

AGENDA
SUBCOMMITTEE No. 1
ON HEALTH AND HUMAN SERVICES

PART 2
ASSEMBLYMEMBER PATTY BERG, CHAIR

WEDNESDAY, MAY 23, 2007

STATE CAPITOL, ROOM 4202

3:00 P.M.

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ISSUES AND PROPOSED ACTIONS

4260 DEPARTMENT OF HEALTH CARE SERVICES

1. Non-Emergency Medical Transportation

The subcommittee discussed the issue of rates for Non-Emergency Medical Transportation (NEMT) on May 7th and requested additional information from DHCS regarding the following questions:

1. What types of Medi-Cal beneficiaries receive NEMT services?
2. What are current expenditure trends for NEMT and what are some examples of current Medi-Cal rates for NEMT? When were those rates last adjusted?
3. Has DHS evaluated whether access to NEMT services is being curtailed due to low rates and, if so, what has it found?
4. What is the impact on Medi-Cal beneficiaries from any access limitations?
5. Would lack of access to NEMT service result in use of an ambulance instead in some cases? What would be the cost difference at current rates?

This morning, the department responded with information addressing only basic expenditure and utilization trends. Those trends show that total Medi-Cal spending and the number of claims have been rising through 2006. However, there have been recent declines in the number of providers and the number of users of NEMT services. The department's response does not provide any direct information about access to NEMT services, however. For example, it does not look at whether recent declines reflect reduced access or reduced demand or whether modest overall declines in users or providers might include more significant reductions for specific geographic areas, such as rural areas, or specific types of users.

Proposed Action. Adopt the following Budget Bill Language to provide the Legislature with better information to evaluate the adequacy of NEMT rates:

By March 1, 2008, the Department of Health Care Services shall provide the Legislature with a report on Non-Emergency Medical Transportation (NEMT) in the Medi-Cal Program. The report shall estimate how much NEMT rates would need to be increased in order to provide for cost increases to NEMT providers since the rates were last established. In addition, the report shall provide the following information:

1. Characteristics of Medi-Cal beneficiaries that receive NEMT services.
2. Current expenditure trends for each NEMT service.
3. An evaluation of whether access to NEMT services is being curtailed due to low rates?
4. The impact on Medi-Cal beneficiaries from any access limitations, including the impact of limitations affecting rural areas or other geographic regions and limitations affecting specific types of services or beneficiaries.
5. An estimate of the savings attributable to use of NEMT services instead of ambulance services.

2. PARIS Planning and Pilot

On March 26th, the subcommittee discussed the Legislative Analyst's Office (LAO) estimates that there are approximately 144,000 military veterans in California who could be receiving comprehensive medical benefits from the Veterans Administration (VA) health care system but who are enrolled instead in the Medi-Cal Program. The LAO believes that the state could eventually save as much as \$250 million General Fund annually from a voluntary shift of veterans from Medi-Cal into VA health care. This is because the state generally pays for about half of Medi-Cal costs, while the VA's support is entirely federal. As a starting point LAO recommends that the state implement a federal data matching system--the Public Assistance and Reporting Information System (PARIS)--which would allow California to identify veterans who could transfer to the VA health care system.

As a result of subcommittee direction, the LAO and the department held further discussions to determine if the PARIS system could be implemented in time to achieve savings in 2007-08. However, the department has determined that this is not possible, although the department agrees that implementation of PARIS and better coordination of care for veterans on Medi-Cal warrant further effort.

PARIS also provides an opportunity for the state to save money by eliminating duplicate coverage or payments for beneficiaries who have moved to another state.

Proposed Action. Adopt the following Supplemental Report Language recommended by the LAO to begin the effort to implement PARIS and determine the most effective way to utilize the system:

Item 4260-001-0001—Department of Health Care Services

PARIS, Veterans Matching

It is the intent of the Legislature to implement the Public Assistance and Reporting Information System (PARIS) in order to allow the Department of Health Care Services (DHCS) to identify veterans enrolled in the Medi-Cal program who could receive medical benefits through the federal Veteran's Administration that would either replace or supplement benefits available from the Medi-Cal Program.

No later than April 1, 2008, the Department of Health Care Services (DHCS) shall provide the chair and the vice chair of the Committee on Budget in both the Assembly and Senate and the Joint Legislative Budget Committee a report on the feasibility of implementing a pilot program utilizing the federal PARIS to identify veterans, in particular those with significant costs, enrolled in the Medi-Cal program and assist them in obtaining federal veterans health care benefits. The DHCS shall work in conjunction with the California Department of Veteran's Affairs (DVA) to prepare this report. The report shall include: (a) identification of no less than three counties where the pilot program would be implemented, all of which must have in operation a VA Medical Center; (b) a plan for dissemination of PARIS match results to County Veterans Services Offices (CVSOs); (c) outreach standards and measurable performance criteria for CVSOs participating in the pilot program in order to measure the effectiveness of the program; and (d) any additional resources necessary for implementation of the pilot program by DHCS and the CVSOs.

PARIS Public Assistance Matching

It is the intent of the Legislature to implement the PARIS interstate/federal match to allow the state of California to identify beneficiaries that are receiving duplicate benefits from health and social services programs in two or more states and thereby facilitate improved program integrity by disenrollment of beneficiaries upon verification that they no longer reside in California.

No later than July 1, 2008, the Department of Health Care Services (DHCS) shall provide the chair and the vice chair of the Committee on Budget in both the Assembly and Senate and the Joint Legislative Budget Committee a report on the feasibility of implementation of the PARIS interstate/federal match to identify

beneficiaries that are receiving duplicate benefits from health and social services programs in two or more states and thereby facilitate improved program integrity by disenrollment of beneficiaries upon verification that they no longer reside in California. The DHCS shall work in conjunction with the Department of Social Services, county welfare departments and other state agencies and departments as needed in preparing the report. The report shall include: (a) the necessary funding and staff needed to prepare the Feasibility Study Report (FSR) for programming changes to the Medical Eligibility Determination System (MEDS) and other programming changes as necessary; (b) a plan for dissemination of PARIS results to the counties; (c) a description of how counties will utilize the PARIS match results to improve program integrity; (d) an estimate of any additional resources needed for implementation of the PARIS interstate/federal match program; and (e) the estimated timeline for implementation.

4265 DEPARTMENT OF PUBLIC HEALTH

1. Licensing and Certification Fees—Use of Current-Year Savings

At its April 23rd hearing the subcommittee was informed by the department that \$7 million in current-year savings will be available in the Licensing and Certification (L&C) Fund that can be used to mitigate the proposed significant fee increases in 2007-08. The subcommittee held this issue open pending further discussions between the department and interested parties, including labor representatives and provider groups. There is now agreement that the \$7 million of savings can be used to mitigate the fee increases in the budget year. Therefore, action can now be taken to recognize the \$7 million of carryover L&C Fund savings from the current year and to utilize these funds on a one-time only basis in the budget year to offset L&C Fee increases.

Proposed Action. Recognize \$7 million of carryover L&C Fund savings from the current year and to utilize these funds on a one-time only basis in the budget year to offset L&C Fee increases (conforms with Senate action).

2. Unbundling of Clinic Fees

Through discussions between the department and clinic groups, it has come to light that various “clinics” are being *grouped* together (“bundled”) for purposes of calculating L&C fees, *instead of* spreading the costs of the L&C Division services as applicable, across the *individual* clinic facility types (such as Psychology Clinics, Primary Clinics, Dialysis Clinics, Specialty Clinics—Rehabilitation (for profit and not-for-profit), and Specialty Clinics—Surgical and Chronic. Existing law (Section 1266 of the Health & Safety Code) directs the department to calculate L&C Fees by type of facility as noted, including individual clinic facility type. One result of the bundling, based on data from the department, is that too large a share of costs was allocated to community clinics.

Proposed Action. Direct the L&C Division to re-calculate clinic L&C Fees by individual clinic facility types, consistent with existing law (conforms with Senate action).

3. Review of L&C Fee-Setting Methodology

Have the DOF’s Review L&C Methodology. The methodology used to compute the L&C Fees has many nuances and complexities. For example, the diversity of the facilities being surveyed; different types of workload requirements for the different facilities; how L&C staff allocate and charge their timekeeping system to develop data to then apply this information back across individual facility types for fee calculations; technical adjustments regarding salary savings and pro rata; and many

other aspects. The L&C Division is attempting to address these issues in a diligent manner, but the task is complex and the division needs to focus on many tasks to meet its goals for inspection and survey work and to implement significant recent legislation. Consequently, a review by an independent entity could assist the division to perfect its fee-setting methodology and possibly offer some new and useful perspectives. The Office of Statewide Audits & Evaluations (OSAE) in the Department of Finance would be an appropriate entity to provide this review.

Proposed Action. Adopt the following Budget Bill Language for an OSAE review (Item 4265-001-3098, Department of Public Health, State Support, L&C Fund):

“It is the intent of the Legislature that the Office of State Audits and Evaluations (OSAE) review, document, and where appropriate evaluate, the various aspects of the methodologies used by the Department of Public Health (DPH) in the development and calculation of fees for the payment of services provided by the Licensing and Certification Division. The OSAE shall provide their analysis to the DPH by February 1, 2008. This analysis will be available to the public within the standard OSAE release period. The DPH shall reimburse the OSAE for their services in an amount not to exceed \$150,000 (Licensing and Certification Funds) and this funding shall be identified within the existing appropriation by the DPH.

(Note: This action conforms with Senate action.)

4. Additional Revenues Should be Recognized in Setting L&C Fees

The department has found that some revenues, though not substantial, are being collected for deposit into the L&C Fund that are not presently being incorporated into the L&C fee methodology as an offset to the L&C Fees charged to facilities. Specifically, these currently unrecognized revenues include fees obtained by the L&C Division for **(1)** new, initial surveys; **(2)** changes of ownerships—“CHOWs”; and **(3)** late payment fees made by facilities that did not pay their L&C Fees on time. Adoption of Trailer Bill language would correct this oversight.

Proposed Action. Adopt the following Trailer Bill Language:

Amend Section 1266 (d)(1) of Health and Safety Code by *adding* the following paragraph:

(E) Amounts actually received for new licensure applications (including change of ownership applications) and late payment penalties (pursuant to Section 1266.5) during each fiscal year shall be calculated and ninety-five percent (95%) shall be applied to the appropriate fee categories in determining Licensing and Certification Program fees for the second fiscal year following receipt of those funds. The remaining five percent (5%) shall be retained in the fund as a reserve until appropriated.

(Note: This action conforms with Senate action.)

5. L&C Fee Structure Flexibility

Several provider groups have raised concerns regarding the fee structures applied to them. Two examples are discussed below.

Home Health Agencies. These providers are seeking to change the structure of their rate to distinguish the difference between a “parent” and a “branch” as an appropriate fee category. Under their proposal, a “parent” would pay a larger fee and the “branch” would pay \$1,500, and “new applicants” would pay an additional \$1,500 in addition to their “parent” fee. In essence, the Home Health Agencies want to establish a tiered approach that they believe better reflects the workload associated with the regulation and inspection of these facilities.

Adult Day Health Care Facilities (ADHC). The current fee structure imposes a flat “per facility” fee on ADHC facilities. Providers would like to change this structure to one based on “licensed capacity” since ADHC facilities range from a low of 30 to a high of 300 for licensed capacity. They are requesting trailer bill language to allow the department to re-classify Adult Day Health Care facilities from a per facility fee category to a per unit fee category based on licensed capacity.

Department Response. Generally, the department has agreed that these proposals may have merit. However, the department indicates that further analysis and discussion is necessary to determine the full implications are of these potential changes, whether adequate information is available, and to ensure that any revisions in fee structures are revenue-neutral.

Comment. The department points out that it expects to be in a better position to revise rate structures after receiving the results of the OSAE review (discussed above) and so would prefer to defer discussion of changes in the rate methodologies. However, staff notes that it may be feasible to make some limited changes to address immediate issues that may have relatively simple solutions. Temporary authority to revise rate structures on a revenue-neutral basis would give the department the opportunity to work with provider groups and other interested parties and to make temporary changes, if feasible and needed to address a significant problem, prior to a more comprehensive re-evaluation of rate structures.

Proposed Action. Adopt placeholder Trailer Bill language to allow further discussion of this issue in conference. The placeholder language would be intended to allow the department flexibility to temporarily revise rate structures within individual types of facilities during 2007-08, provided that any revisions are revenue neutral and do not shift costs between provider groups.

6. Restoration of Redirected Positions

Previously, the subcommittee acted to restore 8 positions that had been proposed for redirection in order to staff administrative and management functions associated with the creation of the new Department of Public Health (DPH). Those positions are funded by special funds or federal funds and adequate funding was identified by the LAO to continue them as program positions without any need for fee increases.

Subsequently, LAO identified an additional 3 program support positions proposed for redirection in order to provide staffing for the new program Centers to be established in DPH that also could be maintained using available special funds or federal funds without any fee increases. Restoration of these positions would help to reduce any negative impacts of the reorganization on programs.

Proposed Action. Restore the additional three positions identified by the LAO. This action would increase funding by a total of \$744,000 (including the increase of \$559,000 from the prior action), entirely from available special funds and federal funds. (This action would conform with Senate action.)

7. Foodborne Illness Prevention and Response

The Department of Public Health (DPH) proposes **an increase of \$2.1 million (General Fund) to fund nine positions**, \$215,000 in equipment, and \$670,000 in contract expenditures to investigate foodborne illnesses and foodborne outbreaks. The DPH states that an expansion of their existing efforts is needed because they do not have enough staff in their "Emergency Response" unit. The "Emergency Response" unit within the Food and Drug Branch of the DPH conducts investigations of foodborne illnesses. Presently there is one team consisting of two investigators and one scientist.

The requested nine positions would establish three *additional* teams of investigators, scientists, laboratory staff, and administrative support to provide emergency outbreak investigation capacity. The positions would: (1) coordinate with local, state and federal health agencies; (2) investigate foodborne illness; (3) conduct environmental and trace back investigations; (4) provide effectiveness checks on recalled commodities; and (5) work with affected industries to implement preventive changes.

The Food and Drug Branch within DPH is responsible for ensuring that certain foods are safe, are not adulterated, misbranded, or falsely advertised. As such, the DPH inspects about 5,500 food processors and distributors in California, and also investigates outbreaks and incidents of foodborne illness. The DPH has the authority to take all steps necessary to investigate foodborne illnesses, including inspecting food processors and obtaining and reviewing their records, reviewing growing and harvesting practices on farms, and embargoing contaminated products. The DPH works closely with the Federal Food and Drug Administration (FDA) when investigating interstate foodborne illness outbreaks. To facilitate investigations, the DPH and FDA have created the California Food Emergency Response Team (CalFERT), a specially trained group of federal and state staff with expertise in farm food safety investigations whose members jointly conduct investigations and share all related records and reports.

LAO Recommendation. The LAO recommends a reduction of \$1.5 million (General Fund) by deleting five of the requested nine positions for the Emergency Response Unit, reducing related equipment and operating expenses, and eliminating the \$500,000 budgeted for research. Specifically, the LAO would *approve* a Senior Food & Drug Investigator, a Food & Drug Specialist, a Research Scientist, and a Food & Drug Laboratory Scientist to add *one* more complete team (for an overall total of two teams versus the Administration's total of four teams), plus laboratory support. The LAO states that since the DPH already regulates and routinely inspects food processors for sanitary conditions, and as such, it should be able to use this expertise on an as needed basis during outbreaks. In addition, the LAO does not believe that the other two positions for administrative and laboratory support are justified on a workload basis since only four positions would be added (i.e., under the LAO recommendation).

Senate Modification. The Senate adopted a modification of the LAO staffing reduction—it reduced by 4 positions and \$667,000. Senate action approved the other requested Food & Drug Specialist position to **(1)** provide training to industry to establish procedures to enable firms to quickly provide information to the DPH in the event of contamination; **(2)** provide training to local health jurisdictions regarding outbreaks, reporting and follow-up; and **(3)** assist with tracking foodborne illness information (including distribution information and product recall information), and reporting writing as necessary. The Senate action also deleted the research funding.

Proposed Action. Reduce staffing by 4 positions for a savings of \$667,000. (This would conform with the Senate staffing action, but retain the research funding.)