel, Utah Association of Counties, commented that the Association does not feel that DSAMH and DAAS should be tied solely to electronic monitoring. The Association supports onsite monitoring as well. However, continuing to look at how the process can be streamlined would be productive. Incorporating technology into our processes is very helpful.

Sarah Brenna, Director, Salt Lake County Aging Services, stated that she represents one of twelve local area agencies on aging, and they all agree that reinstating on site monitoring definitely has its advantages. She said that Salt Lake County Aging Services does not have an electronic filing system. Ideally, every county should have electronic capabilities. The counties support the reinstatement of onsite monitoring.

8. Economic Outlook for FY 2011

Dr. Thomas Young, Economist, LFA, reported that General Fund/Education Fund revenues ended FY 2010 \$45 million below the February FY 2010 target. Based upon updated economic indicators and collection rates, he stated that revenues will be about \$6.3 million above the February FY 2011 target. Dr. Young commented that the economy is improving, but improving slowly.

Handout: "Revenue Update: November 16, 2010"

9. Governor's Optimization Report - Department of Human Services

Palmer DePaulis, Executive Director, Department of Human Services (DHS), invited the Deputy Director, Mark Ward, to highlight four recommendations that specifically affected the Department of Human Services.

Mr. Ward explained that in the Office of Licensing, the DHS is working on a plan to better use technology for licensors in the field. In the Interim, the DHS will propose a change in statute to permit a two-year license for licenses issued by the Office of Licensing. In the Office of Recovery Services, the Department of Technology Services is studying the recommendation to move ORSIS, the main computer system for child support, off the state's main frame. Finally, DHS will retool its online application for child support services to better utilize electronic information.

MOTION: Rep. Dougall moved to recess for lunch until 12:45 p.m. The motion passed unanimously with Sen. Dayton, Sen. Jones, Sen. Liljenquist, and Rep. Litvack absent for the vote.

The committee recessed for lunch at 12:12 p.m.

LUNCH RECESS

Co-Chair Christensen reconvened the meeting at 1:00 p.m.

10. Work First Priority (Agenda Item 16)

Rep. Menlove discussed two initiatives. The first initiative is a pilot study of certain Medicaid recipients who would have an opportunity to provide community service in exchange for receiving Medicaid services. The legislation would authorize the Division of Medicaid and Healthcare Financing to select a small group of recipients to participate in a pilot project. The second initiative addresses supported employment for people with disabilities. The legislation would allow Division of Services for People with Disabilities (DSPD) staff to discuss work first in preparing a service plan for people with disabilities.

Rep. Chavez-Houck asked if discussions regarding the supported employment initiative included Vocational Rehabilitation. Rep. Menlove confirmed that Vocational Rehabilitation had been included in the discussions.

Rep. Chavez-Houck asked if other states were offering community service in exchange for Medicaid services, and if so, what do those programs look like, and have they reported any successes. Michael Hales stated that Utah's pilot study would be the first of its kind and that the program is innovative and addresses the entitlement issue of the Medicaid program. He noted that the success of the CHIP program that financially engages families and allows them to feel more vested in the program.

Rep. Chavez-Houck suggested that graduate students may be able to assist in the research portion of this pilot study.

11. Governor's Optimization Report (Agenda Item 9)

Dr. David Patton, Chief Operating Officer, Department of Health, distributed the handout, "Utah Department of Health Implementation Plan for the Recommendations of the Utah Advisory Commission to Optimize State Government." Mr. Patton briefly described the department's response to the eleven recommendations directly affecting the Utah Department of Health.

The implementation plan included the following: institutionalizing optimization; combating fraud, waste, and abuse; implementing enterprise efficiency measures and the Balanced Scorecard; coordinating financial service functions within the agency; and targeting an optimal "span of control."

Mr. Patton highlighted the following department actions: coordinating efforts between Department of Workforce Services eligibility management and DOH Medicaid policy personnel; transferring healthcare

workforce planning from the Utah Medical Education Council (UMEC) to the Departments of Health and Workforce Services; placing the Bureau of Program Integrity (BPI) under the authority of the newly created Office of Internal Audit; reviewing regulatory and audit impacts on customers; looking for more efficient ways of conducting business and lowering costs; and enhancing economic development.

Rep. Litvack asked about outsourcing the review function of BPI. Mr. Patton stated that DOH needs to look at the RFP response information to determine the feasibility of private sector contingency-based firms performing the functions currently done by the Program Integrity Unit.

Michael Hales briefly reviewed the history of the Bureau of Program Integrity (BPI). BPI's functions have included prior authorization of claims as well as post payment review and compliance. As a result of the Fraud, Waste, and Abuse Audit and the Governor's Optimization Report, the Department is looking at ways to address the need for better recoveries and oversight of providers. Mr. Hales explained that the RFPs will reflect what the providers can offer in terms of services.

Rep. Houck asked about the Department's potential role in healthcare workforce planning. Mr. Patton stated that in the past, the Department has done some workforce training. The Department will await the decision of the Governor's Office on the disposition of UMEC, but stands ready to accept the responsibility of healthcare workforce planning.

12. GOPB Medicaid Coordination Report (Agenda Item 10)

Clifford Strachan, Governor's Office of Planning and Budget (GOPB), offered some introductory remarks and recognized GOPB staff members and participating agencies for their work and cooperation in preparing the report.

Mr. Strachen explained that in response to a request from the Legislative Management Committee, GOPB performed an in-depth review of Medicaid Program Coordination. The 60-page report, "Medicaid Coordination & Reporting Study," examines the consolidation or improved coordination of the Medicaid Program; presents a format for a unified combined annual report from all state agencies receiving Medicaid funds; and identifies potential options for coordinated reporting from those performing final expenditures via contract.

Mr. Strachen, reported on the consolidation or improved coordination of the Medicaid program.

David Walsh, GOPB, reported on the format for a unified annual report on Medicaid and CHIP expenditures, and options for coordinated reporting from those performing final expenditures via contract. He also discussed examples for reports on Medicaid funding, expenditures, and caseloads.

Report findings indicated that the departments of Health and Workforce Services have proactively collaborated to address some of the issues with Medicaid eligibility and service delivery. In addition strides have been made to streamline communication, improve the policy change process, and align policies across all programs wherever possible.

GOPB recommended that 1) the departments continue their efforts to collaborate on Medicaid process improvement; 2) establish a target day by which these efforts will be completed; 3) DOH be responsible

for collecting data and publishing a unified annual report on Medicaid and Children's Health Insurance Program (CHIP) expenditures; 4) DOH deliver a coordinated report annually to GOPB and the Chairs of the Executive Appropriations Committee by December 31; and 5) the report be expanded to include Medicaid expenditures by contracted providers.

Sen. Jones asked if the Preferred Drug List is having any impact on some of the costs in Medicaid pharmacy. Michael Hales stated that as a result of the Preferred Drug List, the Department saved or recovered in rebates about \$5 million in FY 2010.

Sen. Jones asked if there were any complaints from people who had experienced diminished outcomes using the Preferred Drug List. Mr. Hale stated that he was not aware of any substantial complaints.

13. Pain Medication Study (Agenda Item 17)

Sen. Jones introduced Dr. Jay Bischoff, Director, Intermountain Urological Institute, Intermountain Medical Center. Dr. Bischoff is leading the effort to reduce the numbers of unused pharmaceutical drugs, specifically, pain medications, in peoples homes.

Dr. Bischoff, expressed his concern about the overuse of unused prescription drugs. He referenced the movie entitled, "Happy Valley...what's in your Jello?" that talks about prescription drug use among adolescents and teenagers. Utah leads the nation in deaths from narcotic overdose. He quoted some statistics that indicate that narcotic prescription drug use is a national problem. Utah's drug rehab facilities are filled with kids whose drug addiction began with prescription pain medications.

Dr. Bischoff discussed a pain medication study that tracked patient use of prescribed medications in Utah. Findings show that patients use only between 40 and 50 percent of their medication. In 2009, the study estimated that within the Intermountain Healthcare system, that there were 750,000 to 900,000 unused narcotic tablets sitting in cabinets in peoples homes. Dr. Bischoff stated that most people do not know how to dispose of leftover drugs. FDA guidelines recommend putting unused prescriptions with a noxious substance and throwing them in the trash.

Mr. Bischoff mentioned a number of measures that Neurology has implemented to try and arrest this problem that include: prescribing less medication, providing educational lectures, and putting a brightly colored piece of paper in with the prescription that describes the problem of overuse and how to dispose of unused tablets. He emphasized that it is important to increase public and physician awareness and expand take back programs. The Legislature needs to be involved as well.

Committee Discussion

Sen. Liljenquist stated that he has spent some time with the Medical Examiner on this very issue. He noted that the costs of paying for prescription drugs are very expensive to begin with. He wanted to know what is driving a physician to prescribe these dosages. Dr. Bischoff said that doctors partially prescribe out of convenience, but more out of a lack of awareness on how much to prescribe. As more studies confirm the problem of excess dosages, physicians are responding and are willing to prescribe more responsibly.

Sen. Liljenquist asked how the Legislature could help. Dr. Bischoff stated that the Legislature could help by finding money to educate the public and raise awareness.

Sen. Liljenquist emphasized that convenience should not take precedence when lives are at stake. The Legislature may want to consider dosage regulation.

Rep. Dougall asked to what extent has Medicaid looked at this topic. Michael Hales said that they are looking at a public health initiative. Medicaid does not regulate how doctors prescribe but relies on prevailing medical norms. Rep. Dougall asked if the Department has conducted any studies on what is prescribed and how much is left over. Mr. Hales stated that Dr. Sundwall would be in a better position to respond to that question. Medicaid does not have any mechanism in place to determine how much of a prescription is used or not used.

Co-Chair Christensen said that a few years ago they tried to regulate the number of prescriptions an individual could receive, seven per month, but it was not well-received.

Rep. Litvack asked if the medical field will be developing new prescription guidelines and best practices given the research and studies that are coming forth. Dr. Bischoff said that physicians are becoming aware that overuse of prescriptions drugs is a problem and are very supportive of new practices. Utah will lead the way in this regard. What would help initially is to expand the take back programs.

Sen. Liljenquist stated that medications can be dispensed differently. Michael Hales said that he will find out what Medicaid's limitations are for dispensing medications. He pointed out the Medicaid has a pain management program for people who have chronic pain management needs. Sen. Liljenquist's stated that his concerns dealt with acute care management.

Sen. Jones said that she has been very interested in this topic for years. She stated that ten years ago, the Utah Tomorrow Task Force asked the departments to identify what the top three issues were going to be in the next ten years. Many of the departments identified substance abuse. Substance abuse affects not only Medicaid, but every budget and every family in our society. She commended Dr. Bischoff for his pioneering work in the collection of hard data on this subject.

Sen. Jones stated that she will be sponsoring legislation this year on the education of prescribers of specific pain medications. She will be working with the Utah Medical Association and others entities. Sen. Jones also expressed her support for take back programs.

14. General Fund Stabilization of Laboratory Fees (Agenda Item 20)

Dr. Patrick F. Luedtke, Director, Unified State Laboratories (USL), discussed the Unified State Laboratories and funding in terms of the General Fund and fees for service dedicated credits work. He distributed two handouts: "Core Functions and Capabilities of State Public Health Laboratories" dated September 20, 2002, and "Unified State Laboratories: Core Functions."

Mr. Frandsen called attention to one additional handout that included an "Executive Summary by the Legislative Fiscal Analyst" <http://le.utah.gov/interim/2010/pdf/00001679.pdf> and a report submitted by the USL, "Funding Sources Report for the Unified State Laboratories: Public Health."

Dr. Luedtke's presentation included a discussion on USL core functions, a health and safety pyramid, response capabilities, and a description of the Bureau of Microbiology, Bureau of Chemistry and Environmental Services, Bureau of Forensic Toxicology, and Bureau of Laboratory Improvement. He also summarized five big challenges that included the lack of "billable" entity, billing self or other state agency, private sector pricing, testing not conducive to the profit driven private sector, and the state statute that prevents charging a fee.

Rep. Dougall asked what expert witnesses get paid to testify for DUIs. Dr. Luedtke stated that in addition to their regular salaries, the courts pay expert witnesses \$18.50 per testimony. There is a total of eight staff members who testify an average of 72 hours per month.

Co-Chair Christensen asked about the turn around time for DUI testing. Dr. Luedtke said that the goal is to get a forensic toxicology test report back by the court date which should be within 30 days. USL does have trouble with this on occasion.

Rep. Litvack commented that the \$18.50 paid to the expert witness should be paid as a reimbursement to the agency for costs associated with the expert testimony. Dr. Luedtke clarified that the \$18.50 reverts back to the USL.

15. Medicaid Management Information System (Agenda Item 12)

Ken Peterson, Chief Operating Officer, Department of Technology Services, discussed coordination efforts and the process of governance at it relates to the Medicaid Management Information System (MMIS). A sub cabinet committee will meet quarterly and will have the responsibility of overall governance. It will be headed up by Steve Fletcher, Chief Information Officer, and include representation from the Department of Health, Department of Human Services, the Department of Workforce Services, providers, and other non state agencies. In addition, a program management team and a project management team will meet regularly.

Mr. Peterson went on to discuss how DTS is involved in the development of MMIS. He stated that the system will be replaced in modules. The data warehouse will be completed by the end of 2010. The point of sale portion will be completed by August 2011, followed by the Fraud, Waste, and Abuse Detection System is expected to be implemented by September 2011.

16. Reports Required in Statute (Agenda Item 11)

Russell Frandsen, LFA, reviewed the Issue Brief, "Reports Required in Statute." He directed the committee's attention to page 2 that lists the twenty-two reports required in statute that currently go to the Health and Human Services Appropriations Subcommittee and/or the Health and Human Services Interim Committee. Mr. Frandsen discussed a few descriptive report statistics, and presented seven options for legislators to look at expanding and/or reducing the 22 annual reports.

Mr. Frandsen clarified that most of the reports do not require oral presentations and can be submitted to the subcommittee in writing.

17. Preventing Client Fraud in Medicaid (Agenda Item 13)

Shauna Havey, Program Manager, Department of Workforce Services, discussed some of the risks associated with Medicaid fraud and what DWS is doing to prevent fraud from happening. DWS determines eligibility for Medicaid and oversees ongoing Medicaid assistance cases. She stated that checks and balances are in place to ensure eligibility including a detailed application and an electronic verification match check. Any discrepancies in information are resolved before eligibility is determined.

Committee Discussion

Co-Chair Christensen asked about penalties when people become re employed and continue to remain on Medicaid. Ms. Havey stated that the client is liable for overpayment which can be handled through collections and/or the Payment Error Prevention Unit. Co-Chair Christensen also inquired about verifying identification on children. Ms. Havey stated that Medicaid has preferred methods of identification of children such as school ID cards, medical and immunization records.

Co-Chair Dougall asked if DWS checks bank accounts. Ms. Havey stated that DWS does not have an electronic match to bank accounts but they do ask about bank account balances. Medicaid policy states that Medicaid eligibility workers need to make Medicaid accessible to people and verify only what is reasonable.

Co-Chair Dougall also asked about checks for consistency with tax records and penalties for people who lie on their Medicaid application. Ms. Havey stated that DWS does not have access to tax records. He also asked what penalties exist if someone lies on their Medicaid application. He also stated that there are no consequences for anyone who lies on an application until a benefit is received. Co-Chair Dougall asked if was an appropriate policy? Ms. Havey stated that the cost to penalize people who make false statements would be large. She pointed out that sometimes when people are not truthful, they do not understand the questions that are being asked.

Co-Chair Dougall referred to the recent Utah State Auditor's Annual Report, "Department of Workforce Services" for the FY ended June 30, 2010. Russell Frandsen, LFA, explained data findings on eligibility determination errors from 2005 to 2010. Ms. Havey stated that DWS is responding to audit findings by implementing a Medicaid action plan that includes providing more comprehensive training of staff. She attributed a higher rate of error to the economy, caseload increases, and internal changes within the department.

Co-Chair Dougall expressed concern about a 38 percent rate of error in determining eligibility for the CHIP Program. Michael Hales stated that in many cases, children have been inappropriately placed on CHIP rather than on Medicaid. Ms. Havey stated that DWS will train every eligibility specialist on the audit findings, what caused them, and what they can do to prevent them in the future.

Co-Chair Dougall asked what can be done about people who share their Medicaid card. Ms. Havey stated that Medicaid recipients need to present their Medicaid card when seeking services and by law, medical providers must ID people when they come in for services. Mr. Hales explained that there are different types of Medicaid identifying cards. Co-Chair Christensen stated that sharing medicaid cards continues to be a problem and steps need to be taken to tighten up the controls.

Sen. Dayton asked about the percentage of unauthorized payments that were collected. Ms. Havey stated that a small percentage, about \$500,000 of the \$3.5 million of unauthorized payments, were collected. She asked who determines if a recipient needs to be questioned. Ms. Havey indicated that the eligibility specialist ultimately makes that determination. Policy does not require more verification than is necessary.

Sen. Jones asked how many applications are turned down. Michael Hales said that the trend has been changing but DWS approves about a third of the applications that are submitted. He stated that DWS has seen a huge increase in the number of applications.

Sen Jones recognized that Medicaid can be a life line for many people. She asked about the profile of a Medicaid applicant and costs associated with the elderly in long term care. Mr. Hales elaborated on the various categories of eligibilities. Mr. Hales pointed out that about 25 percent of the Medicaid budget goes toward long term care, not including hospitalizations, pharmaceuticals, and doctors visits for the elderly. The elderly and people with disabilities make up about 20 percent of the population, but they account for between 60 to 70 percent of the costs of the program.

Rep. Chavez-Houck asked how long people stay on the Medicaid program. Mr. Hales stated that the different eligibility categories suggest the approximate lengths of time people stay on Medicaid.

Ally Isom, Government Affairs Director, Department of Workforce Services, offered an initial response to the Utah State Auditor's Annual Report. She indicated that DWS was not as surprised as one might think regarding the rate of error. She pointed out that error does not necessary mean fraud but reflects errors in processing or documentation. The error rate increased as a result of the staged implementation of electronic Resources & Eligibility Program (eREP) system. DWS expects the error rate to go down once the eREP system and the quality control plan are in place.

Co-Chair Dougall asked how many illegal immigrants qualify for benefits. Ms. Isom clarified that undocumented immigrants can only receive emergency Medicaid and this is stipulated in federal law.

Russell Frandsen presented cost data for services in aging populations on Medicaid in nursing homes, home and community-based services, and intermediate care facilities for the mentally retarded. These services account for about \$400 million or 22 percent of all Medicaid services provided.

18. Performance Measures - Department of Health (Agenda Item 14)

Dr. David Sundwall, Executive Director, Department of Health (DOH), presented an overview of the department that included a power point presentation entitled, "Utah Department of Health, Integrated Strategic Initiative." He discussed the Executive Director's priorities and objectives, public health programs, Medicaid, inputs for goal setting, key goals and objectives, and examples of performance measures.

Dr. Sundwall noted that he was going to meet with Governor Herbert on Monday to discuss the Department of Health's priorities that included the issue of prescription drugs.

Dr. Sundwall distributed two handouts, "Public Health Outcome Measures Report," and "Utah Health Plans Perform Well in Consumer Survey."

Dr. David Patton, Deputy Director, DOH, stated that the Balance Scorecard uses diagnostic indicators that measure public health and inputs the Department uses to address public health issues in the community. The Department is currently revising the Balance Scorecard and aligning it with the Executive Director's priorities. The revision should be completed by the end of 2010.

19. Medicaid Hospital Outpatient Fee Schedule (Agenda Item 15)

Michael Hales, Director, Division of Medicaid and Health Financing, Department of Health, stated that as per intent language in the 2010 General Session the Legislature asked the Department of Health to phase in a revision of its reimbursement for outpatient hospital procedures to a fixed fee schedule. The initial directive was 25 percent incremental phase in, July 1, Oct 1, Jan 1, and July 1, 2011.

By July 1, 2010, DOH worked closely with the ambulatory surgical centers and the hospitals and converted 25 percent of the codes. In September, DOH received a letter from President Waddoups and Speaker Clark suggesting that it would be a good idea to change to the Medicare reimbursement methodology, a perspective payment system known as Ambulatory Payment Classification (APC). Mr. Hales stated that resources were redirected to procuring the APC grouper and integrated the grouper into the current system. The Department is working to implement a very challenging time line. By July 1, 2011, a new payment methodology for outpatient hospital procedures will be in place. Any claims that were processed at a fixed fee schedule July 1, 2010 going forward, will be reprocessed under APC.

Mr. Hales explained that they are trying to move away from a percent of charge reimbursement where if hospitals increase their charges, Medicaid pays a higher amount by virtue of paying a fixed percent of charges.

Dave Gessel, Utah Hospital Association, stated that UHA is working cooperatively with the Department of Health in trying to meet this goal in the designated time frame. It will be challenging though.

Sen. Liljenquist stated that we are required by federal law to have a Medicare upper limit on the outpatient side.

20. Extra Months of Favorable Medicaid Match Rate (Agenda Item 18)

Russell Frandsen, LFA, reported on the Issue Brief, "Federal Funding for Education and Medicaid." Utah can expect an additional \$30 to \$40 million for Medicaid funding.

21. CHIP Report on Full At-risk Program (Agenda Item 19)

Emma Chacon, Director, Children's Health Insurance Plan (CHIP), gave an update on the transfer to the full at-risk contracts, and issues related to bench marking benefits.

Ms. Chacon stated that health benefits were bench marked against Select Health's Small Business Account Plan and dental benefits were bench marked against Dental Select Platinum Plan.

Ms. Chacon explained that in 2008, legislation was passed requesting an RFP to move CHIP's health benefits to risk based plans in which the plan had to accept at least 75 percent risk. In addition, an RFP was required for new dental plans. On January 1, 2009, Molina was converted to a full risk contract. In July 2009 two RFPs were issued, one for a new health plan to replace PEHP, and one for new dental providers. In May 2010 three contracts were awarded, Select Health to replace PEHP, and contracts with Dental Quest and Premier Access as dental providers.

Ms. Chacon stated that while they have not experienced a full year of full risk contracts, preliminary calculations that they may be saving one dollar per member per month, as long as caseloads do not increase. The numbers are premature though. She also suggested that a relative risk analysis be done to compare Molina and Select Health to determine if the number of well and sick children are equally distributed between the two plans.

Co-Chair Christensen asked for a clarification on the RFP award process. Chacon explained that the Bureau awarded the contracts based on very specific criteria: cost, access, and the provider network.

Co-Chair Christensen understood that the RFP was a proposal and not a bid for contract.

22. Other Business (Agenda Item 21)

Co-Chair Dougall thanked the members of the committee for attending the full day meeting and the agencies who presented.

MOTION: Co-Chair Dougall moved to adjourn. The motion passed unanimously with Sen. Dayton, Sen. Jones, Rep. Litvack, Rep. Menlove, and Rep. Ray absent for the vote.

Co-Chair Christensen adjourned the meeting at 4:30 p.m.