



**First Meeting
2003 Interim
June 12, 2003**

**Legislative Conference Rooms 1 and 2
State Capitol
Pierre, South Dakota**

The first meeting of the interim Department of Social Services Agency Review Committee was called to order by Chair Larry Diedrich at 8:08 a.m., June 12, 2003, in Legislative Conference Rooms 1 and 2 of the State Capitol, Pierre, South Dakota.

A quorum was determined with the following members answering the roll call: Senators Jerry Apa, Larry Diedrich, Brock Greenfield, Clarence Kooistra, and Ed Olson; and Representatives Rebekah Craddock, Larry Frost, Jean Hunhoff, Ted Klaudt, Claire Konold, Kathy Miles, Gordon Pederson, Tim Rave, David Sigdestad, Bill Thompson, Don Van Etten, and Thomas Van Norman. Representative Stanford Adelstein was excused.

Staff members present included Jacquelyn Storm, Principal Legislative Attorney; Sue Cichos, Senior Fiscal Analyst; and Teri Retrum, Senior Legislative Secretary.

(NOTE: For sake of continuity, the following minutes are not necessarily in chronological order. Also, all referenced documents are on file with the Master Minutes.)

Opening Remarks

Chair Larry Diedrich asked committee members to be thinking about items of interest to include on the agenda for the next meeting.

Historical Perspective of the Sunset Process

Ms. Jacquelyn Storm, Principal Legislative Attorney for the Legislative Research Council, distributed copies of House Engrossed Bill 1196—An Act to provide for the periodic review of the agencies of state government (Document #1) and a document titled, “Typical Study Plan for Interim Sunset Committees” (Document #2).

Mr. Reuben D. Bezpaletz, Chief of Research Analysis and Legal Services for the Legislative Research Council, gave a brief historical perspective of the sunset process. He also discussed the study plan for interim sunset committees.

Presentation of the Department of Social Services

Mr. James Ellenbecker, Secretary of the Department of Social Services (DSS), proceeded with an overview of the department (Document #3). [Note: Each program administrator's handout will be labeled individually with a document number.] He read SDCL 28-1.1:

28-1-1. Duties of department - System of social security - Compliance with federal acts - Administration of programs.

The Department of Social Services shall provide a system of social security for the people of South Dakota, enable the state of South Dakota to comply with the provisions of the federal Social Security Act and other federal and state enactments relating to social services, accept grants of federal funds for the purposes enumerated in these acts, administer programs for the security and protection of children, youth, families, adults, and the elderly, as authorized by the Legislature, and provide moneys necessary for the purposes of social security.

Mr. Ellenbecker said that one in seven people in South Dakota receive services from DSS. He said that the department does not operate programs unless they are authorized by the Legislature. Mr. Ellenbecker stated that individuals or families having difficulties can get assistance from one or more of the following programs:

1. Medical Services;
2. Child Protection Services;
3. Child Support Enforcement;
4. Economic Assistance:
 - A. Food Stamps;
 - B. Medical Eligibility;
 - C. Temporary Assistance for Needy Families (TANF);
5. Adult Services and Aging;
6. Child Care Services; and
7. Energy Assistance and Weatherization.

Mr. Ellenbecker said that the department also works with a full array of other entities to extend its benefits. He said that the department continues to face many challenges and listed welfare reform, expanding Medicaid caseloads and health care costs, and more children and families at risk among those challenges.

Mr. Ellenbecker's presentation also included an organizational chart for the department; a map showing DSS districts and offices, along with a paper outlining such; a department expenditure history from 1980 to the present; and a list of associated professional organizations.

Responding to Senator Clarence Kooistra, Mr. Ellenbecker said that the department operates under the Career Service Commission guidelines when determining the salary range and position status of DSS employees. He said that a qualifying factor in that determination is the decision-making responsibility of an individual performing a particular job. For example, Mr.

Ellenbecker said that the decision-making responsibility would be greater for a social worker who must make decisions regarding child protection and families, sometimes immediately, than for a case worker who works under prescribed conditions.

In response to a question posed by Senator Jerry Apa, Mr. Ellenbecker said that the department pays eight thousand dollars in dues to the American Public Human Services Association, which is an invaluable resource to the department. There are other organizations to which the department belongs, but dues are not required.

Office of Child Care Services

Ms. Pat Monson distributed and discussed the review of the Office of Child Care Services (CCS) (Document #4). She said that the South Dakota Legislature established the Office of Child Care Services in 1991 (SDCL 28-1-60). Ms. Monson said that South Dakota has the highest percentage of mothers who work outside the home—77.7 percent in South Dakota compared to 63.5 percent nationwide. She said that CCS helps some of those mothers and families with the cost of child care. Those families receiving assistance in return generate tax revenue and also “pump money” into their communities. Ms. Monson said that good child care is basically an economic development issue; high quality child care services help the future workforce. She said that good child care should be considered early child education not “just babysitting.” In South Dakota 40 percent of children under the age of six are in child care compared to 24 percent nationally. Ms. Monson said that a child care business is a low-profit margin business, with an average salary of \$6.00 per hour; consequently, there is a high turnover. She said that South Dakota needs to support working families with child care and work to recruit and retain qualified child care services; the biggest portion of the CCS budget is child care assistance.

Regarding direct child care subsidies, Ms. Monson said that approximately 2,500 families are served each month. In FY 2002, an average of 218 families per month received TANF-related child care benefits. She said that these child care subsidies keep them off welfare. Ms. Monson said that one of the main reasons given by mothers working outside their homes is to provide their families with health insurance and other benefits.

Ms. Monson said that in order to meet the federal requirements of the “Leave No Child Behind” program, South Dakota is implementing “Good Start/Grow Smart,” which focuses on early child education. She said that CCS makes every effort to help child care providers provide qualified service. Ms. Monson said that the CSS tries to be a provider and parent friendly office.

Responding to questions posed by Representative Don Van Etten regarding adequate staff to inspect for licensure of child care providers and whether all providers should be licensed, Ms. Monson said that there is a philosophical debate concerning the latter issue—those who believe that “if we want to take children into our homes we should be able to” and also “we should be able to take our children wherever we want to for care.” In South Dakota, a child care facility is allowed to take up to twelve children without licensure. Ms. Monson said that the

goal should be to provide quality care with safety assurances to children. She said that regulation reduces the risk of harm to children. If unregulated, there is no recourse for consumers except from law enforcement, which does not intervene unless there is an abusive situation. Ms. Monson said that it would be a challenge to inspect all child care providers if all were licensed; it would depend upon the level of inspection and licensure.

Representative Ted Klaudt asked if there were any qualification to get children into an after school program. Ms. Monson said that those programs are community-based and that some charge a fee; some do not.

Representative Jean Hunhoff asked if CCS works in partnership with other entities to provide consumer education to parents. Ms. Monson replied affirmatively.

Office of Energy Assistance

Mr. John Burchill distributed and discussed the review of the Office of Energy Assistance (Document #5). He said that the goal of the office is to provide financial assistance to low income households in paying their home heating costs. The energy assistance program is one hundred percent funded by the federal government and is a community block grant program. Mr. Burchill said that all households must apply and show proof of income and home heating costs.

Mr. Burchill also discussed the Weatherization Program, which helps low-income households overcome the high costs of energy by making their homes more energy efficient. It is also fully funded by the federal government. He said that it is a popular program with limited funds and a waiting list for up to a year.

Responding to Representative Hunhoff, Mr. Burchill said that the state has made the choice not to include cooling provisions in its energy assistance program. Mr. Burchill said that, as much as he would like to include cooling, the program cannot afford to do so and continue to provide its current services.

Representative Larry Frost asked: "With the increasing costs of fuel and propane, etc., will the funding for those services go up or will the state have to make do with less?" Mr. Burchill said that South Dakota will be able to handle the increase. He also noted that the federal government may increase the funding for energy assistance.

Community Services Block Grant (CSBG)

Mr. Jordon Kitts briefly discussed the Community Services Block Grant program (Document #6) and a pamphlet titled "Community Action Partnership; Helping People, Changing Lives; Resource and Referral Guide" (Document #7).

Mr. Kitts said that the purpose of the CSBG is to reduce the causes of poverty in communities within South Dakota. He said that CSBGs do not simply fund one narrowly defined program but offer flexibility for local programs that address local needs. South Dakota will receive

about \$2,900,000 in FY2003. The Department of Social Services conducts annual site reviews.

Representative Hunhoff asked whether a person who does not qualify for weatherization assistance would qualify under a CSBG. Mr. Kitts said that perhaps that would be possible on a one-time basis.

Representative Klaudt asked: "Do we have to run these types of things through a community action program (CAP) or can we do these ourselves?" Mr. Kitts said that this process is set in statute. Representative Klaudt said that there seems to be a lot of duplication of services.

The committee recessed at 10:17 a.m. and reconvened at 10:32 a.m.

Office of Adult Services and Aging

Ms. Gail Ferris reviewed the Office of Adult Services and Aging (Document #8). Ms. Ferris said that the guiding principles for the Office of Adult Services and Aging are from the Older Americans Act of 1965. She said that the Act requires establishment of an advisory council to further the agency's mission of providing a continuum of care and a range of services to the aged. Ms. Ferris said that of the seventy-nine field staff most, about sixty-eight, are social workers. The rest are supervisors of those workers.

Ms. Ferris said the range of services includes:

- Home and community-based services;
- Institutional services;
- Victims' services; and
- Other services, such as legal services, prescription drug services, caregiver programs, etc.

Senator Ed Olson asked whether there was a moratorium on assisted living centers such as there is on nursing homes. Ms. Ferris responded negatively and said that the Department of Health handles licensure for assisted living facilities.

Senator Olson said that he was expressing the concern of individuals that some of the people residing in assisted living facilities are kept in those facilities too long when they should be receiving services in a nursing home. He asked whether there were checks and balances to discover any such instances.

Ms. Ferris said that some people believe that there has been a "blurring" of services that are provided in nursing homes and assisted living centers. She said that the Department of Health makes the distinction on whether an assisted living center is exceeding care-giver guidelines.

Senator Olson inquired about the certification of nursing home beds. Ms. Ferris responded that the Department of Health certifies those beds. She said that occupancy in nursing homes has declined due to the types of services provided by the assisted care facilities.

Chair Diedrich asked if the department has information on whether more money is being spent on hospital bills of those residents of assisted living centers when the services could be provided in a nursing home. Ms. Ferris responded: "Anecdotally, that would seem to be the case" but that the department does not track those circumstances.

Representative Thomas Van Norman said that perhaps the department should look at expanding services that are provided to people living in their homes, which in turn would help people stay out of nursing homes. He expressed concern about the limited care given to residents in rural areas.

Representative Hunhoff asked for data showing savings resulting from a delayed entry into a nursing home. Ms. Ferris responded that there could be a possible 13 percent to 14 percent savings to the public, or to an individual, with an average two-year nursing home diversion.

Office of Medical Services

Mr. Damian Prunty distributed a review of the Office of Medical Services (Document #9) and copies of a booklet titled "South Dakota Medical Assistance Program Recipient Handbook" (Document #10). Mr. Prunty discussed an overview of Title 19 and Title 21. He said that Title 19 is the Medicaid Program and Title 21 is the Children's Health Insurance Program (CHIP). Mr. Prunty said that benefits under Title 19 and Title 21 are identical; eligibility status determines whether a recipient falls under Title 19 or Title 21. He said that about 60 percent of recipients are children—there are currently 61,621 children and 31,053 adults receiving medical assistance in South Dakota, which constitutes a fifty percent increase over the last five years.

Mr. Prunty listed the services that federal law requires the State Medicaid program to cover:

- Inpatient and outpatient hospital services;
- Physician services;
- Medical and surgical dental services;
- Nursing facility services for individuals aged 21 or over;
- Home health care;
- Rural health clinic services;
- Laboratory and x-ray services;
- Nurse-midwife services;
- Early and periodic screening, diagnosis, and treatment services for individuals under age 21;
- Child dental services; and
- Durable medical equipment.

Mr. Prunty said that states may choose to cover certain additional services which are not mandated by the federal government, and South Dakota has chosen several.

Mr. Prunty said that the most important function of the Office of Medical Services is to act as a liaison with the federal Department of Health and Human Services to ensure compliance of federal regulations in order to obtain funds for South Dakotans.

Mr. Prunty briefly discussed the Health Insurance Portability and Accountability Act (HIPAA). He said that the department has been working on HIPAA since 1999 and that the pharmacy program of the department is currently HIPAA compliant. Mr. Prunty said that DSS is in the final phase of the process and that the projected target date for compliance is October 2003. He said that the department is planning to provide education to medical providers once the department is sure everything is in place; however, medical providers should not wait for the state to help them become HIPAA compliant.

Representative Hunhoff asked how the PCP program had paid off. Mr. Prunty said that he will provide the information.

Regarding dental care, Representative Rave asked why we contract with Delta Dental and what is the cost. Mr. Prunty said that the department contracts with Delta Dental because of their working relationship with providers. He said that there is a shortage of dentists in South Dakota.

Chair Diedrich asked for information showing the national average of the Federal Medical Assistance Percentage (FMAP) for each state. Mr. Prunty said that he would provide that information.

The committee recessed at 12:10 p.m. and reconvened at 1:20 p.m.

Economic Assistance Programs

Ms. Sharon Sonnenschein spoke about the types of economic assistance available through DSS (Document #11). She said that the majority of clients in the five major assistance programs are handled by field staff located in forty-one offices across the state.

Ms. Sonnenschein outlined the five programs that provide economic assistance:

- Medical services eligibility—most commonly known as Medicaid eligibility;
- Temporary Assistance to Needy Families (TANF);
- Food Stamps;
- Quality control of the Food Stamp and Medicaid programs; and
- Auxiliary placement—a program within the Office of Economic Assistance that serves as the responsible school district for children in state custody.

Eligibility for Medical Assistance Programs

Ms. Janet Lehmkuhl distributed Document #12, which reviewed eligibility for medical assistance programs. She said that South Dakota began the Title 21 Children's Health Insurance Program (CHIP) in 1998 as a Medicaid expansion for children ages 6 through 18 whose family income was between 100 percent and 133 percent of the Federal Poverty Level. It was expanded in 2002 to cover uninsured children whose family income is up to 200 percent of the Federal Poverty Level.

Ms. Lehmkuhl also addressed the Elderly Waiver Program. She said that individuals age 65 or older who need nursing home care but elect to remain in their own home with nursing, personal, and homemaker services must be eligible under long term care income and resource limits.

Ms. Lehmkuhl explained that for those individuals with property and other assets, it is challenging to sort through the sheer numbers of categories and requirements that need to be met to qualify for Medicaid eligibility.

Responding to Representative Van Etten, Ms. Lehmkuhl said that the state must follow the federal guidelines when determining eligibility. She said that the state cannot change the maximum property exemptions to qualify as spousal impoverishment, but the state can change the minimum property exemptions.

Representative Hunhoff asked what percentage of the population in South Dakota is eligible for both Medicaid and Medicare. Ms. Lehmkuhl replied that the number is about 6 percent.

Ms. Sonnenschein said that there are federally mandated groups of people which must be covered under Medicaid—the state does have discretion to provide coverage to other optional groups, and those optional groups can be changed.

Responding to Chair Diedrich, Ms. Lehmkuhl said that the caseload continues to grow at a rate expected, maybe a little more.

Ms. Sonnenschein told Representative Klaudt that she would find the answer to his question concerning why glasses are required to be provided to children when contact lenses would be cheaper.

Eligibility for TANF and TANF Work Program

Ms. Judy Thompson distributed a review of the eligibility for TANF and the TANF Work Program (Document #13). She said that TANF has been a major source of funding for foster care. Ms. Thompson said that the primary focus of TANF is to move families to work and off welfare. She said that there has been a significant decrease in the caseload from May 1994 to May 2003. Ms. Thompson said that states have been given a great deal of flexibility in designing their TANF Programs. In South Dakota, all families must meet certain eligibility.

Ms. Thompson said that it is challenging for the department to meet the federal fifty percent work participation requirement. South Dakota funding will be secure under the current provisions of the law; however, Ms. Thompson said that reauthorization of the individual participation level and work participation rate requirements would cause the state to face many more challenges to comply with the federal law.

Ms. Thompson reviewed the eligibility criteria for needy families to qualify for assistance.

Responding to Representative Van Norman, Ms. Darla Mayer, DSS, said that in the beginning, the TANF program was able to carry over some of the funds, creating a reserve. Now, TANF spends all of its funds and dips into the reserves.

Representative Klaudt asked if all families who live on reservations are exempt from the 60-month maximum or just BIA members.

Ms. Thompson replied that it includes everyone. The department will clarify this issue.

Senator Kooistra asked: "Why not just go with a cost of living adjustment (COLA) instead of going through the appropriations process each year?"

Mr. Ellenbecker responded that it is state policy not to put built-in inflators into law.

Eligibility for Food Stamps Benefits

Ms. Judy Toelle discussed eligibility for Food Stamps benefits (Document #14). She said that nationally the program is administered through the United States Department of Agriculture Food and Nutrition Services. Ms. Toelle said that currently seven percent of the population in South Dakota is receiving food stamps; as of April 2003, South Dakota had 20,844 households receiving food stamps. She said that the South Dakota Food Stamp Program has received an enhanced funding bonus every year since 1981 due to a high percentage accuracy rate.

Ms. Toelle said that the Food Stamp Program faces many challenges every day but noted two of particular note:

- New performance bonuses—The previous bonus system was based entirely on accurate eligibility and benefit determinators; the new performance based bonuses have expanded to two additional issues—time frames and participation; and
- Increasing caseloads.

Responding to Representative Frost, Mr. Ellenbecker said that the performance based bonus supports electronic benefits transfers (EBT) and a state match on child care services.

Electronic Benefits Transfer Dakota (EBT)

Ms. Sandra Vanneman distributed a review of the Electronic Benefits Transfer Dakota (Document #15). She gave a brief history of EBT. On May 22, 1992, the DSS entered into a Memorandum of Understanding (MOU) with the North Dakota Department of Human Services to initiate a joint Electronic Benefits Transfer System, the first of its kind in the nation. The EBT removes some of the stigma of paper food stamps, helps protect against theft and fraud, and allows the recipient to shop nationwide.

Catastrophic County Poor Relief Program

Ms. Jill Wellhouse outlined the catastrophic County Poor Relief Program (Document #16). She said that the program was created in 1984 to allow counties to pool funds to provide relief when counties are faced with paying catastrophic medical expenses that exceed \$20,000 over twelve months.

The committee recessed at 3:10 p.m. and reconvened at 3:25 p.m.

Child Support Enforcement

Mr. Terry Walter distributed an overview of child support enforcement in South Dakota (Document #17). He said that the goals of the Child Support Enforcement Program are to locate noncustodial parents, establish paternity, establish and modify child support obligations, enforce child and medical support obligations, and collect and distribute child support payments. The reason for the establishment of child support enforcement was to rein in some of the costs of what was then known as Aid to Families with Dependent Children. Mr. Walter said that there have been no significant changes since the 1996 Welfare Reform Act. He listed several sources of child support payments. Mr. Walter said that there are federal requirements for state laws regarding child support enforcement.

Responding to Senator Kooistra, Mr. Walter said that there are about twenty-eight private collection agencies nationwide that work on child support collections, but some of the states have experienced problems with those agencies.

Office of Child Protection Services

Ms. Virgena Wieseler reviewed the Office of Child Protection Services (Document #18). She said that DSS is the mandated agency to receive and to determine the status of reports of neglect and abuse of children.

Ms. Wieseler addressed who is required under the law to report child abuse or neglect. She outlined the information gathered in the assessment process by Child Protection Services. Ms. Wieseler said that the department collaborates with other agencies and services when case-planning. She said that Child Protection Services investigations increase every year and reviewed the levels of out-of-home placements.

Representative Van Norman expressed concern over what he termed lack of coordination and utilization of resources. He said that the state needs to coordinate with tribal governments so the cultural differences do not get translated into neglect.

Committee Direction and Meeting Dates

Chair Diedrich said that he, Vice Chair Van Etten, and Jacquelyn Storm will work with DSS personnel on additional information needed for the committee. He directed staff to review DSS statutes for clarification and clean-up purposes between now and the committee's next meeting.

The committee set Monday, August 11, 2003, as its next meeting date.

Adjournment

REPRESENTATIVE VAN ETTEN MOVED, SECONDED BY REPRESENTATIVE FROST, THAT THE COMMITTEE ADJOURN. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.

The committee adjourned at 4:50 p.m.



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