MINUTES
Approved by the Committee
Equitable Assessment of Costs Related to Medicaid Expansion
Friday, August 09, 2019
9:00 A.M.
Room EW42
Boise, Idaho

Co-chair Rice called the meeting to order at 9:00 a.m.; a silent roll call was taken. Members present: Co-chair Senator Jim Rice and Senators Mary Souza, Van Burtenshaw, Dave Lent, and Maryanne Jordan; Co-chair Representative Fred Wood and Representatives Megan Blanksma, Jim Addis, Britt Raybould, and Brooke Green; non-legislative members Todd Smith and Jeff Taylor; LSO staff Elizabeth Bowen, Jared Tatro, and Jennifer Kish; absent/excused: Dave Jeppesen.

Other attendees: Tim Olson, Norm Varin - Pacific Source/America's Health Insurance Plan (AHIP); Tammy Perkins - Beacon Health Solutions; Dean Cameron, Jennifer McClelland - Idaho Dept. of Insurance; Pat Kelly - Your Health Idaho; Lorna Jorgensen - Ada County; Francoise Cleveland - AARP Idaho; Don Hall - Twin Falls County; Lori Wolff, Lisa Hettinger - Idaho Dept. of Health and Welfare; Amanda Schipp - Krieg DeVault; Katharine Wentworth - Milliman; Liz Hatter - Veritas Advisors; Kyle Strickler, Miguel Legarrela - Associated Taxpayers of Idaho; Brian Whitlock, Toni Lawson - Idaho Hospital Association; Bret Rumbeck - Blue Cross of Idaho; Fred Birnbaum - Idaho Freedom Foundation; Jim Baugh - DisAbility Rights Idaho; Corey Surber - Saint Alphonsus; Jeff Cilek - St. Luke's Health System; William Burt - Indigent Services, Ada County.

NOTE: presentations and handouts provided by the presenters/speakers are posted to the Idaho Legislature website: https://legislature.idaho.gov/sessioninfo/2019/interim; and copies of those items are on file at the Legislative Services Office located in the State Capitol.

Co-chair Rice solicited a motion to approve minutes of the June 17 meeting. A motion to approve the minutes, reflecting Sen. Jordan's requested correction, was made by Rep. Raybould; seconded by Sen. Jordan. Mr. Taylor requested a correction be made on page 5 in his response to Rep. Blanksma's question. With those noted corrections, the motion to approve the minutes was carried by a voice vote.

At 9:04 a.m., Lori Wolff, Deputy Director for the Dept. of Health and Welfare, and Amanda Schipp, Of Counsel for Krieg Devault LLP, were called to the podium for an update on Idaho's medicaid waiver applications as directed by SB1204aa,aaH (2019). Ms. Wolff explained the current status of the four waivers.

- Coverage Choice (1332 waiver) - would allow individuals who are within 100-138% of the federal poverty level (FPL) the opportunity to stay on the Idaho health insurance exchange rather than be placed under medicaid coverage when the expansion is implemented; under federal law, those who are eligible for medicaid coverage are not eligible for any tax credit if choosing to stay on the exchange. This waiver asks that the individual still receive the credit. Submitted in mid-July to CCIIO (Center for Consumer Information & Insurance Oversight) and the US Department of the Treasury, a response was expected at the end of August.
- Work Requirements (1115 waiver) - to be released mid-August for public comment (30 days), then submitted to CMS (Centers for Medicare & Medicaid Services).
- Family Planning (1115 waiver) - may be submitted as an amendment to the work requirement waiver.
- Institutions for Mental Diseases (IMD) (1115 waiver) - to cover services for individuals with substance abuse disorders and/or severe mental illnesses; to be released mid-September for public comment.

Ms. Schipp expounded on the IMD waiver process. She noted that the process typically took 6-9 months to finalize a waiver with the CMS and that a detailed implementation plan was required with the application. She added that the implementation plan had to be approved before federal match monies were available. Additionally, the federal Substance Use-Disorder Prevention that Promotes Opioid Recovery and Treatment for Patients and Communities (SUPPORT) Act, approved last fall, could be another avenue to obtain the IMD waiver.

- Sen. Souza asked whether a denial to the work requirement waiver would affect the family planning waiver, if added as an amendment to the work requirement waiver. Ms. Wolff responded that CMS considered each part of the waiver individually; a denial of the first would not eliminate or delay the application of the other.
- Co-chair Wood asked how the denial of Utah's coverage choice waiver may affect Idaho's application. Ms. Wolff explained that Utah's waiver was not the same as Idaho's in that Utah used a 1115 waiver, requested partial medicaid expansion of only up to 100% of FPL, and wanted a 90% federal medical assistance percentage (FMAP) rather than the 70%. She noted that Idaho submitted a 1332 waiver and was expanding medicaid to 138% of FPL, hence it would qualify for the 90% FMAP.
- Sen. Jordan asked whether allowances were made in meeting the deadlines set forth in an approved waiver. Ms. Schipp explained that allowances did exist but that was why CMS put an emphasis on the implementation plan. She stated that the FMAP could begin to occur upon waiver approval but that the implementation plan should be in place within 12-24 months.
- Co-chair Rice requested that Ms. Schipp give a brief overview/explanation of the IMD waiver in laymen's terms. Ms. Schipp explained that the IMD waiver removed the restriction that prevents states from using medicaid funds for treatment at psychiatric hospitals on issues such as in-patient psychiatric treatment for mental health or substance abuse.

At 9:28 a.m., Dean Cameron, Director for the Idaho Department of Insurance, was called upon for his presentation on the Idaho Health Insurance Exchange Plans. Mr. Cameron explained that the plans were categorized as "metallic" levels - bronze, silver, gold, and platinum - and that most comparisons were done at the silver level because the Advanced Premium Tax Credit (APTC) was based on the silver level.

- Co-chair Rice inquired about the lowest minimum of carriers in any county. Mr. Cameron reported it to be three.
- Co-chair Wood clarified that the phrase "family glitch" meant when an individual's family members were allowed onto an employer's health coverage plan but at the full price and were not eligible for the APTC. Mr. Cameron agreed.
- Rep. Green inquired whether a threshold existed in one's change of income to qualify for a special enrollment period (SEP). Mr. Cameron summarized that if the change affected the family's status in qualifying for medicaid or if it affected the family's APTC it would allow for a SEP, but a rather minor change in income may not afford a SEP. Co-chair Rice commented that if an individual qualified for an APTC when one hadn't qualified before, then that would permit a SEP; but he noted that there lacked a method to determine when someone became eligible for a SEP and a method of notifying someone of the opportunity.
- Sen. Souza asked about the price difference for an enhanced short-term plan versus a plan on the health exchange. Mr. Cameron reported that, since administrative rules were still being promulgated, no carrier had yet submitted such data; however, he anticipated that the premium for an enhanced short-term plan would be approximately 50% of an ACA plan.
- Sen. Jordan asked whether individuals using an enhanced or a traditional short-term plan would create a burden to the CAT fund or the county indigent programs if they possessed a pre-existing health issue. Mr. Cameron explained that there would be no burden because, with an enhanced plan, there was no pre-existing clause issue and the plan can be renewed.

- Rep. Green questioned what the deductible might be for the enhanced short-term plans. Mr. Cameron submitted that in discussions with carriers - some may not join immediately, employing a "wait and see" method - the deductible should be reasonable. He added that the manner that the deductible was applied may be different - it may or may not have categories for the deductible (prescriptions, preventative care). Also, it was possible that the out-of-pocket maximum could be larger than the limit of an ACA approved plan (currently $7,900), such as a $10,000 limit.

- Co-chair Wood, summarizing earlier information that the enhanced short-term plans would be in the same risk pool as the ACA plans, asked 1) whether traditional short-term plans were in the same risk pool and 2) whether individuals on the enhanced short-term plan were in the same risk-pool no matter when the coverage was purchased. Mr. Cameron explained that 1) traditional short-term plans were not included in that risk pool and were not required to offer a plan for the health exchange and that 2) enhanced short-term plans and ACA plans were in the same risk pool and that the rates were indexed together.

- Sen. Souza inquired about the deductible for the scenarios in Mr. Cameron's presentation. Mr. Cameron reported that his examples were based on the silver level plan for that area and the deductible for that level typically hovered at $2000.00; additionally, many individuals in the examples would qualify for a cost-sharing reduction that would lower their deductibles, copays for doctor visits and medical prescriptions, and out-of-pocket maximums.

- Rep. Raybould questioned whether the data of 853,000 Idahoans being insured (slide #3) reflected individuals or the number of plans. Mr. Cameron responded that the number reflected 853,000 individuals that are on group and individual plans. Rep. Raybould then inquired how many Idahoans were not insured. Mr. Cameron noted that there existed about 24,000 individuals on the faith-based plans, which were not part of the 853,000, and that the number did not reflect those on medicare or medicaid; typically, the department reported a 15% rate of uninsured individuals.

- Mr. Smith asked for clarification that those earning over 400% of the FPL were not eligible for an APTC. Mr. Cameron agreed added that those below the 100% (soon to be 138%) were not eligible, nor were those who were eligible for employer coverage - whether enrolled or opted out, those caught in the "family glitch," and those that were eligible for other programs (medicaid, TRICARE, etc.). Mr. Smith inquired whether, in the third example of scenario #3 of the presentation (slide #48-51), an individual earning 400% of FPL would still receive an APTC of $1302.00. Mr. Cameron stipulated that if the demographics of both were similar then, yes, the APTC would be very similar.

- Mr. Taylor inquired whether a denial of the coverage waiver would have an impact on the health exchange program rates. Mr. Cameron acknowledged that there would be an impact and speculated that 18,000-20,000 Idahoans would leave the health exchange program and enroll with medicaid. He noted that the impact to rates was related to the unknown health of those individuals, and cautioned that the impact may not be measurable for at least a year. Mr. Taylor then inquired if Mr. Cameron could guesstimate whether the impact of medicaid expansion - two years out - would be a positive influence to an individual's cost of insurance. Mr. Cameron speculated the effect would be of a positive nature but that the data would not be very distinguishable, due to many other in influences. He noted that the individual plans were very liquid and that carriers were apprehensive/cautious; whereas, the group plans remained more constant and stable for carriers because it grouped healthy/unhealthy together for a break-even scenario.

The committee recessed for a break at 10:25 a.m.

At 10:45 a.m., Kathryn Mooney, Program Director for the Catastrophic Health Care Cost (CAT) Program, was called to the podium for her presentation and updates on the CAT program. Seth Grigg, Executive Director, Idaho Association of Counties (IAC), presented the handout/slide on the average county indigent expense 2013-2018.

- Sen. Souza asked for clarification that an individual in custody who experienced a medical event and was enrolled in medicaid would have the treatment costs covered by medicaid. Ms. Mooney explained that medicaid had different rules for individuals in custody. Lisa Hettinger, Deputy Director, Dept. of Health and Welfare, added that medicaid would cover "some" expenses for medical treatment of incarcerated individuals, specifically, if the individual received care outside of the jail walls and had been in that care for 24 hours (and was eligible for medicaid); if the care could be rendered inside the jail walls, then medicaid would not cover those costs. Co-chair Rice surmised that care rendered outside of a jail - if less than 24 hours - would not be covered by medicaid. Ms. Hettinger agreed.
- Sen. Souza asked how approval of the IMD waiver would affect the incarcerated population, if the CAT fund did not cover mental health treatment. Ms. Mooney explained that it would reduce the financial burden on the counties for mental health treatment. Ms. Hettinger explained that if the waiver was approved and an individual met medicaid eligibility then the treatment would be covered whether the patient was at a county hospital or an IMD center; currently, funds could only be used for treatment at county hospitals. Co-chair Wood asked whether, besides Intermountain Psychiatric Hospital, there were other IMD centers. Ms. Hettinger reported that she was unsure whether federal government regulations would allow medicaid funds to be used at State Hospital South, even though it is JCAHO approved. She noted that State Hospital North was not JCAHO approved, and felt that efforts to get it approved for IMD would be difficult. Co-chair Wood inquired whether other facilities providing mental health were covered even without the IMD waiver. Ms. Hettinger reported that those facilities were covered.
- Co-chair Wood requested that the average county indigent expense (2013-2018) data be incorporated into an earlier handout, which showed the impact based on property taxes; but for this request to use revenue sharing and the formula from HB0290 (2019).
- Rep. Green inquired whether the IAC was able to provide data of the impact/value to the average county indigent expenses due to individuals being in faith-based, short-term plans, etc. Mr. Grigg did not believe such data could be extracted without extensive research on each county case. Rep. Green commented that, in light of earlier testimony where out-of-pocket deductibles could possibly reach $10,000.00, she felt there was still a need for both the CAT fund and the county indigent funds.
- Sen. Jordan, in summarizing an earlier statement that the CAT fund was not used for an individual's high deductible, asked if the same policy applied to the county indigent funds. Ms. Mooney explained that, in most scenarios, an individual would not meet qualifications for the county indigent funds (ex. $10,000.00 deductible) in such a scenario because the amount is figured as payable over 60 months. Sen. Jordan surmised that the remainder in such a scenario then would be on the hospital to collect, whether as charitable care or negotiated settlement. Ms. Mooney felt that it would.

At 11:25 a.m., Jared Tatro, Principal Budget & Policy Analyst for LSO, was called to the podium for a presentation on the Idaho Millennium Funds.

- Co-chair Wood inquired what would happen to the Millennium Fund after 2025. Mr. Tatro reported that, per the Master Settlement Agreement (MSA), monies shall continue to be deposited; it will not "sunset" after 2025.
- Sen. Souza asked the purpose of the Millennium Fund's establishment/existence. Mr. Tatro explained that, per chapter 18, title 67, Idaho Code, the monies are to be used as the legislature sees fit; there are no restrictions in the MSA and there are no restrictions in Idaho code, though the assumption is that the funds are to be used on tobacco related issues. He noted that other states have designated funds from the MSA to cover health care costs, and at times Idaho's funds have been used toward the CAT fund, in addition to other causes. [67-1806 "IDAHO MILLENNIUM INCOME FUND.... The uses of this fund shall be determined by legislative appropriation."]

- Rep. Green inquired about the amount of funds paid into the CAT fund. Mr. Tatro reported the following amounts were paid on behalf of the county deductible: 2001 - $735,000; 2002 - $735,000; 2003 - $435,000; 2004 - $435,000; 2005 - $500,000 . He added that the state's share on the CAT fund was $1,251,400 in 2003 and $400,000 in 2004.
- Sen. Souza asked whether the ongoing appropriation to the Idaho Department of Correction (IDOC), seemingly reduced by 50%, was specifically for substance abuse treatment or related to the medicaid expansion. Mr. Tatro reported that was a recommendation from the governor's office that reflected cost off-sets due to medicaid expansion.
- Rep. Green requested that Mr. Tatro expound on the compliance inspections required for tobacco sellers. Mr. Tatro explained that there existed a requirement for a tobacco seller to have a permit, much like there exists for beer and wine; however, there was no fee attached to acquire the tobacco permit. Mr. Tatro reported that legislation introduced to create a fee failed to become law. Compliance inspections are subsidized by the Millennium Fund, first through Idaho State Police and now through the Department of Health and Welfare. Rep. Green asked whether a permit to sell alcohol had a fee to cover compliance inspections. Mr. Tatro believed there was a fee.

At 11:50 a.m., the committee recessed for lunch.

The committee was called to order at 1:30 p.m. by Co-chair Rice for the discussion portion of the agenda.

- Co-chair Wood requested, on Sen. Lent's behalf, that LSO staff research and prepare a presentation on how other states have funded medicaid expansion and what unique ideas other states have employed.
- Co-chair Wood discussed HB0290 (2019) and how it would have addressed issues related to medicaid expansion. He noted that the bill identified what individuals would be eligible for health care with medicaid expansion and how it would be funded.
    - Sen. Souza asked whether the need for county assistance would be reduced to almost nothing because HB0290 required individuals to either have health care from the health exchange program or to be enrolled on medicaid; so who would be left to cover. Co-chair Wood answered that it would leave undocumented aliens. Sen. Souza inquired whether citizenship was a requirement to receive health care assistance. Co-chair Wood explained that federal law within medicaid permits treatment for certain medical situations of undocumented aliens and that the same language existed in Idaho's indigent program.
    - Co-chair Wood noted that the CAT fund and the county indigent programs were loan programs, and a process to continue receiving payments needed to be considered if the programs were discontinued. He added that future court decisions on the ACA could require states to maintain an indigent program fund; therefore, Idaho should not be too quick to eliminate the current programs but may consider scaling back how each is operated.
    - Mr. Taylor inquired how much revenue the funding formula in HB0290 would generate in light of the cost to counties being approximately $20 million to operate the county indigent program. Co-chair Wood noted that the formula would generate approximately $20 million. Mr. Taylor asked whether the earlier request to Mr. Grigg for data would better show the counties' needs. Co-chair Wood stated that the spreadsheet should show what each county spends on the indigent - mental and physical health - and whether counties would have a deficit or surplus of funds using the formula as proposed by HB0290.
    - Mr. Smith inquired about the possibility of recreating the formula based on new data and on using different funding sources. Co-chair Rice supported the possibility of doing such. Co-chair Wood suggested that maybe the formula percentage should be adjusted over time or the policy adopted over time to ease any burden or unexpected issues. Mr. Smith supported that idea.

- Rep. Blanksma discussed draft ELB016 by giving a brief overview of each section.
- The committee identified the following policy items to be dealt with in regard to the expansion:
    - Identify where the money will come from; $42 million is needed by 2021 and $58 million is needed by 2030, per the Milliman report.
    - Decide to (1) eliminate the CAT fund partially or completely, and/or (2) eliminate the county indigent fund partially or completely.
    - Determine (1) whether the state should expect funds that currently go to the counties be used for medicaid funding and, if so, (2) to what degree.
    - Decide (1) on using funds from the Millennium Funds, and, if so, (2) to what degree. Ms. Bowen submitted that she could provide to the committee the final report from the 2016 task force (Healthcare Alternatives for Citizens below 100% of Poverty Level) that studied how to fund the possibility of medicaid expansion. Co-chair Wood requested that the final report and a summary of relevant discussions and minutes be presented at the next committee meeting.
    - Determine a plan for accountability and review to be implemented.
    - Consider other funding options, such as the current cigarette tax or implementing a vaping tax.
    - Decide whether (1) counties should continue to be involved in indigent health care in the future, which will depend on the waivers that are approved; (2) budget and levy caps need to be adjusted within statute to assist the counties; and (3) charity levies can be used in a more efficient manner.
    - Consider a better way to streamline the administrative costs and efforts for the CAT fund for counties, the state, and the hospital systems.
- Rep. Blanksma noted that the SOP/FN for SCR117, which authorized the committee, stated that the committee was to "(1) study the savings resulting from Medicaid Expansion to the county medically indigent program and the catastrophic health care costs program and options for reducing or eliminating those programs, and (2) determine equitable means to assess and collect from each county for its share of funding for Medicaid Expansion."
- Rep. Raybould requested information and/or a presentation regarding counties with higher student populations due to universities being located there and what impact those numbers would have on health care programs. Co-chair Wood asked that the data identify the percentage of students in those counties that were residents or not.

The meeting was adjourned at 2:45 p.m.