

**MINUTES OF THE MEETING
OF THE
ASSEMBLY COMMITTEE ON HEALTH AND HUMAN SERVICES**

**Seventy-Fifth Session
April 20, 2009**

The Committee on Health and Human Services was called to order by Vice Chair Peggy Pierce at 2:07 p.m. on Monday, April 20, 2009, in Room 3138 of the Legislative Building, 401 South Carson Street, Carson City, Nevada. The meeting was videoconferenced to Room 4401 of the Grant Sawyer State Office Building, 555 East Washington Avenue, Las Vegas, Nevada. Copies of the minutes, including the Agenda ([Exhibit A](#)), the Attendance Roster ([Exhibit B](#)), and other substantive exhibits, are available and on file in the Research Library of the Legislative Counsel Bureau and on the Nevada Legislature's website at www.leg.state.nv.us/75th2009/committees/. In addition, copies of the audio record may be purchased through the Legislative Counsel Bureau's Publications Office (email: publications@lcb.state.nv.us; telephone: 775-684-6835).

COMMITTEE MEMBERS PRESENT:

Assemblywoman Debbie Smith, Chairwoman
Assemblywoman Peggy Pierce, Vice Chair
Assemblyman Ty Cobb
Assemblyman Mo Denis
Assemblyman John Hambrick
Assemblyman Joseph (Joe) P. Hardy
Assemblywoman Sheila Leslie
Assemblywoman April Mastroluca
Assemblywoman Ellen B. Spiegel
Assemblyman Lynn D. Stewart

COMMITTEE MEMBERS ABSENT:

Assemblywoman Bonnie Parnell (excused)

GUEST LEGISLATORS PRESENT:

None

STAFF MEMBERS PRESENT:

Amber Joiner, Committee Policy Analyst
Chris Kanowitz, Committee Secretary
Olivia Lloyd, Committee Assistant

OTHERS PRESENT:

Charles Duarte, Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services
Michael J. Willden, Director, Department of Health and Human Services
Constance Brooks, Las Vegas, Nevada, representing Clark County, Nevada
Erin McMullen, Las Vegas, Nevada, representing Hospital Corporation of America Inc., Nashville, Tennessee; Sunrise Hospital and Medical Center, Las Vegas, Nevada
James Wadhams, Las Vegas, Nevada, representing Nevada Hospital Association, Reno, Nevada
Dan Musgrove, Las Vegas, Nevada, representing Nevada Orthopaedic Society, Reno, Nevada; The Valley Health System, Las Vegas, Nevada; Amerigroup Corporation, Las Vegas, Nevada

Vice Chair Pierce:

[Roll called. Quorum present.] On today's agenda we have one presentation and one bill to hear. We will begin with our presentation, which is an update on federal stimulus funds for Medicaid.

Charles Duarte, Administrator, Division of Health Care Financing and Policy, Department of Health and Human Services:

It is a pleasure to be here today to update you on the federal stimulus package, the American Recovery and Reinvestment Act of 2009 (ARRA), and the impact that it has had on Nevada Medicaid, specifically the increases that are associated with the increased Federal Matching Assistance Percentage (FMAP). The FMAP is the federal share of Medicaid payments that we are reimbursed by

the Centers for Medicare and Medicaid Services (CMS), the federal oversight agency that deals with the state Medicaid program.

I have provided the Committee with a one page document ([Exhibit C](#)). This is probably the first and only time you will see a Medicaid summary on one single page. What this document, which is entitled "Estimated FMAP Increase in Final Stimulus Bill," gives you is a summary of the three components of the federal stimulus package's FMAP adjustments that provided states with fiscal relief for the Medicaid program. As you are well aware, the Medicaid program is a counter-cyclical program from the standpoint that when the economy becomes bad, its caseload goes up, and Congress realized that in the American Recovery and Reinvestment Act. There were three adjustments to the FMAP. First of all, there was an across-the-board FMAP increase for all states. That was approximately 6.2 percent. Then there was a tiered FMAP adjustment for the states with high unemployment, and that had a tremendous effect on the Medicaid budget from the standpoint that it really did boost Nevada Medicaid's total FMAP. The third provision of the FMAP dollars was associated with a Maintenance of Effort provision that the state was required to maintain, primarily around eligibility for its recipients. Eligibility could not be reduced in any way after July 1, 2008.

Specifically, when we look at the three components and the impacts that they have had on the Nevada Medicaid budget, you can see on the top of the sheet that the Division of Health Care Financing and Policy was not the only division that received the benefits of the FMAP increase by ARRA. If you look at the top, you will see that we have the totals associated with the ARRA adjustments for FY 2009, FY 2010, and FY 2011. There is a significant amount of money in FY 2009 with respect to the projected increase, and if you remember, ARRA had a recession adjustment period, in which this FMAP provision applied. That runs from October 1, 2008 through December 31, 2010, meaning part of this fiscal year, all of FY 2010, and part of FY 2011.

As you can see on the paper, we have had an opportunity to bring in additional federal matching funds. In FY 2009, you can see the amount associated with the Division of Mental Health and Developmental Services, the amount associated with the Division of Health Care Financing and Policy, and the projected increases on a go forward basis. The cumulative increase associated with this is \$218 million in net revenue over the three fiscal years.

What I am going to do is explain the adjustments that we had to make over the three-year period. If you look at the bottom, you can see that in FY 2009 the almost \$120 million in Federal Matching Assistance Relief went to a supplemental need in the division. In fact, we had a supplemental need in the

Division of Child and Family Services (DCFS), the Division of Welfare and Supportive Services, and the Health Division. You can see there that we are going to be offsetting the 2009 amount of stimulus money to take care of those supplementals without the use of the State General Fund, and that was the purpose of presenting it in this manner. In fact, those work programs are processed today.

You can see at the bottom of the page a number, which is called "Loss of UPL IGT Net Benefit," and that is due to the limit on local government share, and that is a \$2.9 million adjustment. That is a negative adjustment to the total of \$119 million. The reason we had to do that is because in one of the provisions of ARRA, and I mentioned that there is a Maintenance of Effort provision, mandates that when the state draws down these federal funds, the state has to attest to the fact that we are in full compliance with the ARRA. The two specific sections of the ARRA that affected our ability to draw down these federal matching funds right away were changes in eligibility. There were several procedural changes that occurred in the Division of Welfare and Supportive Services to eligibility processing that could have been viewed as a reduction in eligibility, and those occurred after July 1, 2008. We made those changes, and made the fixes in the welfare system, so that we were able to attest that we did not reduce eligibility after July 1, 2008, so we met that provision.

The second provision in ARRA that we were required to attest to was the fact that the ARRA requires that no local government entity, no political subdivision of the state, can pay more into the State Medicaid Program than they were previously paying prior to October 1, 2008. We have a contract with Clark County that pays the state's share of a supplemental hospital payment program that benefits county hospitals. The University Medical Center is the largest county hospital in the state that participates in this program. Clark County pays the state's share of that contract at a fixed percentage, 60 percent. When you look at the mathematics associated with this, essentially they would be paying a larger amount into the Upper Payment Limits (UPL) program than was allowed under the ARRA, and so the state is responsible for paying Clark County back or adjusting their Intergovernmental Transfer (IGT) payments for the UPL program by a total of about \$2.9 million in state FY 2009, and over the next biennium, \$6.4 million. This is the one provision in the ARRA that had a direct fiscal impact. It reduced our ability to get the full net benefit, and we could not draw the funds until we could attest that we have been paying back Clark County appropriately, which we are doing now.

As you can see, we took care of our supplemental needs in FY 2009. We did have to make some adjustments associated with the UPL program. There were

offsetting adjustments due to increases in the state net benefit from the Disproportionate Share Hospital (DSH) program and some other adjustments. The bottom line is that the Department had available to it, specifically related to the increase in the FMAP rate, approximately \$218 million. Now that number, depending on what you are looking at, could be as much as \$220 million, and that is primarily around the net figure, called the UPL IGT Net Benefit. If you look at work program authority, that number is actually smaller because there are some offsetting calculations in the work program that was processed today. The \$2,946,701 that you see there, that is what we will pay back Clark County, but again, there are some offsetting adjustments which increase the benefit of the ARRA to the Department.

Besides the FMAP, there were some additional provisions in ARRA that provided additional general funds to offset the State General Fund. Some of those are related to Medicare Part C services. There was also some funding provided to the Bureau of Early Intervention Services of approximately \$1.95 million. The other large increase that we saw was a Temporary Assistance for Needy Families (TANF) contingency fund that was provided for in the act, and that TANF contingency fund provided approximately \$18.1 million to the state. The net amount for the three fiscal years, 2009, 2010, and 2011, associated with ARRA, is about \$238 million. That \$238 million takes into account not just the FMAP increases, but some of the other provisions of ARRA that offset the State General Fund. Again, this is a one-time payment. These payments will disappear after December 31, 2010, but they certainly will provide an opportunity to make some decisions for the next fiscal biennium that will hopefully shore-up some of the deficits that we are projecting.

Vice Chair Pierce:

I think the committee members who are on the Committee on Ways and Means probably understood this better than the rest of us. Are there any questions for Mr. Duarte?

Assemblywoman Smith:

Is there any change, with the stimulus dollars, to Medicare Part D?

Charles Duarte:

I am sorry I have not looked at that section of ARRA. I am not sure.

Assemblywoman Smith:

I was just curious.

Charles Duarte:

I can certainly go back and look.

Assemblywoman Smith:

If you see something, I would be interested, but please do not go out of your way. Thank you.

Vice Chair Pierce:

I am sure we will have some questions for you later, so I am sure you will be hearing from us.

We have to take a moment to wait for Senator Wiener to arrive to present her bill to the Committee.

[Committee in recess at 2:20 p.m.]

Vice Chair Pierce:

Ok, we are going to come back to order [at 2:30 p.m.]. I am going to open the hearing on Senate Bill 307. This bill is sponsored by Senator Valerie Wiener, but the Senate is in floor session right now, so Michael Willden is going to present this bill for us.

Senate Bill 307: Requires the Office of the Director of the Department of Health and Human Services to study issues relating to Medicaid. (BDR S-241)

Michael J. Willden, Director, Department of Health and Human Services:

Senator Wiener asked that if she was unable to come, that I present the bill. Senate Bill 307 came from a group of us that started meeting before the session started, and into the first couple of weeks of the session, to talk about some of the Medicaid financing, the rate cuts, and those kinds of things that have been happening over the last year and carrying through the Executive Budget into FY 2010 and 2011. There was quite a bit of discussion among hospital association representatives and health care maintenance organizations with Senator Wiener about a number of issues. At the end, we felt that what needed to be done, rather than a band-aid fix from biennium to biennium, is to take a hard look at Medicaid financing in this state, and to look at the long-term sustainability of Medicaid's financing plan, which you can see in section 1, lines 4 and 5, of the bill on page 1. We also need to look at some of the rates that are being paid by Nevada Medicaid.

Just to give you a little background, since many of you are not on the Ways and Means Committee, there are a lot of moving parts within the Medicaid program, which Mr. Duarte was talking about a little bit. We have seen changes in the FMAP. We were as high as 55 percent a few years ago, and we were declining

down to 50 percent. The ARRA has put us into a 27-month recovery period where we will go up to about 64 percent in FMAP. We run a county match program, which is when the counties put up the non-federal share to pay for long-term care costs. We have two counties sending us intergovernmental transfers to run Disproportionate Share Hospital programs and Upper Payment Limit programs. We have a long-term care tax on our long-term care facilities. There has been discussion that it may be time to put a provider tax on hospitals to help pay for Medicaid, or other health care providers. As you know, for FY 2009, 2010, and 2011, we have gone into the Indigent Accident Fund and the Supplemental Relief Fund, and we have that money plugged into Medicaid. We have also gone in and taken tobacco dollars related to our health care shortfalls. There have also been huge discussions at the federal level on things that we call intergovernmental transfers or certified public expenditures. These kinds of discussions have led us to think that we need to have some kind of long-term strategy as to how we go forward in the Medicaid program.

Regarding the rates, we have reduced hospital rates a couple of times, once last September and another planned cut in July. Personal care attendants had been a huge issue this session regarding their rate cuts. We have delayed rate increases to physicians, and we have cut some physician specialties, such as pediatrics and obstetrics. Again, the bottom line was that there needs to be a comprehensive study.

There is not a fiscal appropriation attached with this bill. There was discussion that we would work collaboratively to come up with gifts, grants, and donations to do the study. I do not have a concrete plan today, other than to say that I know there is quite a bit of support in the Medicaid provider community and some consultants that may donate some time, and we would look at some of the national foundations to raise the money to conduct the study. We have talked to Medicaid agencies in other states who have done this work. Depending on the scope of this study, it will probably range from somewhere between \$300,000 and \$2 million, depending on how much work you want to do and how many of these funding mechanisms we want to look at. What the bill does is basically create the ability for the Department of Health and Human Services to receive gifts, grants, and donations; to hire a consultant; perform the study and provide periodic reports to the Legislative Committee on Health Care; report back to the Legislature, and hopefully come up with some long-term financing and rate solutions.

Vice Chair Pierce:

So a number of other states have done these kinds of studies?

Michael J. Willden:

Yes. We looked at the states of Washington, Alaska, California, Nebraska, and Wisconsin. They have recently done work in this area. Again, some are full scope types of studies; others are limited studies that only look at hospitals rates or only a specific mechanism.

Vice Chair Pierce:

What kinds of gifts, grants, and donations are out there and available? What kinds of grants are available? Is this all federal?

Michael J. Willden:

No, actually it would probably not be federal. It would most likely be private foundations and/or interested partners in the community that would help finance this. In the past, when we did the long-term care rate study, it was funded by the American Association for Long-Term Care, and I think in part by the Nevada Hospital Association, but I think they funded the consultant that came in and did the work in that area. It will not likely be federal grants. It would probably be private.

Vice Chair Pierce:

Have we ever done a study like this before?

Michael J. Willden:

Well, yes and no. It is not a comprehensive one like what we are proposing, but we have certainly engaged national consultants to look at pieces of our organization. We have engaged these national consultants several times, such as on our rate studies and managed care work, but not in the comprehensive sense that we are talking about today.

Vice Chair Pierce:

Is there anyone else to testify on S.B. 307?

Constance Brooks, Las Vegas, Nevada, representing Clark County, Nevada:

Clark County and the University Medical Center are in support of this bill. As we look toward trying to better support our fiscal health, we feel that this study would be very helpful to that endeavor.

Erin McMullen, Las Vegas, Nevada, representing Hospital Corporation of America, Inc., Nashville, Tennessee; Sunrise Hospital and Medical Center, Las Vegas, Nevada:

We also support S.B. 307 because our Medicaid program is both underfunded and does not cover a large portion of the eligible population. We believe that this study would take a comprehensive look at all the different ways that we

could improve our program, and the state can then increase our Medicaid funding. Thank you.

James Wadhams, Las Vegas, Nevada, representing Nevada Hospital Association, Reno, Nevada:

We want to be on the record in support of this bill. This is a very important issue, and we hope that this comprehensive study can open up a dialogue so that we can look at this very important issue more carefully over the interim. We strongly encourage support for this. Obviously, as was mentioned, we have participated in some of these studies in the past, and we would hope that we could seek some outside grants to make this as comprehensive as possible. We do support this bill. Thank you.

Dan Musgrove, Las Vegas, representing Nevada Orthopaedic Society, Reno, Nevada; The Valley Health System, Las Vegas, Nevada; Amerigroup Corporation, Las Vegas, Nevada:

I am here representing three organizations, and all three are in support of this bill. As you have said in this Committee, you have heard some compelling testimony by some of the pediatric doctors who have been challenged with Medicaid rates and are trying to accept those pediatric children in those sub-specialties.

My third client for the day is Amerigroup. Amerigroup is a national company that strictly deals with Medicaid managed care for states; they do not offer commercial insurance. They entered the Nevada market in February to take over part of the state's Medicaid managed care. As you are well aware, it has been quite a challenge for them to make sure that they have enough doctors, hospitals, and providers to care for that special population of folks that the state takes care of. They are committed to Nevada, and they have a great network because they have physicians willing to take those rates right now, but it is a challenge. Thank you.

Vice Chair Pierce:

Is there anyone else who would like to testify in support of this bill? Seeing none, is there anyone who would like to speak in opposition? Seeing none, is there anyone who would like to offer neutral testimony? [There was no response.] Alright, I do not see anyone.

I am not going to take any motions on this bill today, because I have not spoken to the Chair about that, so I am going to close the hearing on S.B. 307.

I will take any public comment at this time. [There was no response.] Are there any comments from members? [There was no response]. I do not see anyone, so this meeting is adjourned [at 2:44 p.m.].

RESPECTFULLY SUBMITTED:

Chris Kanowitz
Committee Secretary

APPROVED BY:

Assemblywoman Peggy Pierce, Vice Chair

DATE: _____

EXHIBITS

Committee Name: Committee on Health and Human Services

Date: April 20, 2009

Time of Meeting: 1:30 p.m.

Bill	Exhibit	Witness / Agency	Description
	A		Agenda
	B		Attendance roster
	C	Charles Duarte	Estimated FMAP Increase in Final Stimulus Bill.