

## MINUTES

### MONTANA HOUSE OF REPRESENTATIVES 54th LEGISLATURE - REGULAR SESSION

#### JOINT SUBCOMMITTEE ON HUMAN SERVICES & AGING

**Call to Order:** By **CHAIRMAN JOHN COBB**, on February 10, 1995, at 7:00 a.m.

#### ROLL CALL

**Members Present:**

Rep. John Cobb, Chairman (R)  
Sen. Charles "Chuck" Swysgood, Vice Chairman (R)  
Rep. Beverly Barnhart (D)  
Sen. James H. "Jim" Burnett (R)  
Rep. Betty Lou Kasten (R)  
Sen. John "J.D." Lynch (D)

**Members Excused:** None

**Members Absent:** None

**Staff Present:** Lois Steinbeck, Legislative Fiscal Analyst  
Connie Huckins, Office of Budget & Program Planning  
Ann Boden, Committee Secretary

**Please Note:** These are summary minutes. Testimony and discussion are paraphrased and condensed.

**Committee Business Summary:**

Hearing: Medicaid (overview/hearing)  
Executive Action: DEPARTMENT OF SOCIAL & REHABILITATION SERVICES: Vocational Rehabilitation Program; Developmental Disabilities Program.

**SEN. J.D. LYNCH** was absent for approximately 10 minutes of the meeting.

**Brian McCullough**, Chief Budget Bureau, Legal/Centralized Services Division, Department of Labor & Industry distributed the Department's request for modification of the budget for the Human Rights Commission. **EXHIBIT 1**

**REP. BETTY LOU KASTEN** moved to accept the motion as proposed in **EXHIBIT 1**. Motion carried 5-0. (**SEN. J.D. LYNCH** was not present for this vote.)

EXECUTIVE ACTION ON VOCATIONAL REHABILITATION PROGRAM

Tape No. 1:A:2.5

BUDGET ITEM Personal Services; Inflation/Deflation; Fixed Costs:

Motion/Vote: CHAIRMAN COBB moved to accept \$87,253 in FY96 and \$98,534 in FY97 for personal services; (\$3,775) in FY96 and (\$4,819) in FY97 for inflation/deflation; and (\$13,786) in FY96 and (\$13,421) in FY97 for fixed costs. Motion CARRIED 5-0. (SEN. LYNCH was not present for this vote.)

BUDGET ITEM Consulting Services:

Tape No. 1:A:3.7

Discussion: Joe Mathews, Administrator, Vocational Rehabilitation Programs, Social & Rehabilitation Services (SRS) said this funding is used to pay for medical consultants in four districts to aid in helping the more severely disabled population.

CHAIRMAN COBB asked how much was spent on honorariums per person. Mr. Mathews replied council members receive \$25.00 per day.

Motion/Vote: CHAIRMAN COBB moved to accept \$21,561 in each year of the biennium for consulting services. Motion CARRIED 5-0. (SEN. LYNCH was not present for this vote.)

BUDGET ITEM Rent:

Tape No. 1:A:4.0

Discussion: Mr. Mathews said the funding is for rent in the Division's ten field offices. He said Vocational Rehabilitation (VR) is co-located with Developmental Disabilities and Medicaid in all ten of the offices.

Motion/Vote: CHAIRMAN COBB moved to accept \$21,679 in FY96 and \$26,187 in FY97 for rent. Motion CARRIED 5-0. (SEN. LYNCH was not present for this vote.)

BUDGET ITEM Other Operating Cost Reductions:

Tape No. 1:A:4.9

Motion/Vote: REP. KASTEN moved to accept (\$2,426) in each year of the biennium for all other operating cost reductions. Motion CARRIED 5-0. (SEN. LYNCH was not present for this vote.)

BUDGET ITEM Equipment:

Tape No. 1:A:5.1

Motion/Vote: CHAIRMAN COBB moved to accept \$16,116 in FY96 and \$13,667 in FY97 for equipment. Motion FAILED 2-3 with REPS. COBB and BARNHART voting yes. (SEN. LYNCH was not present for this vote.)

**BUDGET ITEM Benefits:**

**Tape No. 1:A:6.5**

SEN. LYNCH arrived to the meeting.

**Discussion:** Ms. Steinbeck spoke on the following issues:

a. 1997 biennium provider rate increase: This is the present law adjustment for the 1.5% provider rate increase and like Visual Services, 30% of these benefits fund tuition and vocational technical education costs. The general fund match for this adjustment is about 21%.

b. Section 110 benefits: This annualizes the 2.5% provider rate increase authorized by the last legislative session.

c. Other benefit changes: These changes include annualization of the rate increase approved by the last legislature, excluding JTPA benefits. JTPA benefits are 100% federally funded and they increase about \$15,000 with additional grant authority.

d. Montana Supported Employment Demonstration (MSED) project: The large reduction here represents the fact that this federal grant will not be continued. Expenditures of \$373,551 were listed in the base and they do not roll forward.

CHAIRMAN COBB asked, what the Division would do with any extra money if the universities don't raise tuition as high. Mr. Mathews said the figures were received from the Governor's Office based on projection, and he wasn't sure what would happen with the extra funds if tuition costs weren't as high as the projections.

**Motion/Vote:** CHAIRMAN COBB moved to accept \$387,756 in FY96 and \$567,588 in FY97 for 1997 biennium provider rate increase; \$118,875 in each year of the biennium for Section 110 benefits; \$159,160 in FY96 and \$162,444 in FY97 for other benefit changes; and (\$373,551) in each year of the biennium for MSED. Motion CARRIED 5-1, with SEN. SWYSGOOD voting no.

**BUDGET ITEM Loans:**

**Tape No. 1:A:9.7**

**Motion/Vote:** REP. KASTEN moved to accept (\$1,010) in each year of the biennium for loans. Motion CARRIED unanimously.

**BUDGET ITEM Workers' Compensation Fund Switch:** **Tape No. 1:A:10.1**

**Discussion:** Ms. Steinbeck said that during the 1993 session, the legislature authorized a gradual phase-out of workers' comp. funds in this program. This is the final phase of the three-year funding switch of the phase-out.

SEN. SWYSGOOD asked if the division still gets workers' comp. cases. Mr. Mathews said a few workers' comp. cases still come in, but many of those people are not severely disabled enough to qualify for the program services.

Motion/Vote: CHAIRMAN COBB moved to accept \$192,087 general fund in each year of the biennium for the Workers' Comp. fund switch. Motion FAILED 3-3, with REP. KASTEN, SEN. SWYSGOOD and SEN. BURNETT voting no.

BUDGET ITEM Increase Section 110:

Tape No. 1:A:12.1

Discussion: Ms. Steinbeck said that these funds are capped. A certain amount of federal funds are distributed to all states. Section 110 requires a 21% state match. This proposal allows Montana to match the maximum amount of federal Section 110 funds.

Motion/Vote: CHAIRMAN COBB moved to accept \$244,906 general fund and \$1,149,793 total funds in FY96 and \$244,906 general fund and \$1,149,793 total funds in FY97 for Section 110 funds. Motion CARRIED 4-2, with SEN. SWYSGOOD and SEN. BURNETT voting no.

BUDGET ITEM Extended Employment Increase:

Tape No. 1:A:13.1

Discussion: Ms. Steinbeck said extended employment is funded 100% from the general fund. This allows the Department to fund services for approximately 17 more clients.

Motion/Vote: CHAIRMAN COBB moved to accept \$90,133 general fund in each year of the biennium for the extended employment increase. Motion CARRIED 5-1, with SEN. SWYSGOOD voting no.

BUDGET ITEM Personal Services Reductions:

Tape No. 1:A:15.1

Discussion: Mr. Mathews reported that if these reductions had to be moved to the operating budget, it would result in about a 27% decrease in the vocational rehabilitation and visual services budget.

Dr. Peter Blouke, Director, SRS, commented that the VR/VS budget is different than most other budgets in the Department because much of the personal services costs are to provide direct services to people, not for administrative costs.

Motion/Vote: SEN. SWYSGOOD moved to take the reductions of (\$19,168) general fund and (\$112,445) total funds in FY96 and (\$19,369) general fund and (\$113,396) total funds in FY97 from operating expenses rather than vacancy savings. Motion FAILED 2-4, with SEN. SWYSGOOD and SEN. BURNETT voting yes.

Motion/Vote: REP. BARNHART moved to accept (\$19,168) general fund and (\$112,445) total funds in FY96 and (\$19,369) general fund and (\$113,396) total funds in FY97 for personal services reductions. Motion FAILED 3-3, with REP. COBB, SEN. SWYSGOOD, and SEN. BURNETT voting no.

BUDGET ITEM Section 110 Benefits:

Tape No. 1:A:17.8

Discussion: CHAIRMAN COBB asked to talk about reallocating the increase in Section 110 funds between administrative and benefit costs.

Ms. Steinbeck said since the subcommittee authorized the new proposal for the increase in Section 110 funds, the Department intends that some of these funds will be used for administrative costs. The LFA issue is whether or not the members wish to specify the split between benefits and administration in order to track how the increase in spending authority was used.

Motion/Vote: CHAIRMAN COBB moved to allocate 10% of the Section 110 increase for administration and 90% for benefits. Motion CARRIED unanimously.

Discussion: CHAIRMAN COBB said he wanted to add 13 more people to the extended employment program. He explained the costs and made the following motion:

Motion/Vote: CHAIRMAN COBB moved to add \$34,463 general fund in FY96 and \$68,926 general fund in FY97 for extended employment. Motion FAILED 3-3, with REP. KASTEN, SEN. SWYSGOOD and SEN. BURNETT voting no.

EXECUTIVE ACTION ON DEVELOPMENTAL DISABILITIES PROGRAM

Tape No. 1:A:22.1

BUDGET ITEM Personal Services; Inflation/Deflation; Fixed Costs:

Discussion: Mike Hanshew, Administrator, Developmental Disabilities Division, SRS, said the program was reduced by one FTE and also contracted services for its research library.

Ms. Steinbeck said the 33.50 FTE increase in this program is from the transfer of targeted case management from the Department of Family Services (DFS) to this program authorized by the 1993 legislature.

Motion/Vote: REP. KASTEN moved to accept 33.50 FTE in each year of the biennium and \$208,030 in FY96 and \$222,665 in FY97 for personal services; (\$4,174) in FY96 and (\$5,268) in FY97 for inflation/deflation; and (\$14,067) in FY96 and (\$13,505) in FY97 for fixed costs. Motion CARRIED unanimously.

**BUDGET ITEM Targeted Case Management (TCM) Operating Costs:**

Tape No. 1:A:23.4

**Discussion:** Ms. Steinbeck said when the legislature authorized the transfer of this function between DFS and SRS, it authorized roughly \$83,000 for operating costs for the FTE. DFS spent the funds allocated. SRS is requesting a 100% increase in operating costs for these employees above what was expended in DFS. Mr. Hanshew said that when the Executive Budget was put together, the Department didn't have enough experience in operating the program and had to project costs. Negotiations had to be conducted between the Department and the federal government to redefine what the unit service was. Problems also existed with the billing system created by DFS. Mr. Hanshew felt that since program operation, the Department could reduce the overall request by \$31,688 a year. He said because of allocating administrative expenses so the federal government "would pick up its fair share" of costs, the Department could also reallocate the general fund cost of the operations budget to federal funds by \$159,238 in FY96 and \$167,957 in FY97.

SEN. SWYSGOOD asked what kind of percentage increase this would result in. Mr. Hanshew said it would be somewhere in the neighborhood of 75%.

**Motion/Vote:** CHAIRMAN COBB moved to reduce TCM operating costs by \$31,688 each year of the biennium and allow for adjustments of \$159,238 in FY96 and \$167,957 in FY97 between federal and state funds for operating cost based on the new allocation plan by the Department. Motion CARRIED 5-1, with SEN. SWYSGOOD voting no.

**BUDGET ITEM Printing Costs:**

Tape No. 1:A:29.3

**Motion/Vote:** CHAIRMAN COBB moved to accept \$8,120 in FY96 and \$14,820 in FY97 for printing costs. Motion FAILED 3-3, with REP. KASTEN, SEN. SWYSGOOD and SEN. BURNETT voting no.

**BUDGET ITEM Annualization of Operating Costs for Vacant FTE:**

Tape No. 1:A:30.3

**Discussion:** Ms. Steinbeck reported that only 3.75 of the 4.0 FTE were vacant and that 2.0 of these FTE were transferred out of the program and are not funded in the 1997 DD biennium budget. Portions of the remaining FTE are clerical FTE that should incur few travel costs. She said the legislature does not routinely increase operating costs due to vacancy savings.

No motion was made.

BUDGET ITEM Office Equipment Maintenance and Rental:

Tape No. 1:A:31.4

Motion/Vote: CHAIRMAN COBB moved to accept \$5,312 in each year of the biennium for office equipment maintenance and rental costs. Motion CARRIED 5-1, with SEN. SWYSGOOD voting no.

BUDGET ITEM Consulting Contracts:

Tape No. 1:A:31.7

Motion/Vote: CHAIRMAN COBB moved to accept \$3,999 in FY96 and (\$1,501) in FY97 for consulting contracts. Motion CARRIED unanimously.

BUDGET ITEM Training Resources Information Center (TRIC)

Privatization, Rent and Training:

Tape No. 1:A:32.5

Motion/Vote: CHAIRMAN COBB moved to accept (\$806) in FY96 and \$1,356 in FY97 for TRIC privatization, rent and training. Motion CARRIED unanimously.

BUDGET ITEM Equipment:

Tape No. 1:A:33.0

Motion/Vote: REP. KASTEN moved to accept \$6,322 in each year of the biennium for equipment. Motion CARRIED 5-1, with SEN. SWYSGOOD voting no.

BUDGET ITEM Grants:

Tape No. 1:A:33.8

Motion/Vote: REP. KASTEN moved to accept (\$1,791) in each year of the biennium for grants. Motion CARRIED unanimously.

BUDGET ITEM Benefits:

Tape No. 1:A:34.0

Discussion: Ms. Steinbeck directed the members to Table 26 on page B-99 of the 1997 Budget Analysis that outlines the present law adjustments made to each benefit category listed in the Executive Budget and discussed the following:

Title XIX Benefits:

ANNUALIZE FY95 PROJECTS: These are Medicaid eligible benefits and are funded 30% general fund and 70% federal funds. Based on eligibility; clients receive group home services and supported employment services.

MONTANA DEVELOPMENT CENTER (MDC) REALIGNMENT: This is phase four of the Montana Development Center realignment, which was authorized by the 1991 legislature.

**ANNUALIZE 1995 BIENNIUM RATE INCREASE:** This reflects annualization of the 2.5% provider rate increase authorized by the 1993 legislature.

**PD WAIVER TRANSFER:** The federal government requires PD waiver costs be budgeted as part of this program and not included with the Medicaid program. An offset of these costs will be reflected in the Medical Assistance Program.

**DFS TRANSFER:** Subcommittee action offset increases in the DFS budget.

**MATCH RATE CHANGE:** This shows the change the effect in Medicaid benefits in this program of the increased state match rate because of Montana's improving economy.

**Targeted Case Management (TCM) Benefits:** This function was transferred from DFS. There are some increases in TCM benefits due to the realignment of the MDC.

**1997 Biennium Provider Rate Increase:** This is the effect of the 1.5% provider rate increase included in the present law in the Executive Budget for all benefits.

**Title XX Benefits:** These are comprised of two sources of funds, capped federal grant and the remainder is general fund.

**ANNUALIZATION OF 1995 BIENNIUM RATE INCREASE:** This reflects annualization of the provider rate increase, authorized by the 1993 legislature.

**TRANSFER TO TITLE XIX:** Due to an oversight, this transfer to Title XIX should match the very first item under annualization of FY95 projects in the Title XIX benefits.

**Motion:** CHAIRMAN COBB moved to reduce the transfer of Title XIX by \$52,827 general fund in FY96 and \$42,922 in FY97.

**Discussion:** SEN. SWYSGOOD commented that the increase in the Medicaid match for the state share is a result of Montana's good economy. He asked if this money was put in the base and the economy went "the other way", would it be necessary to take this money out of the base. Ms. Steinbeck said this motion will actually reduce the general fund that is in the base. She indicated the legislature could require that this program absorb any changes in the federal match, but that has not been the practice of the legislature in the past. She explained that services would have to be reduced if this policy is implemented by the members, should there be a decline in the economy.

**Vote:** Motion CARRIED unanimously.

LIEAP FUNDS: This is the third increment of the funding change approved by the last legislature. This increases general fund and reduces federal funds.

MDC REALIGNMENT: This cost is to move 18 people from MDC into group homes.

TRIC PRIVATIZATION: This is due to the privatization of the Training Resource library. The Department transferred an FTE out of this program.

PART H BENEFITS: This reflects an increase in the federal grant money.

OTHER BENEFIT ADJUSTMENTS: These are 100% federal funds.

Motion/Vote: CHAIRMAN COBB moved to accept \$3,091,682 in FY96 and \$3,781,654 in FY97 for Title XIX benefits. Motion CARRIED unanimously.

Motion/Vote: CHAIRMAN COBB moved to accept \$1,076,101 in FY96 and \$1,112,821 in FY97 for TCM benefits. Motion CARRIED unanimously.

Motion/Vote: SEN. LYNCH moved to approve a 4% provider rate increase with language to be included in HB 2 that allows a 1.5% compounded rate increase to be put into the base to adjust general operating costs and a 2.5% compounded rate increase for salaries to be given to the lowest wage staff first. Motion CARRIED 4-2, with REP. KASTEN and SEN. SWYSGOOD voting no.

Motion/Vote: CHAIRMAN COBB moved to accept \$273,249 in FY96 and \$130,556 in FY97 for Title XX benefits. Motion CARRIED unanimously.

Motion/Vote: CHAIRMAN COBB moved to accept \$19,472 in each year of the biennium for Part H benefits. Motion CARRIED 5-1, with SEN. SWYSGOOD voting no.

Motion/Vote: SEN. LYNCH moved to accept \$2,000 in each year of the biennium for other benefit adjustments. Motion CARRIED 4-2, with REP. COBB and SEN. SWYSGOOD voting no.

BUDGET ITEM Transfers and Installment Purchases:

Tape No. 1:A:54.1

Motion/Vote: REP. KASTEN moved to accept (\$39,357) in each year of the biennium for transfers and installment purchases. Motion CARRIED unanimously.

**BUDGET ITEM Personal Care in Group Homes:****Tape No. 1:A:54.6**

**Discussion:** Ms. Steinbeck said this is a request for federal funds. The Department will try to secure Medicaid funding for personal care in group homes, which raises the issue SEN. SWYSGOOD brought up earlier regarding Title XIX benefits. The Department would move general fund match from Title XX to match federal money in order to refinance group home care. If the Department is successful, it will effectively offset \$2.3 million of current general fund expenditures each year of the biennium with federal funds.

Policy issues for consideration are to keep past practice of allowing the Department to find federal funds to match general fund money, ask that part of general fund be reverted, or ask that all offset general fund be reverted.

Mike Hanshew commented "this is by no means something we are assured we can do." He said what the Department's intention was, was to look at the needs of the program and the possibilities of trying to make the general fund go further. This money would be used to address waiting list needs.

**Motion/Vote:** CHAIRMAN COBB moved to approve spending authority for federal funds of \$2,315,900 in FY96 and \$2,299,475 in FY97. Motion CARRIED unanimously.

CHAIRMAN COBB asked if this money would be used for reimbursement or raising rates, or how the money would be used. Mr. Hanshew replied that his intent is to bring group home reimbursement rates up as well as fix problems that already exist in the system.

**Motion/Vote:** SEN. SWYSGOOD moved that 50% general fund offset by federal money be reverted to the general fund. Motion CARRIED unanimously.

**BUDGET ITEM Increased Federal Authority:****Tape No. 1:A:61.6**

**Discussion:** Ms. Steinbeck pointed out that this represented a continuation of what the subcommittee did last session. This would give the Department \$1 million of federal authority each year to try to generate federal match for existing general fund expenditures.

REP. KASTEN asked if this was an increased amount of funds, or just a continuation of federal money authorized last session. Ms. Steinbeck said it is an increase because the Department had used the funds authorized by the last legislature.

**Motion/Vote:** CHAIRMAN COBB moved to approve spending authority of \$1,000,000 federal funds in each year of the biennium. Motion CARRIED unanimously.

Motion/Vote: SEN. SWYSGOOD moved that 50% of general fund offset by federal money be reverted to the general fund. Motion CARRIED unanimously.

BUDGET ITEM Additional Work/Day Services: Tape No. 1:A:64.1

Discussion: Mr. Hanshew commented that this money would be to impact the waiting list for supported work. Medicaid only pays for people who have come out of an institution.

Motion/Vote: Chairman COBB moved to accept \$50,000 general fund and \$50,000 total funds in FY96 and \$100,000 general fund and \$100,000 total funds in FY97 for additional work and day services. Motion CARRIED 5-1, with SEN. SWYSGOOD voting no.

BUDGET ITEM Additional Supported Living Opportunities: Tape No. 2:A:0.5

Motion/Vote: CHAIRMAN COBB moved to accept \$100,000 general fund and \$100,000 total funds in FY96 and \$200,000 general fund and \$200,000 total funds in FY97 for additional supported living opportunities. Motion CARRIED 5-1, with SEN. SWYSGOOD voting no.

BUDGET ITEM Personal Services Reductions: Tape No. 1:B:1.2

Motion/Vote: SEN. SWYSGOOD moved to take (\$55,009) general fund and (\$128,018) total funds in FY96 and (\$54,616) general fund and (\$126,601) total funds in FY97 from operating expenses rather than vacancy savings. Motion CARRIED 4-2, with REP. BARNHART and SEN. LYNCH voting no.

BUDGET ITEM BA475 Family Child Care Choice: Tape No. 1:B:2.5

Discussion: Ms. Steinbeck said this budget amendment continues a federal grant that the Department received.

Motion: SEN. LYNCH moved to accept \$200,000 total funds in FY96 and \$140,000 total funds in FY97 for BA475 Family Child Care Choice.

Discussion: Mr. Hanshew said 500 families have been served so far and 450 families will be served in the next biennium. When this grant expires there will be no general fund commitment. CHAIRMAN COBB asked when the grant expires. Mr. Hanshew replied the middle of FY97.

Vote: Motion CARRIED unanimously.

OVERVIEW ON MEDICAID

Tape No. 1:B:4.4

Nancy Ellery, Administrator Medicaid Services Division, SRS spoke about long-term care. She provided handouts to the members **EXHIBIT 2** and a report on select an independent lifestyle (SAIL) **EXHIBIT 3**. The SAIL report was mandated by the 1993 legislature and it describes the efforts of the SAIL council to look at the long-term care continuum and make recommendations on how to enhance the continuum and provide cost effective long-term care services.

Ms. Ellery then discussed the handouts in **EXHIBIT 2**. She defined long-term care as a whole continuum of services ranging from personal care services in the home all the way to nursing home personal care services, with many options in between. Medicaid provides long-term care to all ages. She expressed her concern for long-term care on the state and national level in the future because of growth in the population.

Home and Community Services Waiver: This waiver allows the Department to provide special services to people at home so they don't have to go into a nursing home.

Home Health: In addition to the waiver services, the Department provides home health. Through the home health agencies, therapies and durable medical equipment are available.

Personal care and long-term care in nursing homes are provided as well as in intermediate care facilities for the mentally retarded. Hospice services are also provided under the long-term care program.

Ms. Ellery went on to describe the handouts provided in **EXHIBIT 2** regarding the total Medicaid budget, the current problems with the long-term care system, and the need for long-term care reform.

She spoke on nursing trends in Montana. Montana is one of five states with the biggest decline in the ratio of nursing home beds per 1000 population age 65 and over. **EXHIBIT 4**. She attributed the Certificate of Need program and the home and community services waiver to the decline.

She described the SAIL report **EXHIBIT 3**. The effort of the SAIL council was one backed strongly by Governor Racicot, and members worked very closely with his Council on Aging. Eighteen percent of the state population is over age 60 who are served with long-term care.

REP. BARNHART asked if people in long-term care had conditions that are more severe than they were 10 years ago. Ms. Ellery said yes, people are not only living longer now, but they have

more complex conditions, thus requiring more expense to the state.

**Ms. Ellery** stated the reasons why long-term care is needed is because it helps people to be independent and self-sufficient for as long as they can in the community, home care is cheaper than institutional care by an average of 50-60% less cost, and without reform, Montana's institutional budget will consume the discretionary resources that redefines community care. She said everyone should have access to a coordinated system with one needs-assessment process and a single way to enter the system.

She stressed the need to involve people in the process for planning and choosing the services for them. The Department wants to maximize self-care with an emphasis on prevention and education.

**Ms. Ellery** spoke about excess funds allotted by the 1993 legislature. She said the Department started expanding the Medicaid waiver, which allowed 200 people on the waiting list to be served as well as add 19 counties to be included for service. The waiver was expanded to included assisted living services in a variety of residential settings and to include specialized services for people with traumatic brain injury.

She said the Department spent a lot of time on redesigning and refinancing the personal care program. The Department will expand to multiple contracts rather than continue the one statewide contract with Westmont.

**REP. KASTEN** asked if the Department still received complaints from Westmont. **Joyce Defanzo, Supervisor, Home Community Service Group, Westmont**, said that this program is so complicated and close to people's lives that "we'll always have some complaints." She said one of the biggest complaints was that people did not have a choice of contractors. The reason for multiple contractors will provide people with that choice as well as provide better services due to competitiveness.

**REP. BARNHART** said she heard that Westmont has a huge reserve and asked why "they aren't paying their staff?" **Ms. Ellery** said she didn't think Westmont had a huge reserve, but are required by federal law to have a certain reserve for wages.

**Ms. Ellery** said another aspect of reforming long-term care is to look at sub-acute care. Sub-acute care is complex care that the level of care for what is needed between the hospital and a nursing home. She said the Department is working with the Board of Nursing to review the whole delegation issue.

She wrapped up her overview by explaining the Uniform Assessment System. The Department worked with Health Management Associates to develop a computerized system that would provide a uniform database for people who are receiving long-term care services,

plus the ability to have information about the available services.

**Tape No. 2:A:0.1**

She said computerizing the assessment will facilitate the coordination between the agency and will augment what is necessary for the minimum data set on the nursing home. Implementation for the program should be in July of 1996.

**HEARING ON MEDICAID**

**Tape No. 2:A:25.1**

**Proponents' Testimony:**

**SEN. MIGNON WATERMAN, SD26** said she served on the Human Services and Aging Subcommittee for four years. She said the SAIL report is a result of her proposal to include boiler plate language to make state policy to develop appropriate cost-effective community-based services. She urged the subcommittee to fund the single assessment program in long-term care.

**Joyce Hill, Mother of disabled child, Missoula citizen** testified that case management allows her son to get away from the four walls he lives in, once a week, to get out and see what the world is about. She said the case management program has widened his world and asked for support of the program.

**Connie Standish, Case Management, Livingston,** said that her husband has a brain stem injury and if it wasn't for the case management waiver program, it would be impossible for him to live at home. She said if funds are cut, choices may lead to the need for her husband to put into a nursing home.

**Edmond Caplis, Executive Director, Montana Senior Citizens Association,** said he was also representing Legacy Legislature. He said Legacy Legislature supports personal care services. The Montana Senior Citizens is in support of long-term care and the services they provide.

**Sheila James, Missoula citizen,** said she has cerebral palsy and is a case management recipient. She testified that she lived in a nursing home for 10 years and is now living on her own. Through the help of case management she is able to get out and enjoy life instead of "just sitting in one spot." She urged the subcommittee not to cut any of the program because she would end up going back to the nursing home, and she "would rather die first."

**Charlie Briggs, Director, Rocky Mountain Agency on Aging,** said he had the privilege of serving on the SAIL committee. He said, "we are better poised to move the state ahead, not to expand the dollars, but to better utilize the resources and the dollars we have, so that people can have the most appropriate services that build on what they can do rather than what their limitations

are." He emphasized the need for the uniform assessment. He urged the subcommittee for support and expansion of long-term care reform.

**Charles Rehbein, Coordinator on Aging, Department of Family Services,** spoke in support of the Medicaid budget. He said it is necessary to begin planning for long-term care in a community-by-community basis in Montana. He asked for support of the SRS budget.

**Claudia Driscoll, Helena citizen,** said she has multiple sclerosis. She said she appreciates the waiver team because it allows her to stay in her own home, state independent and keep her dignity.

**Nancy Staigmiller, Miles City citizen,** read from her written testimony. **EXHIBIT 5** She said as a parent and a professional related to the field of disabilities, she knows several people in eastern Montana who are affected by disabling conditions of a full magnitude of range. She said that long-term care opportunities, such as case management, allow disabled people to look forward to remaining in or near their home communities.

**Kay Fox, Montana Low-Income Collation,** spoke in support of the long-term care program. She said aging will affect everyone and an important quality of life is the ability to stay out of a nursing home. She said the more money that goes into long-term care, that is not used efficiently and the most effectively, is money that will keep the Collation from having through welfare reform.

**Rose Hughes, Montana Health Care Association,** briefly summarized information provided on rates and costs for nursing homes.

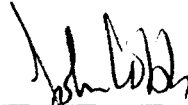
**EXHIBIT 6** She said Montana Health Care Association (MCA) supports the Governor's budget. It provides the minimum funding necessary to cover inflation and the other kinds of cost increases that are experienced by the nursing homes. She spoke about the cost shift. She said MCA spends approximately \$4.37 more a day on a patient than what is provided by Medicaid. Sixty-two percent of people in nursing homes are on Medicaid, and those who are not, are paying the cost shift for almost two Medicaid patients. She spoke in favor of the Certificate of Need process. She said it needs to be funded if there is going to be some control over the growth of nursing home services.

**Ms. Hughes** said the nurse delegation issue is one the MCA is interested in. One of the ways to keep nursing home costs down is by using non-licensed personnel, under the supervision of a nurse, to do certain nursing tasks. She commented on the home-based services saying the legislature should continue funding home and community based services because it is part of the continuum that helps people make choices on individual needs.

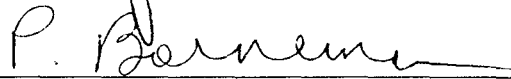
She closed by talking about the Uniform Assessment System. She said this is an extensive form and an extensive process. One of the concerns of the MCA is that this will be an additional assessment requirement, which will add to the facilities administrative costs.

ADJOURNMENT

Adjournment: 11:40 a.m.



REPRESENTATIVE JOHN COBB, Chairman



ANN BODEN, Secretary

JC/ab

## HUMAN SERVICES AND AGING

### Joint Appropriations Subcommittee

ROLL CALL

DATE 5-10-95

NAME	PRESENT	ABSENT	EXCUSED
Rep. John Cobb, Chairman	✓		
Rep. Beverly Barnhart	✓		
Rep. Betty Lou Kasten	✓		
Sen. Chuck Swysgood, Vice Chairman	✓		
Sen. J.D. Lynch	✓		
Sen. Jim Burnett	✓		

EXHIBIT 1  
DATE 2-10-95  
HB                     

Department of Labor and Industry  
February 10, 1995

Request for modification to the budget for the Human Rights Commission.

Motion:

Increase the contracted services budget in the Human Rights Commission by \$20,000 in FY 96 and FY 97. The funding source is State Special Revenue.

Purpose: This motion will enable the Human Rights Commission to provide training to the housing industry and to enforce housing discrimination by contracting with legal interns to the extent funds become available. These funds became available this fall as a result of civil penalties associated with housing discrimination.

w:\data\obpsecur\epp96-97\hrcssr

# WHAT LTC SERVICES DOES MONTANA MEDICAID CURRENTLY PAY FOR?

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- Home and Community Services Waiver
- Home Health/Therapies/DME
- Personal Care
- Nursing Facilities
- ICF-MR
- Hospice

The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

EXHIBIT 2  
DATE 2-10-95  
HB

EXHIBIT

DATE 2-10-95

HB

**SELECT AN INDEPENDENT LIFESTYLE (SAIL)**

# **SAIL REPORT**

**SUBMITTED TO THE 54TH LEGISLATURE**

**BY**

**THE DEPARTMENT OF SOCIAL AND REHABILITATION SERVICES**

**FEBRUARY 10, 1995**

The original of this document is stored at the Historical Society at 225 North Roberts Street, Helena, MT 59620-1201. The phone number is 444-2694.

EXHIBIT 4  
DATE 2-10-95  
HB \_\_\_\_\_

# Health Care Financing

## Extramural Report

State Data Book on Long-Term  
Care Program and Market  
Characteristics

RECEIVED

OCT 11 1994

MEDICAID SERVICES

The original of this document is stored at  
the Historical Society at 225 North Roberts  
Street, Helena, MT 59620-1201. The phone  
number is 444-2694.

U.S. Department of Health and Human Services  
Health Care Financing Administration  
Office of Research and Demonstrations  
Baltimore, Maryland  
August 1994

HCFA Pub. No. 03354

To

Chairman John Cobb & members of  
the Sub. Committee on Human Services

- I am here with testimony regarding  
long term care and assisted living for  
persons affected by disabilities and chronic  
illnesses.

As a parent and professional related  
to the field of disabilities I know and  
serve hundreds of families all over Eastern  
Montana who are affected by a full  
range of disabilities and chronic illnesses.

I participated in parts of the Medicaid  
review by this committee. The review  
does show that the largest expenditures serve  
the aged and disabled population. Also  
the largest monetary expenditures are paid  
for nursing home and inpatient hospitalization.  
Therefore, monies spent toward long term  
care and assisted living becomes increasingly  
cost effective related to long range needs.  
Support services, so that people may remain  
in their own homes and in their own com-  
munities, is something that everyone wants to  
look forward to.

The many families and individuals  
affected who reside in eastern Montana  
need increases in case management and  
other related services, not decreases.

Nancy Staigmiller  
Miles City (on behalf  
of all eastern Montana)



EXHIBIT 6  
DATE 2-10-95  
HB \_\_\_\_\_

36 S. Last Chance Gulch, Suite A · Helena, Montana 59601  
Telephone (406) 443-2876 · FAX (406) 443-4614

## HOUSE BILL 2

### MEDICAID - NURSING HOMES

#### INFORMATION ON RATES AND COSTS

The Governor's proposed budget for nursing homes includes a rate increase of approximately 4% per year. It also provides about a 1% per year increase in utilization (patient days). The nursing home "bed tax" is maintained at its current level of \$2.80 per patient day. We support the proposed increase and believe it provides the minimum funding necessary to cover inflation and other cost increases experienced by nursing homes. It is necessary if we are to continue to provide high quality services to our residents and meet state and federal standards.

It should be pointed out that even with the increases proposed by the Governor, Medicaid rates for nursing homes will continue to be substantially less than the actual costs associated with providing care to Medicaid recipients in our nursing homes. This, of course, leads to a substantial cost shift to those nursing home residents who pay for their own care.

	<i>Rate</i>	<i>Cost</i>	<i>Difference</i>	<i>Cost Shift</i>
FY 95	80.15	84.52	4.37	\$7.14
FY 96	84.07	88.75	4.68	\$7.62
FY 97	87.77	93.18	5.41	\$8.81

The FY95 cost is the cost as projected by SRS, while the FY96 and FY 97 cost is an estimate based on 5% inflation. All figures include the \$2.80 per patient day bed tax.

The calculation of the cost shift is based on the actual Medicaid population - 62% of all nursing home residents. In effect, each private pay resident picks up the cost shift for almost 2 Medicaid residents, unless the facility makes up the cost shift in some other way. For example, county facilities sometimes make up the difference with county tax subsidies to the county nursing home.

Even with the rate increases proposed in the Governor's budget, the cost shift to privately paying residents is likely to increase over the biennium. At the end of the biennium, the Medicaid rate will still be over \$5 per patient day less than the actual cost of care.



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## **FACTORS (OTHER THAN GENERAL INFLATION) DRIVING THE COST OF NURSING HOME SERVICES**

All of the following are new requirements or costs *since 1987* which we believe are responsible for much of the increased cost of nursing home care since that time:

**1. *Nursing home bed fee.*** The nursing home bed fee accounts for \$2.80 per patient day of the cost increases experienced by nursing homes.

**2. *Workers' comp premium increases.*** Workers' compensation premiums have increased 152% since 1987, from \$7.49 per \$100 of payroll to \$18.89 per \$100 of payroll. Because nursing homes are labor intensive, salaries and benefits account for 60-70% of all costs experienced by nursing homes.

**3. *Minimum wage increase.*** The federal minimum wage increased from \$3.35 to \$4.25 per hour. (This was a significant cost increase at the time it occurred; however, there are fewer minimum wage employees in nursing homes today than in the past.)

**4. *OBRA.*** The federal Omnibus Budget Reconciliation Act of 1987, and subsequent amendments, included major nursing home reform provisions. The Health Care Financing Administration (HCFA) has still not finalized all regulations emanating from the reform law, even though 7 years has passed. New nursing home requirements included in the reform law include:

- a. 75 hours of training for nurse aides
- b. testing of nurse aides
- c. continuing education of 12 hours per year for all nurse aides
- d. additional requirements for RN and LPN staffing
- e. quality assessment and assurance committees
- f. additional assessments, reviews and care planning requirements, including use of a

federally mandated "minimum data set" and protocols

g. additional requirements for use of bachelor's degree social workers and dietary, pharmacy and medical records consultants

h. additional requirements for physician involvement

i. new requirements for handling patient trust funds

j. new requirements for reduction and elimination of the use of restraints

k. new requirements relating to the use of drugs

l. new requirements relating to residents rights and choices

m. new standard for the provision of care which requires facilities to provide care and services designed to enable every resident to attain and maintain the "highest practicable level of physical, mental and psychosocial functioning"

**5. *Additional new laws and regulations which add requirements and costs to nursing facility services:***

a. OSHA bloodborne pathogens standard

b. Americans With Disabilities Act

c. Clinical Laboratory Improvement Act (CLIA)

d. Safe Medical Devices Act

e. Patient Self-Determination Act

f. new Tuberculosis Prevention standard

g. Mandated computerization of the MDS (minimum data set)

h. new survey, certification and enforcement rules

**6. *Patient acuity.*** The care needs of nursing home patients continues to increase. This is caused in part by the availability of home health, waiver, and other lower level services to care for those with less intense care needs.



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## **MONTANA HEALTH CARE ASSOCIATION SUMMARY OF LEGISLATIVE ISSUES**

1. **Medicaid budget for nursing homes.** The Governor's proposed budget includes a rate increase of approximately 4% per year. It maintains the nursing home bed tax at its current level. We support the proposed increase and believe it provides the minimum funding necessary to cover inflation and other cost increases experienced by nursing homes. It is necessary if we are to continue to provide high quality services to our residents.
2. **Nursing home bed tax.** Although the Governor's budget no longer includes a bed tax increase, it is our understanding that a bill drafting request has been submitted for an increase in the bed tax. MHCA strenuously opposes any increase in the bed tax based on the following concepts:
  - a. MHCA supported the tax as a way to help the state through severe budgetary problems, but does not support fee increases when the state's financial circumstances are improved.
  - b. MHCA opposes use of tax increases on nursing homes as the sole source of nursing home rate increases. Nursing homes should be treated like every other Medicaid provider, all of whom receive their rate increases from the general fund.
  - c. MHCA believes that if the tax is continued for nursing homes it should also apply to other long term care services paid for by Medicaid, such as personal care, assisted living and the like.
  - d. Because of SRS's application of the private pay limitation, all funds appropriated to nursing facilities are not distributed. The effect of this is that facilities are not receiving the full benefit of the nursing home tax.
  - e. The operation of the tax has not been equitable to all facilities because of differences in Medicaid population, the private pay limitation, and the operation of various caps in

**Summary of Legislative Issues****Page 2**

the reimbursement system. Facilities that are paying the tax are not necessarily receiving the benefit of the increased funding.

**3. Certificate of Need.** MHCA supports continuation of the certificate of need process. The executive branch is proposing that the program be transferred from the Health Department to the Health Care Authority. We have not taken a position on where the program should be located but believe that, regardless of where it is located, the following changes should be made to improve the program:

- a. Change to include all long term care services from residential care at the low end to subacute care at the high end.
- b. Strengthen the program by the commitment of appropriate trained staff, professional hearing officers, and financial resources.
- c. Streamline the appeals process to discourage frivolous appeals and delays while allowing due process to those who have legitimate grounds for challenging a decision.

**4. Moratorium on Nursing Home Beds.** A bill has been introduced to place a three-year moratorium on construction of nursing home beds. MHCA opposes this proposal as being an arbitrary restriction on the availability of a very necessary health service. We believe that the certificate of need program in Montana enables the state to control the growth of nursing home beds. However, the CON process allows orderly growth in areas where occupancy is high and there is a demand for nursing home beds. We believe this allows the state to control unnecessary growth while assuring Montana citizens access to needed services. While the proposal is intended to curb Medicaid expenditures for nursing homes, nursing home utilization is not growing at anywhere near the rate of growth of other Medicaid services. SRS anticipates only a 1% per year growth in Medicaid nursing home days over the next biennium. If all other Medicaid services grew at that small a pace, the Medicaid budget would be well under control. The daily rate Medicaid pays nursing homes is also projected to grow at a modest rate of 4% per year. The nursing home program is simply not where the run-away growth is in the Medicaid budget. In addition, a moratorium could actually increase Medicaid expenditures because of the difficulty of placing heavy care patients which is one likely unwanted affect of creating a shortage of nursing home beds. A moratorium is also likely to increase the cost of nursing home services to private pay residents because nursing homes will be able to raise their prices if there is a shortage of beds.

**5. Nurse Delegation.** The 1993 legislature delegated to the Board of Nursing authority to adopt rules relating to the delegation of nursing tasks to non-nurses. The legislature provided no guidance to the Board and our attorney believes the delegation is an unconstitutional delegation of legislative authority to the board. The Board of Nursing has adopted delegation rules which exclude nursing homes, hospitals and physician offices as

## Summary of Legislative Issues

### Page 3

settings in which delegation is appropriate. Rep. John Cobb (R-Augusta) has requested legislation to correct the problems with the delegation statute. MHCA will work with Rep. Cobb and support legislation that provides proper legislative guidelines to the board with respect to delegation and the settings in which it is appropriate.

**6. Medicaid Estate Recoveries and Liens.** SRS will propose legislation designed to comply with 1993 federal legislation which requires states to recover from the estates of Medicaid recipients and allows the imposition of liens on the property of Medicaid recipients. It is intended to curb the use of "Medicaid estate planning" by elderly individuals to divest and/or shelter their income and assets in order to qualify for Medicaid coverage of nursing home care. While we have not seen a final version of this legislation, MHCA will support reasonable legislation dealing with this issue.

**7. Residential care; assisted living; adult day care.** The Department of Health plans to propose legislation which will pull all of the various types of licensed care facilities under the broad definition of "residential care" and to move the licensing of adult foster care from the Department of Family Services to the Health Department. There is no proposal at this time to separately define or license "assisted living" facilities. It is believed they are included in the personal care A and B categories. At this point, the intent is to remove these facilities from the definition of "long term care facilities" which may have a number of implications since Montana's resident rights, abuse, and CON statutes all refer to "long term care facilities" and include residential facilities, unless specifically excluded. MHCA has concerns about the attempt to consider these facilities anything other than "long term care facilities" and about the proper licensing, regulation and inspection of these facilities.

**8. Long Term Care Reform.** SRS plans to propose legislation designed to generally set out the state's "purpose and policy in regards to providing state programs of assistance for the elderly and for persons with disabilities." The legislation makes bold statements about the rights of the elderly and disabled to reside in the least restrictive setting and to maintain independence. The proposal seems to bestow these rights on Medicaid recipients without regard for the costs involved in providing the service. We are still reviewing the proposal and attempting to determine its impact. We are likely to recommend that cost effectiveness be added to the language and that when making cost comparisons among services, the full costs associated with a particular setting be taken into account.

**9. National Child Protection Act.** The 1993 amendments to the National Child Protection Act include new provisions for the protection of children, the elderly, and the disabled which include provisions for background checks, fingerprinting and the like of individuals working with children, the elderly and the disabled. It is up to individual states to decide whether and how to implement the provisions. We expect that legislation will be introduced with respect to these issues but no drafts or detailed information is available at this time. MHCA believes that any legislation mandating background checks for nursing home

Summary of Legislative Issues  
Page 4

workers must include a timely and cost effective way to accomplish them, and not interfere with the ability to hire employees as needed and to use volunteers in our facilities.

This summary covers specific legislative issues of which we are aware. We also expect numerous other pieces of legislation will be introduced dealing with health care reform, malpractice, workers' comp, labor relations, etc. We will, of course, be involved in such legislation to the extent it affects long term care facilities.

1/95

HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

Human Services & Aging

SUB-COMMITTEE

DATE 2-10-95

BILL NO. \_\_\_\_\_

SPONSOR(S) \_\_\_\_\_

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Herva Simpson	AARP		
Milly Gutkoski 304 N. 18 - Bozeman	MNA - LWV		
Esther Nelson Bozeman	AARP - BPW	✓	
Charlie Briggs	Mt Assn Agencies Aging	✓	
Walter Stevens	AARP - GFTS		
Jane Nashley	AARP - GFTS	✓	
Linda Turley	AARP		
Wane English - Castro	Citizen		
Billie Bloomgren	AARP		
Charles Rehbein	DFS - Office on Aging	✓	
Joseph Lee 815 Valley 10	ASPC UNIT, MSIA	✓	
Connie Stenslie	Case Manager	oppose	
Sheila James	Mason	✓	

PLEASE LEAVE PREPARED TESTIMONY WITH SECRETARY. WITNESS STATEMENT FORMS ARE AVAILABLE IF YOU CARE TO SUBMIT WRITTEN TESTIMONY.

HR:1993

wp:vissbcom.man

CS-14

HOUSE OF REPRESENTATIVES  
VISITORS REGISTER

Human Services & Aging

SUB-COMMITTEE

DATE

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NAME AND ADDRESS	REPRESENTING	Support	Oppose
Patty Sandish Morris	Case Mgmt	oppose	cuts
Nancy Haugmiller	AAWW (parent)	✓	
Claudia Driscoll	Medicaid waiver	oppose	cuts
Ed Caplis	MSCH	✓	
Ron Caldwell	West Mont	✓	

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