



**Second Meeting  
2003 Interim  
August 11, 2003**

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

The second meeting of the interim Department of Social Services Agency Review Committee was called to order by Chair Larry Diedrich at 8:10 a.m., August 11, 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 Stanford Adelstein, Rebekah Craddock, Jean Hunhoff, Claire Konold, Kathy Miles, Gordon Pederson, Tim Rave, David Sigdestad, Bill Thompson, and Thomas Van Norman. Representatives Larry Frost, Ted Klaudt, and Don Van Etten were 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 whether a third meeting was necessary considering the materials and items of interest which will be addressed at this meeting.

### **Approval of Minutes**

After Ms. Jacquelyn Storm, Principal Legislative Attorney for the Legislative Research Council, noted two changes to the minutes of the July 28, 2003, meeting, **SENATOR GREENFIELD MOVED, SECONDED BY REPRESENTATIVE RAVE, THAT THE MINUTES OF THE JULY 28, 2003, MEETING BE APPROVED. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.**

### **Department of Social Services Presentation**

Mr. James Ellenbecker, Secretary of the Department of Social Services (DSS), and department personnel distributed copies of the following documents:

- Title XIX and XXI Medical Assistance Mandatory and Optional Eligibility (Document #1);
- July 2003 Medical Services Eligibles Mandatory and Optional (Document #2);
- History of Medical Assistance Eligibility for Families and Children (Document #3);
- Temporary Assistance for Needy Families Program (TANF) (Document #4);
- Caseload History (Document #5); and
- South Dakota Medical Assistance Program—Primary Care Case Management (Document #6).

Ms. Sharon Sonnenschein, DSS, discussed which programs are mandatory and which are optional under Title XIX and XXI Medical Assistance. Out of a total of 93,665 individuals who are eligible for medical services, 73,470 are mandatory coverage individuals, and 20,195 are eligible for optional coverage. Most of the program expansion has taken place with low-income children.

Responding to a question posed by Senator Jerry Apa, Ms. Sonnenschein said that she would find out the circumstances under which a person addicted to alcohol or other drugs might be considered disabled for medical assistance purposes.

Mr. Mike Vogel, DSS, discussed the Temporary Assistance for Needy Families Program (TANF). He reviewed the current TANF caseload, South Dakota law, and law changes regarding TANF. Mr. Vogel expressed concern about TANF reauthorization and said South Dakota would experience difficulty complying with some of the components of the welfare reform bill passed by the United States House of Representatives several months ago. Among those difficulties would be complying with the individual participation level and the methodology of calculating a caseload reduction credit. The legislation is due for Senate deliberation in September. Mr. Vogel said that the state could face sizable federal sanctions if the House version passes the Senate.

Mr. Ellenbecker said that if the Senate passes the House version, staff may have to be doubled in DSS and the Department of Labor in order to handle the changes.

Senator Clarence Kooistra asked why the department does not use a cost of living adjustment (COLA) rather than going back to the Appropriations Committee each year.

Mr. Ellenbecker responded that it is a matter of public policy not to have something tied to built-in inflators.

Chair Diedrich asked what percentage of the TANF caseload comes from the reservations. Mr. Vogel responded that it was approximately 62 percent.

Representative Stan Adelstein asked if DSS was seeing an increase in the number of reservation clients. Mr. Vogel responded that it was actually leveling off.

Representative Jean Hunhoff asked what is given to TANF recipients to make them aware of the educational component and how many clients from the reservations are in education programs.

Mr. Vogel stated that individuals applying for assistance are assessed at the time of application. Depending on the results of the assessment, they are moved into tracks that are geared to meet their needs. The majority of these individuals do not have a high school diploma. Because of that, DSS tries to get as many as possible into the GED program. Without completion of their GED, they cannot even begin to think about obtaining advanced training or education.

Mr. Damien Prunty, DSS, discussed the Medicaid Managed Care Program. Responding to a question from Representative Hunhoff, Mr. Prunty said that a full caseload for a primary care provider under this program is no more than 750 Medicaid recipients.

Representative Kathy Miles asked how clients know the definition of an emergency health situation. Mr. Prunty responded that definitions have been put into a client handbook.

### **Review of Proposed Legislation**

Ms. Storm reviewed draft legislation—An Act to update and revise certain provisions pertaining to the Department of Social Services (Document #7). She said that the draft deletes awkward, archaic, and unclear language, provides gender-neutral terms, and repeals statutes that are no longer used or are inconsistent with current practice.

To address committee concerns regarding liens, Ms. Sonnenschein said that she would provide information to the committee on that issue.

Senator Kooistra distributed copies of his draft legislative proposal to require the Department of Social Services to conduct a study of families leaving welfare to learn about the work experiences of parents and the well-being of children and families (Document #8).

The committee recessed at 11:17 a.m. for a tour of the Department of Social Services administrative offices and lunch, and reconvened at 1:05 p.m.

### **Public Testimony**

Ms. Sharon Red Deer, Eagle Butte, Cheyenne River Sioux Tribe, said that she was asked by Mr. Harold Frazier, Cheyenne River Sioux Tribal Chair, and the Cheyenne River Sioux Tribe's Commission of Health and Human Services to speak to the committee about child protection services. Ms. Red Deer said that the state's Office of Child Protection Services is extremely adversarial and adheres to the concept of "thinnest of pretexts" when removing children from

reservation homes. She said that other states are cooperative with their tribes on the subject of removing a Native American child from its home. She said that the state Office of Child Protection Services has availed itself of tribal facilities and personnel without compensation. Ms. Red Deer said that the office seems to pick and choose laws—sometimes federal law, sometimes state law—when it comes to determining the status of a child on a reservation. Ms. Red Deer said that there is a lack of responsiveness on the part of the Office of Child Protection Services and cited an instance when she was denied access to a case and its files. She also said that notice to tribes is lacking from the Office of Child Protection Services and others when a child is taken into custody. She urged the committee to consider changing the time period for appeals from 30 to 60 days, adopting a state Indian Child Welfare Act, and raising the standard of proof for removing children from their home.

Representative Thomas Van Norman discussed a U.S. Supreme Court case and stated that he believes that the Sisseton-Wahpeton Sioux Tribe in South Dakota has a current child protection compact with the state.

Representative Van Norman said that 8.3 percent of the children in South Dakota are Native American but that 62 percent of the children held in state custody are Native American. He said that something needs to be done and that it is a very serious matter for the tribes.

Mr. Terry Dosch, South Dakota Council of Mental Health Centers, Inc., began his remarks with a brief background of the council. He said that the Children's Mental Health Task Force is working to improve conditions in children's lives in South Dakota. Mr. Dosch said that a better job needs to be done in identifying children and families in crisis. He also said that a uniform referral procedure is under development. Mr. Dosch stated that school-based services may be a useful way to provide services to families.

Ms. Carlette Randall, Pine Ridge, representing Casey Family Program, said that the Casey Family Program is working with DSS to develop a child protection services program. She said that often Native American children are placed in foster care a long distance from their families, which makes it difficult for familial contact, and that there is a lack of Native American foster homes. Ms. Randall said that there is a developing relationship between the department, the tribes, and the Casey Family Program.

Responding to Senator Ed Olson, Ms. Randall said that the Casey Family Program was started in the early 1960s by Jim Casey, the founder of United Parcel Service, to provide long-term foster care.

Representative Van Norman asked what the Legislature can do to help the situation. Ms. Randall said that the Legislature could work on having the DSS and the tribes work cooperatively on family support services.

Lieutenant Governor Dennis Daugaard testified as the Executive Director of Children's Home Society, which is 110 years old this year. He said that approximately 10 percent of the children removed from their homes are placed with the Children's Home Society. Lt. Governor

Daugaard said that children placed with the Children's Home Society are the most severely disturbed children and the placement is usually after parental rights have been terminated. He said that the facility in Sioux Falls has 62 beds, and the West River facility has 52 beds.

Ms. LeeAnn Rave, Dell Rapids, Children's Home Society, spoke about positive experiences that she has had with the Department of Social Services and social workers across the state.

Mr. Tom Collins, Rapid City, Children's Home Society, also said that he has had positive experiences working the Department of Social Services. He said that he is impressed with the department's professionalism and its efforts to improve conditions for children in the state.

Mr. Mike Schreiber, Chamberlain, Youth Services International, said that the Chamberlain and Springfield Academies provide services to DSS children and he is supportive of DSS.

Ms. Susan Randall, South Dakota Coalition for Children, said that she believes that DSS is trying to provide good services to the children of South Dakota. She said her contact with the department has mainly been through the offices of Child Protection and Child Care and she has found the DSS to be cooperative and collaborative.

Ms. Wilma Staples, Ft. Pierre, Ms. Kim Jensen, Blunt, and Ms. Kelly Coolidge, Pierre, testified that the Department of Social Services has provided them with excellent opportunities for training and education in the field of providing quality home child care. They each stated that they were very appreciative of those opportunities.

Ms. Gail Bultman, Brookings, Family Resource Network, said that the network works with those who work with young children across the state. The network focuses on programs that serve children and families. She credited the Department of Social Services with making an effort to develop training for day care providers.

Ms. Carol Robertson, Pierre, distributed copies of "The Self-Sufficiency Standard for South Dakota" (Document #9), prepared for South Dakota Community Concepts and South Dakota Women Work. She said that she became involved in the project because of her concern with working families that still cannot make ends meet and the difficulties experienced by low income families in providing for their families in South Dakota. Ms. Robertson was supportive of Senator Kooistra's legislative proposal. Ms. Robertson seeks a better working relationship with the department.

Mr. Donald Nelson Rombaugh, South Dakota Association of Health Care Organizations (SDAHO), Council on Home Care, said that the association appreciates its relationship with the Department of Social Services. He said that the department is looking closely at the occupation rate in nursing homes, the population currently being served, and what the future needs may be. Mr. Nelson said that ways to allow clients to remain in their own homes, rather than in institutions, need to be further explored, and a strong commitment should be made to that end.

Ms. Cheryl Bartling, Gregory, SDAHO, Home Care Director, spoke in support of the Department of Social Services and echoed comments made by Mr. Rombaugh.

Mr. Ellenbecker commented on some of the concerns expressed by those representing South Dakota reservations and also said that the department is going to get a better handle on what the state can expect in regard to future elderly care.

Ms. Virgena Wieseler, Office of Child Protection Services, said that the state has a child protection contract with the Sisseton-Wahpeton Sioux Tribe which has been very successful. She said that contracts between the state and the Yankton Sioux Tribe and the Cheyenne River Sioux Tribe have not been renegotiated for various reasons. Ms. Wieseler said that the Office of Child Protection Services has licensing agreements with Flandreau, Standing Rock, and Crow Creek Tribes, which have been very successful. She said that there is a state-tribal work group which meets quarterly to work on licensing foster and adoptive homes on the reservations. Ms. Wieseler said that it is the responsibility of each county's state's attorney to notify tribes when a child has been placed out of the home. She said that South Dakota has a five hundred thousand dollar grant to look at systems of care for children in South Dakota. Ms. Wieseler said that children are removed from their homes because they are in danger and that sometimes staff must make an immediate assessment and err on the side of the child.

Representative Van Norman said that reservations are working to give children a better life. He said that the impact on the children removed from their families can result in dire consequences. Representative Van Norman suggested that the state and the tribes work together to help individuals on reservations become qualified to provide foster care and adoptive homes for Native American children.

### **Discussion of Draft Legislation, Action, and Directives**

**REPRESENTATIVE CRADDUCK MOVED, SECONDED BY SENATOR GREENFIELD, THAT THE COMMITTEE RECOMMEND DRAFT LEGISLATION—AN ACT TO UPDATE AND REVISE CERTAIN PROVISIONS PERTAINING TO THE DEPARTMENT OF SOCIAL SERVICES—FOR INTRODUCTION AS A COMMITTEE BILL IN THE 2004 LEGISLATIVE SESSION. Motion prevailed on a roll call vote with 14 voting AYE, 1 voting NAY, and 3 EXCUSED. Those voting AYE: Apa, Greenfield, Kooistra, Olson, Adelstein, Cradduck, Hunhoff, Konold, Miles, Pederson, Rave, Sigdestad, Thompson, and Diedrich. Those voting NAY: Van Norman. Those EXCUSED: Frost, Klaudt, and Van Etten.**

**SENATOR KOOISTRA MOVED, SECONDED BY REPRESENTATIVE THOMPSON, THAT THE COMMITTEE RECOMMEND HIS DRAFT PROPOSAL TO PROVIDE THAT THE DEPARTMENT OF SOCIAL SERVICES CONDUCT A STUDY OF FAMILIES LEAVING WELFARE TO LEARN ABOUT THE WORK EXPERIENCES OF PARENTS AND THE WELL-BEING OF CHILDREN AND FAMILIES.**

Mr. Ellenbecker said that he does not support such a study. He said that the department has much of the information that is outlined in the draft and that the department can provide the Legislature with any information requested.

Senator Kooistra said that tracking of TANF is important because there needs to be accountability for this program.

Representative Adelstein said that he applauds the intent of the draft proposal, but he cannot support the proposal because he does not want to codify the gathering of information.

Representative Cradduck suggested that the information from the department regarding Senator Kooistra's proposal be included in the committee's final report.

Mr. Ellenbecker said that he would be able to provide information regarding number of families who left welfare due to sanctions; number of families who left welfare due to time limits; number of families who left welfare due to employment; and type of employment and income measures.

**SENATOR KOOISTRA'S MOTION FAILED ON A ROLL CALL VOTE WITH 4 VOTING AYE, 10 VOTING NAY, AND 4 EXCUSED. Those voting AYE: Kooistra, Sigdestad, Thompson, and Van Norman. Those voting NAY: Apa, Greenfield, Adelstein, Cradduck, Hunhoff, Konold, Miles, Pederson, Rave, and Diedrich. Those EXCUSED: Olson, Frost, Klaudt, and Van Etten.**

Representative Hunhoff asked for more detailed information when analyzing trends.

Representative Miles asked for a list of all federal programs and what the state match would be and how many participants are in each program. Mr. Ellenbecker said that he would provide the information.

Representative Cradduck asked for more information concerning mandatory and optional programs, specifically, the federal and state dollars involved for each. Mr. Ellenbecker said that he would provide the information.

Representative Hunhoff asked the department for trending data concerning utilization to see how the state is managing the programs.

Representative Cradduck expressed support for Representative Hunhoff's request and said that the Legislature must be proactive on these concerns.

Senator Kooistra said that the department should look at ways that it could improve its responsibility to the public, such as expanding service hours.

Chair Diedrich asked for a snapshot of the department's current programs for future reference.

Chair Diedrich asked staff to provide a copy of the draft final committee report to each committee member.

With the consensus of the committee, Chair Diedrich asked each member to contact him within a week regarding the need for another meeting or whether a conference call will suffice.

### **Adjournment**

**REPRESENTATIVE PEDERSON MOVED, SECONDED BY SENATOR GREENFIELD, THAT THE COMMITTEE ADJOURN. MOTION PREVAILED UNANIMOUSLY ON A VOICE VOTE.**

The committee adjourned at 4:55 p.m.



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