

**MINUTES OF THE
SOCIAL SERVICES APPROPRIATIONS SUBCOMMITTEE**

Thursday, July 21, 2011 - 8:00 a.m.

Utah State Developmental Center
895 North 900 East
American Fork, UT

Members Present:

Sen. Allen M. Christensen, Senate Chair
Rep. David Clark, House Chair
Rep. Bradley G. Last, House Vice Chair
Sen. Margaret Dayton
Sen. Patricia W. Jones
Sen. Daniel R. Liljenquist
Sen. Wayne L. Niederhauser
Sen. Luz Robles
Rep. Johnny Anderson
Rep. Jim Bird
Rep. Rebecca Chavez-Houck
Rep. John Dougall
Rep. David Litvack

Rep. Ronda Rudd Menlove
Rep. Kraig Powell
Rep. Holly J. Richardson
Rep. Larry B. Wiley

Members Excused:

Sen. Peter C. Knudson

Staff Present:

Russell T. Frandsen, Fiscal Analyst
Stephen C. Jardine, Fiscal Analyst
Gary K. Ricks, Fiscal Analyst
Greta Rodebush, Legislative Secretary

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

1. Introduction

Chair Christensen called the meeting to order at 8:15 a.m. and welcomed those in attendance. He clarified that the purpose of today's meeting was to become better educated about the Utah State Developmental Center (USDC). He stated that the subcommittee had no intentions of closing the Center.

Chair Christensen noted that staff analyst, Patrick Lee, had accepted a job outside the Fiscal Analyst Office, and that Stephen Jardine and Gary Ricks would be handling his responsibilities.

Stephen Jardine, LFA, reviewed the morning and afternoon meeting schedule, that included a tour of the USDC. During the 12:00 p.m. to 2:30 p.m. lunch break, staff arranged for the subcommittee to participate in four smaller group tours. Each group would tour: a community group home, a private Intermediate Care Facility for Individuals with Disabilities (ICF/ID), a Day Program, and the Ability First Independent Living Center in Provo. The meeting location for the afternoon would be at the Eldred Senior Center 270 West 500 North in Provo, Utah.

Chair Christensen thanked the Utah State Developmental Center for hosting today's meeting.

2. Video Presentations

The subcommittee viewed two videos: *Keep People Home. Keep People Working*, prepared by the Utah Developmental Disabilities Council, and *The Straight Facts About Utah's ICF-ID*, prepared by the Utah Health Care Association.

Rep. Wiley inquired about ICF-ID training and certification.

Deb Bowman, Utah Developmental Disabilities Council, indicated that each ICF/ID community is responsible for the training and certification of their employees, which is based on statewide standards. In addition, all employees must pass standardized background checks.

Sen. Jones stated that policy makers need to work together given limited resources. The services depicted in the two films have a critical niche and every individual requires a different placement.

Chair Christensen also commented that individuals with disabilities cannot be grouped into one service category because each individual has different needs and preferences. He pointed out that because the subcommittee is responsible for funding, it was important to have this education.

3. Unanswered Questions from Subcommittee Members from the 2011 General Session (Department of Human Services)

The Department of Human Services (DHS) distributed a handout to the committee in response to Rep. Johnny Anderson's inquiry if sliding fees schedules are used in the autism mental health preschools. The DHS response said that all but one of the autism preschool programs are located in the public elementary schools. For programs located in public schools, federal special education guidelines prohibit charging for services for children eligible for special education services. Therefore, fees cannot be charged for the autism preschool programs. (in three of the programs.)

4. What is the Safety Net in Utah (state, federal, and nonprofit) for Individuals with Disabilities?

Stephen Jardine, LFA, invited the ten panel members to seat themselves at the front of the room.

Mr. Jardine proceeded to discuss a one-page 11x17 spreadsheet entitled, "The Disability Safety Net in Utah," that highlights the agencies (federal, state, or private) and the types of services they provide. He also called attention to the handout, "Policy Themes for the Disability Safety Net in Utah," and a corresponding list of questions that legislators might want to consider when discussing policy themes with panel members.

Mr. Jardine introduced the following panel members:

Deborah Bowman, parent representing families of individuals who receive services in home and community-based settings

Noel Converse, Director of Special Education, Granite School District

Kristen Cox, Executive Director, Department of Workforce Services, individual with a disability

Esther Medina, Work Incentives Coordinator, Utah DDS Liaison, Social Services Administration

Helen Post, Executive Director, Utah Parent Center

Dr. Dean Robinson, parent representing parents of individuals at the Utah State Developmental Center

Carol Ruddell, Project Director, Work Ability Utah, Department of Health

Paul Smith, Acting Director, Division of Services for People with Disabilities

Don Uchida, Executive Director, Utah State Office of Rehabilitation

Carola Zitzmann, parent representing families of individuals in private Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICFs/ID)

Before the panel discussion began, Dr. Dean Robinson commented that the information presented in the first video, *Keep People Home. Keep People Working*, was incorrect. He stated that a philosophical bias against institutional care was also evident. Dr. Robinson felt that it would be important to determine cost on the outside in relationship to the costs in the facility.

Deborah Bowman clarified that the cost figures in *Keep People Home. Keep People Working*, were taken from the DSPD annual report. She recognized the need for a continuum of services that includes institutional care. She stated that the parents in the film felt that they were best suited to take care of their children. Ms. Bowman said that keeping families informed about the wide array of services is a big challenge and that families need to be able to make informed decisions.

The panel responded to the following committee questions:

1. How did you decide on an ICFMR and how are parents directed in making informed decisions?
2. Is the USDC currently closed to new admissions and why case managers may not be showing ICFMRs prospective parents?
3. What can be done to verify quality of services?
4. How do you work with the medical profession in providing individuals with a lifetime of care?
5. What does a family support network look like?
6. What one recommendation would you give to legislators in funding services and/or making policy?
7. How do we plan for the future in right-sizing a full continuum of services?
8. How are we monitoring for health and safety?

Chair Christensen cut off discussion and turned the time over to Guy Thompson, Executive Director, USDC.

5. Issue Briefs by Staff

The Issue Briefs were not heard at this time.

6. Tour of the Utah State Developmental Center

Guy Thompson, Executive Director, Utah State Development Center (USDC), welcomed subcommittee members to the USDC campus. He divided the legislators into nine groups for a one-hour guided tour of the USDC. The public was welcomed to join the tour as well.

7. Public Input on Utah's Safety Net for Individuals with Disabilities

Sen. Christensen reconvened the meeting at approximately 11:00 a.m. and explained the procedures for making public comment. Each of the thirty-six speakers was allotted two minutes for comment. The following individuals spoke:

Jeff Burley, Manager, Adaptive Recreation, Salt Lake County Parks and Recreation

Laura Anderson, parent

Cheryl Smith, President, Autism Council of Utah

Judy Zimmerman, Research Specialist, University of Utah

Nita Smith, Chair, Utah Brain Injury Council

Joyce Dolcourt, Vice-Chair, Legislative Coalition for People with Disabilities, submitted written comments

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Clare Mantonya, Chair, Utah Development Disabilities Council
Luwenn Jones, parent
Charles Luke, Executive Director, Utah Association of Community
Diane Sneider, parent
Corola Zitzmann, parent
Delsi Benson, parent
Roger Reeve, parent
Tonya Christensen, parent
Garry Owens, Director, Red Rock Center for Independence
Andy Curry, Director, Tri-county Independent Living Center
Kris Fawson, Policy Specialist, Utah Statewide Independent Living Council
Mark Augustine, self, Intellectually disabled individuals in the Justice System
William Levere, parent
Jennifer Adams, parent
Toni Sly, parent
Lori Packard, privatized support coordination
Mary Paulsen, parent
Melanie Roundy, sister in USDC
Evan Roundy, sister-in-law in USDC
Dr. Dean Robinson, representing parents, USDC
Carmen Pingree, parent
Renee Montano, parent, son admitted to USDC
Chris Crowder, brother in USDC
Joseph Winter, Family Council, USDC

The following handouts were distributed to the subcommittee:

- "Follow Up Comments to the Subcommittee from Families and Individuals Regarding the Disability Safety Net;"
- "Re: Testimony for the Social Services Appropriations Sub-Committee July 21, 2011," Joyce Dolcourt, Vice-Chair for the Legislative Coalition for People with Disabilities;
- Anonymous Letter from a parent of an autistic son;
- "Testimony from Clair Montonya, Executive Director, Utah Developmental Disabilities Council," July 21, 2011.
- "Statement by Bill Levere Before the Utah State Social Services Appropriations Subcommittee," July 21, 2011;
- "Statement for: State of Utah Social Services Appropriations Subcommittee," July 21, 2011 American Fork, Utah, Blake and Tonya Christensen, parents of a disabled child;
- "Utah Traumatic Brain Injury Fund" and "Traumatic Brain Injury in Utah, 2008," Utah Department of Health Violence and Injury Prevention Program;

- "Changes in the Administrative Prevalence of Autism Spectrum Disorders: Contribution of Special Education and Health from 2002-2008;"
- "Salt Lake County Parks and Recreation, Adaptive Recreation Program," Jeff Burley, Adaptive Program Director;
- "Support Coordination," Lori Packard.

Chair Christensen reassured the audience that the subcommittee was not here to close the Utah State Development Center, but to become educated.

Chair Christensen thanked the audience for being in attendance today.

8. Items from the Afternoon Agenda

There were no items from the afternoon agenda.

12:00 p.m. to 2:30 p.m. Break (Visit Disability Services in the Area)

During the lunch break, subcommittee members traveled in four separate groups to visit disability services in Orem and Provo.

Chair Christensen reconvened the meeting at 2:30 p.m. at the Eldred Senior Center, 270 West 500 North, Provo, Utah.

9. Items from the Morning Agenda

There were no items from the morning agenda

10. How is USOR Handling Demand for Services and Budget Reductions?

Don Uchida, Executive Director, Utah State Office of Rehabilitation (USOR), referred the subcommittee to a two-page handout entitled, "USOR New Reality - Getting the Most Out of the Resources We Have," and highlighted a number of measures USOR has implemented to balance revenues with expenditures.

One other handout was available, "Utah's VR Program Is Productive and Cost Effective." Charts for FY 2007-FY 2010 showed a 10 western state comparison for vocational rehabilitation services based on numbers of clients, average placement per counselor, cost per client rehabilitated, and average caseloads.

Mr. Uchida responded to committee member questions.

Chair Christensen recognized Sen. Dayton. Sen. Dayton noted that local officials had asked for her support on a proposed east/west road to be built on USDC property. Their justification for the road was to provide easier access to the revenue generating Walmart. Sen. Dayton asked that the subcommittee support a motion to prohibit the sale of any USDC property until the Utah Department of Human Services had time to prepare a master plan.

Rep. Dougall was opposed to the motion. He stated that local cities have been working on the east/west issue for more than twenty years. Two years ago when legislators were discussing widening the road in front of the USDC, it was apparent that the east/west issue would surface again in the near future. Rep. Dougall indicated that the east/west road discussions were focused on improving access to the hospital and the high school and increased traffic issues rather than Walmart.

Rep. Clark stated that the subcommittee did not need to take any action because statute defines how land can be disposed of. Under UCA 63A-5-220, Jonathan Ball, LFA, stated that the Division of Services for People with Disabilities (DSPD) under DHS must secure the approval of the Governor and the Legislature before selling land or water rights.

Sen. Dayton indicated that she would speak with local officials and let them know that the subcommittee intends to enforce what is in statute.

Issue Briefs by Staff (Agenda Item 5)

Stephen Jardine, LFA, presented the Issue Brief, "[Account for People with Disabilities](#)." In FY 2011, the Legislature was able to appropriate \$3,682,100 from the account because the fiscal period met the qualifications of an operating deficit. Mr. Jardine stated that the Legislature could consider replenishing the Account for People with Disabilities with state General Fund revenues during an operating surplus, amending statute to restrict the Account from being accessed during time of an operating deficit, or taking no action and allowing the account to replenish itself through natural growth.

Mr. Jardine discussed the Issue Brief, "[Acuity and Placements for Individuals with Intellectual Disabilities](#)." He pointed out that acuity measures are not currently reported to the Legislature and that services to individuals with intellectual disabilities are inconsistent across the departments of Health and Human Services. Mr. Jardine also discussed the use of professional judgment and IQ scores in determining provided services. He stated that the Legislature could direct the departments to agree upon a common acuity measure, implement the measure uniformly, and report to the Legislature how acuity of individuals correlates with the use of resources in delivering state services to individuals with intellectual disabilities.

Rep. Chavez Houck asked why the indicator, Support Intensity Scales (SIS), is used in one area of service, and RUG, is used in another area of service. She asked if either one of those indicators could be standardized across the spectrum of services. Mr. Jardine said that he would follow up on this question.

Mr. Jardine reported on the Issue Brief, "[Costs of Residential Care for Individuals with Intellectual Disabilities](#)," which compares costs for residential services for individuals with intellectual disabilities in three settings: 1) nursing facilities called ICFs/ID operating under the Department of Health; 2) community group homes; and 3) the Utah State Development Center in American Fork.

Rep. Menlove requested follow-up on whether the agency uses a formula in determining services and placement for individuals with disabilities.

Mr. Jardine reported on the Issue Brief, "[Independent Living Centers](#)," which provides basic background information on Utah's independent living centers.

11. Committee Discussion

Rep. Chavez-Houck asked if the state could make better use of the Utah State Development Center as an asset. Chair Christensen said that using the assets of USDC has been looked at in the past even by local cities looking to use the auditorium on an occasional basis. However, maintenance and upkeep costs do not make this a viable option. Rep. Dougall indicated that the state has looked at the USDC in terms of state usage, but this may be changing. He commented there is some concern that USDC use considerations are conducive to the services the state is providing and at a fair market value. Rep. Clark suggested asking the federal government for a waiver to allow the USDC to be used for respite care.

Rep. Litvack felt it would be helpful if the subcommittee could base the allocation of resources from a systemic planning perspective.

Rep. Dougall noted that a couple of years ago, the subcommittee recommended that a lease on a DCFS building in American Fork not be renewed, but relocated at the USDC.

Sen. Niedehauser felt that it would be important to look at the incremental costs of adding an additional person to the USDC. The state may or may not be able to afford the extra capacity.

12. Preferred Drug List

This agenda item was not discussed.

The Department of Health distributed the handout, "Preferred Drug List."

13. Number of Nursing Home Beds in the State

Rep. Brad Last felt that the subcommittee should continue to discuss the moratorium on Medicare beds in nursing home facilities, which sunsets every five years.

Dirk Anjeweirden, Executive Director, Utah Health Care Association, stated that nursing homes are feeling the competition and starting to rebuild and upgrade facilities and reinvesting. Providers are taking advantage of reimbursement incentives to invest in facilities. Nursing homes still need to figure out the low occupancy issue.

Rep. Anderson asked about moratorium enforcement, meeting the needs of an increasing aging population, and the difference between a nursing home and a community-based setting. Mr. Anjeweirdan pointed out that in the 1970's and 80's nursing homes was the predominant choice for long term care. Today, community-based assisted living has outpaced nursing homes in the continuum of services. Mr. Anjeweirden believes that this is the direction long term care needs to go.

Rep. Last explained that the formula for reimbursing the nursing homes is complex. He stated that if we allow more beds and the occupancy rate is low, the cost per day will go up. Unless we change the funding formula, there is some justification for the moratorium.

14. Unanswered Questions from Subcommittee Members from the 2011 General Session (Department of Health)

Dr. David Patton, Executive Director, Department of Health, briefly discussed the handout, "Social Services Appropriations Subcommittee, Questions from the 2011 Legislative Session," dated July 21, 2011. He observed that many of the questions had to do with prevention services and medical care in the area of cost containment. He said that a lot could be done to save costs in health care if we invested more and worked more in partnership with the community.

15. Issue Briefs by Staff

Russell Frandsen, LFA, presented the Issue Brief, "[Tobacco Settlement Restricted Account](#)." He indicated that receipts to Tobacco Settlement Restricted Account will likely be \$944,000 or 4 percent lower than anticipated in FY 2011 and \$7,078,500 or 25 percent short in FY 2012. The shortfall can be attributed to increased federal cigarette tax, the economic downturn, and the timing of the tobacco company payment. Mr. Frandsen mentioned that in 2011, a tobacco company withheld part of its payment to the State, about \$1.9 million.

Mr. Frandsen discussed options for legislative action and answered questions.

Mr. Frandsen also discussed the Issue Brief, "[Cigarette Tax Restricted Account](#)." Under current conditions, receipts to the Cigarette Tax Restricted Account will likely be about \$1.0 million (13 percent) lower than anticipated in FY 2011, \$2.5 million (33 percent) short in FY 2012, and \$1.3 million (17 percent) lower from the FY 2013 forward.

Mr. Frandsen indicated that the Executive Appropriations Committee heard this presentation on July 19, 2011 and made a motion to create a bill using options 2 and 3. Option 2 amends UCA 59-14-204(5) so that the Cigarette Tax Restricted Account is not adversely impacted by the FY 2011 tax rate change. Option 3 amends statute to take out the percentage allocations or adjust the FY 2012 and FY 2013 appropriations to match statute.

Sen. Niederhauser asked about the revenue shortfalls. Mr. Frandsen explained that the \$2.5 million shortfall in FY 2012 can be attributed to a \$1 million ongoing reduction that is based on the Tax Commission's interpretation of the statute; a \$1.1 million reduction from a change from accrual to cash accounting; and \$0.4 million ongoing reduction due to consumers buying fewer cigarettes.

16. Updates and Reports from Agencies

Dr. Patton reported on the handout, "Medicaid Management Information System Quarterly Report," dated June 28, 2011. He stated that the department is in the RFP stage for the core MMIS replacement. The Legislature has been generous in keeping up with the payments that were needed for the project.

There was one additional handout from the Department of Health, a letter from Michael Hales, Director, Division of Medicaid and Health Financing regarding a multi-agency report on coordinating responses to the 34 recommendations in a Medicaid survey.

17. Other Business

There was no other business at this time.

MOTION: Rep. Dougall moved to adjourn. The motion passed unanimously.

Chair Christensen adjourned the meeting at 4:19 p.m.