

MINUTES OF THE JOINT MEETING
APPROPRIATIONS COMMITTEE AND FINANCE AND CLAIMS COMMITTEE

April 18, 1979
Room 108
State Capitol Building
Subject: Nursing Homes

A joint committee meeting of the Senate Finance and Claims Committee and the House Appropriations Committee was called to order at 10:10 A.M. by Chairman Francis Bardanouve. All members of the House Appropriations Committee were present.

Chairman Bardanouve stated that the purpose of the meeting was to hear Keith Colbo, from the Department of Social and Rehabilitation Services who would explain the problem that has arisen with the medicaid reimbursement for the nursing homes throughout the State.

Mr. Colbo stated that it was his hope that the Department would be able to resolve the controversy that has arisen without having to come to the full committee. He said this controversy has gone on for over 3 years. Mr. Colbo went on to say that the subcommittee had adopted the level of funding based on the recommendation of SRS. This is what the nursing home industry is reacting against. They are thinking of putting in the 60 day cancellation notice that they have with nursing home providers. Mr. Colbo said that in 17 facilities there are about 1,000 medicaid beds.

He further commented that the Department wanted to settle the matter as best they could. They offered to implement the rate at 90 percentile. They didn't want any nursing homes to have to take a decrease. This would have meant that nursing homes whose costs were exceeding current rates, or those that could exceed the rates in the months to come, would have to eat those costs. Mr. Colbo said that in making their offer, the agency used up everything they had. The industry was told then that there was no sense talking about reimbursement for two years. There was no flexibility. He went on to say that their offer has not been accepted. The Department does have an obligation to the people covered by medicaid.

He said that the rule will probably be tested in Court. He went on to say that in order for the agency to live within the nursing home areas it will require an additional appropriation. He said that other states are also having this problem.

Mr. Colbo stated emphatically that there will be no supplemental from his department. He said that increases experienced by the industry for 1977-1979 have outstretched inflationary figures they have used. He stated that in order to re-establish the minimum rule, SRS would need an increase of 2.347 million dollars. This

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is the amount they would need for the 1981 biennium. This would provide an increase of 30% and would make the total increase from the current biennium we are considering 6.5 million. He said that there is a problem with "cost plus" because the federal government must approve any medicaid program submitted by any state agency. They are not accepting "cost plus". He went on to say that the Department does not have anything left to negotiate with. They have used everything in their budget. They do not want to eliminate other medicaid services. He said that this is bound to happen. They will begin to eliminate the optional services until the problem is balanced. He concluded saying that they have tried to approach this problem unemotionally.

At this time Chairman Bardanoue recognized Milton Datsopoulos, the attorney for the Montana Nursing Home Association. Mr. Datsopoulos said that he represents a number of private nursing homes that have had to withdraw from the medicaid program. He said that those homes that have had to withdraw have done so only after painful analysis. The proposed reimbursement level will put them out of business one way or another. He said that facilities have withdrawn because they know what the costs are and the costs in relation to the proposed reimbursement will force each facility to lose from \$20,000 to \$25,000 a month. Mr. Datsopoulos said that it is also important that these costs have been audited continually. He said that industry believes in "cost containment". They will do anything reasonable. The level of care has to be decided by the public forum. They have proposed that the current reimbursement system continue and the nursing homes will agree to submit themselves to audit by SRS and will invite the Department of Health to come in and review their staffing pattern and other costs. He said they can control costs in staffing and food costs, but they cannot control property tax, medical costs, mortgage payments or interest rates. He said that if SRS or the Department of Health believes there are excessive costs in these areas, they will submit to their review. They will abide by those regulations or recommendations made by those departments.

Mr. Datsopoulos went on to say that one must also keep in mind that these costs are costs that are public record. These are actual costs; they have been made and spent. If they can not care for the people and be paid for what their costs are, they can't accept that responsibility. Nursing home people that are involved have simply said that they can not participate because payments will not meet their costs so they have elected not to participate. He said that there are homes right now that can not meet payments and withholding taxes.

He further stated that nobody had anticipated that there would be this number of people requiring this type of care. They can not ask private people to supplement private responsibility by accepting the care of those patients below their costs. They wonder whose

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responsibility is it if medicaid does not care for them. He feels responsibility falls back on the county. He went on to say that the industry has a financial problem and if they are going to continue to care for these people it is going to require more money. They have looked into this problem extensively. The problem can not be solved without additional money. He concluded his testimony by saying that there are about 20 facilities that will have to withdraw, ranging from Red Lodge to Hot Springs. This includes every community in the state -- it is statewide.

Don People from the Butte Silver Bow Hospital was the next speaker. Mr. People stated that the services provided by nursing homes have been developed in response to public insistence that people be given good care. It is their position that they should set a fee that is less than required. It does not do justice to the nursing home concept. They are aware of the problem. They are opposed to the State's administrative level of people being affected by this proposed cut that these persons become the responsibility of the county. It doesn't make good sense to them. The hospital has been notified by nursing homes that they will no longer admit medicaid persons to their nursing homes. If they need acute care they will transfer to the hospital, they will not be re-admitted in the nursing homes. Care will be seriously affected. They have no available beds in the nursing home section of the hospital. The financial impact on the hospital will be even worsened by being forced to accept geriatric patients. He went on to say that the hospital beds will be filled with longer care patients. This would in turn affect acute care patients. This is a vicious circle. He closed saying that he would hope that the reimbursement figures established in 1974 would be re-established.

Senator Jack Healy from Butte rose. Senator Healy stated that he has received many calls and letters in regard to this problem. He knows a lot of people in the nursing homes. He feels the care will disappear if something is not done for them. He said that these people need adequate care. They must be helped. He went on to say that he feels the legislature should not adjourn as long as this problem exists.

Representative Harrington from Butte stated that it is the responsibility of this committee and the legislature to fund these nursing homes adequately. He said we should either return to the 1974 rule or we are going to have a problem. We should run government in a business like manner. We do owe a great respect to our older citizens. It is going to be our responsibility to come up with some type of increase in this particular project.

The President of the Montana Nursing Homes Association from Miles City said that the people in the nursing homes are deserving of good care. We have to be careful that we do not start looking on them as a welfare citizen. He emphasized his feelings towards the Department of SRS. He thinks they have done a good job of trying

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to work with the money they have. He urged support in this request.

Del Thurber from Great Falls, speaking as a concerned citizen, stated that he wants to help. He said the level of care that people are receiving has to be maintained. It can not be dropped. He stated that he brought 149 people from Great Falls to Helena for the hearing today because they are concerned. He believes that anybody that knows anything about this particular situation would be very willing to help wherever they can.

At this point Representative Joe Quilici from Butte asked where do you put the people if they do de-certify. He said the committee has a real hard problem. He expressed concern over where you would put the people. He said that we should find places for them first and then look at the dollars it would cost.

Brad Shafloe, a Certified Public Accountant from Missoula stated that he represents nursing homes. In the nursing home industry approximately 65% of the costs are payroll. He said that most of the employees are minimum wage employees. He said that not only has the minimum wage gone up, the costs and taxes incidental to payrolls have gone up and this accounts for a lot of the excess costs in the nursing homes.

Don Judge from AFSCME said that he represents employees in the nursing homes. He said that some of the employees have been at the nursing homes for 12 years and earning just slightly over minimum wage. He supports an upgrading of nursing homes and hospitals and the quality of care they give. He said that if nursing homes do close down or the quality of care does decrease, we would be facing a serious problem. He closed saying that now is the time to take a step forward. He asked the committee to really review what they are doing because we are all going to be in this situation someday.

Millicent Schifti from Butte rose and stated that she realizes what the nursing homes do for us. There are so many that need help.

Mont Fergus said that he operates a nursing home. It is one of the homes that may be closed. He said that he receives \$22.00 a day at the present time and they are anticipating that he will be cut to \$19.00. He wonders where he is supposed to get the money to make up that difference.

Representative Joe Kanduch from Butte stated that he concurs in everything that has been said here this morning. He said that he is on the Board of Trustees for the hospital in Anaconda. His hospital is in the red. They are going to have to close their nursing home and somebody is going to have to take care of those people.

At this time, Mr. Bompart from Helena rose and said that he feels that there has been a change in the humane part of the problem. He

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said that it is missing and that he feels the legislature can do something about it. He wondered about a liason committee being established so that the legislature will know what to expect. He said that the rule making people would really find their head in the sand if they could see the true picture.

Keith Stokes, a Certified Public Account for Western Care Nursing Homes, stated that their costs are audited.

Mr. Colbo responded to a question about quality care that these nursing homes provide. He said that this is also a concern for the department. He stated that SRS has maintained a good solid relationship with the nursing home industry and want to continue this. He said that the agency will operate any program objectively that is given to them at the funded level.

Chairman Bardancuve asked how many homes are receiving an increase and Mr. Colbo stated that at the 90 percentile, 54 will receive increases. 40 would receive decreases. He then went on to explain the hold harmless clause.

Chairman Bardanouve then asked the nursing home operators what they are going to do with their facilities if they remove the patients.

Mr. Datsopoulos stated that they will retain the private patients. They could also decide to convert the homes to boarding homes. Some would utilize their equipment for occupational and physical therapy and some could convert their entire facility into apartments.

Representative Moore stated that records indicate that there were possibly 10 to 30% of the people in the nursing homes that could have gotten along with less than nursing home care. He wondered why the legislative bill that was before the session in 1977 was killed if this is true.

Jim Bompert from Helena responded that the main reason the bill was killed was the cost. It costs more for personal care than for nursing home care. The costs for nursing home care run \$142.50 for the state and for personal home care it runs approximately \$350.00. \$164.000 of that would come from the federal government in the form of SSI. The remaining \$168.00 would have to be made up by SRS.

John B. Muir from the Valley View Estate Nursing Home in Hamilton stated that he knows from first hand what the costs are. He explained that they are in a new facility. The new rate leaves him short of being able to make payments that he has to make such as FICA, etc. They are now waiting from 45 to 60 days for their medicated payment. The money that comes from private patients does not

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take care of his needs. He thinks the problem is that the figures that are being used are two years old. It is a matter of cash flow and trying to stay in operation.

Chairman Bardanouve stated that the nursing homes want the 1974 formula.

Mr. Colbo suggested that we should research and find a method of compensation that the nursing homes will accept.

Chairman Bardanouve stated that they also refuse to accept a return on equity.

Mrs. Pat Carter from Whitefish asked the committee if they would perform the duties that the staffs at the nursing homes perform for the wages they receive.

Senator Regan asked Mr. Colbo how our nursing home payments compare with sister states. Do they have a problem also?

Mr. Colbo stated that other states are experiencing the same kinds of cost increases. Most of them are attempting to address this problem in the manner similar to the proposed recommendation.

Chairman Bardanouve stated that we have a problem. This business is one of the few in Montana that no one knows if they are private or state business.

Mr. Datsopoulos stated that there is a movement to either amend or repeal a section of the medicaid act. He said that if the committee sees fit to fund at the level Mr. Colbo has suggested, a plan can be formulated and they can get the federal government to accept that plan.

Chairman Bardanouve asked for an explanation of the Missoula community opening another nursing home last year when they are now talking so seriously about closing the doors on others. He wondered how they could justify opening another nursing home.

Mr. Datsopoulos stated that you can't justify any new nursing homes any where in the State at the present time.

Representative Hurwitz wondered about the discrepancies in the rates in the nursing homes.

Mr. Colbo responded that the capital costs of the nursing homes vary largely.

Representative Menahan wondered what we are going to do about this problem. Chairman Bardanouve stated that we can not make a decision

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here in a joint committee. He said that we would have to take this under consideration later in the day.

There was no further business at this time, and the meeting adjourned at 11:35 A.M.

Chairman

Secretary