ALASKA STATE LEGISLATURE
LEGISLATIVE BUDGET AND AUDIT COMMITTEE
Fairbanks, Alaska
May 14, 2015
10:04 a.m.

MEMBERS PRESENT

Representative Mike Hawker, Chair
Representative Lance Pruitt
Representative Steve Thompson
Representative Sam Kito

Senator Cathy Giessel

MEMBERS ABSENT

Senator Anna MacKinnon, Vice Chair
Senator Lyman Hoffman
Senator Bert Stedman
Senator Click Bishop
Senator Pete Kelly (alternate)

Representative Kurt Olson
Representative Mark Neuman (alternate)

OTHER LEGISLATORS PRESENT

Representative Tammie Wilson

COMMITTEE CALENDAR

PUBLIC TESTIMONY: DEPARTMENT OF HEALTH AND SOCIAL SERVICES PERFORMANCE REVIEW

PREVIOUS COMMITTEE ACTION

No previous action to record

WITNESS REGISTER

JIM WALDINGER
Public Consulting Group
Boston, Massachusetts
POSITION STATEMENT: Shared background information explaining their involvement with the Department of Health and Social Services performance review.

SHARI HOLLAND
Public Works
Austin, Texas
POSITION STATEMENT: Shared background information explaining their involvement with the Department of Health and Social Services performance review.

JEANETTE GRASTO, President
NAMI (National Alliance on Mental Illness) of Fairbanks
Fairbanks, Alaska
POSITION STATEMENT: Testified during the performance review of Department of Health and Social Services (DHSS).

REPRESENTATIVE TAMMIE WILSON
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Spoke during the performance review of DHSS.

SANTA CLAUS
North Pole, Alaska
POSITION STATEMENT: Testified during the performance review of DHSS.

RICK SIKMA, Pastor
Fairbanks, Alaska
POSITION STATEMENT: Testified during the performance review of DHSS.

ALLISON LEE, Executive Director
ResCare Alaska
Fairbanks, Alaska
POSITION STATEMENT: Testified during the performance review of DHSS.

ROGER HUGHES
Fairbanks, Alaska
POSITION STATEMENT: Testified during the performance review of DHSS.

MARIA RENSEL
Fairbanks, Alaska
POSITION STATEMENT: Testified during the performance review of DHSS.

GERALD BROWN, Pharmacist

Fairbanks, Alaska
POSITION STATEMENT: Testified during the performance review of DHSS.

KAREN VAN REINAN
Fairbanks, Alaska
POSITION STATEMENT: Testified during the performance review of DHSS.

REBECCA DAVIES
Savannah, Georgia
POSITION STATEMENT: Testified during the performance review of DHSS.

JOLENE SUTTON
Anchorage, Alaska
POSITION STATEMENT: Testified during the performance review of DHSS.

DEBORAH BROLLINI
Anchorage, Alaska
POSITION STATEMENT: Testified during the performance review of DHSS.

CRIS TYREE
Wasilla, Alaska
POSITION STATEMENT: Testified during the performance review of DHSS.

PAUL NELSON
Haines, Alaska
POSITION STATEMENT: Testified during the performance review of DHSS.

KIMBERLY BOOKEY
Fairbanks, Alaska
POSITION STATEMENT: Testified during the performance review of DHSS.

ACTION NARRATIVE

10:04:27 AM

CHAIR MIKE HAWKER called the Legislative Budget and Audit Committee meeting to order at 10:04 a.m. Representatives Hawker, Thompson, and Kito and Senator Giessel were present at

the call to order. Representative Pruitt arrived as the meeting was in progress. Also in attendance was Representative Wilson.

Public Testimony: Department of Health and Social Services performance review

10:04:46 AM

CHAIR HAWKER announced that the only order of business would be public testimony on the performance review of the Department of Health and Social Services. He offered some background of the performance review process, detailing that this performance review was of the Behavioral Health Services, the Long Term Care Services, and the overall organizational administrative infrastructure of the department. He clarified that this meeting did not require a quorum to conduct business, as this was only a "listening post activity." He shared that the Alaska State Legislature had passed House Bill 30 which required that the Legislative Audit Division would conduct a review of the performance of each of the State of Alaska's major operating agencies on a ten year cycle. He emphasized that this was not an audit, a budget hearing, or a budget review but was focused on the performance of the agency in meeting its missions and goals in its service to the public. He reported that the current performance review was for the Department of Health and Social Services, and that the final report would be available at a later date. He explained that, as a part of the review process, the Legislative Audit Division would engage the service of professional outside contractors with specific experience and skills relative to the agency being evaluated. He introduced the two consulting contractors, the Public Consulting Group, who were reviewing the Divisions of Behavioral Health and Long Term Care, and Public Works, who were reviewing the organizational and administrative structure of the department.

CHAIR HAWKER explained that this was an opportunity specifically for the public to speak to the contractors to allow better understanding for the public's perspective of the relationship between the public and the department and its operational performance. He shared that these comments would be taken into serious consideration. He reiterated that the comments would be directed toward review of the behavioral health and long term care services, and with especial emphasis toward the overall organizational structure of the department and its ability to enable or inhibit an efficient and effective operation. He noted that written testimony would also be forwarded to the contractors.

10:10:12 AM

JIM WALDINGER, Public Consulting Group, introduced his company, reporting that they had been founded in 1986 and worked almost exclusively in the public sector with health and human service agencies nationwide, focusing on policy, reimbursement, and general system assessments. He acknowledged that Public Consulting Group had been contracted by the Division of Legislative Audit for a performance review on the behavioral health and long term care systems, and, for the past two months, they had two teams collecting data, meeting with Department of Health and Social Services staff, and engaging with providers around Alaska to better understand these systems. He shared that all the state staff and providers had been extremely accommodating and open in discussions with his staff. He reported that his group was currently in the process of synthesizing this information and data.

10:12:12 AM

SHARI HOLLAND, Public Works, explained that Public Works was a consulting group which worked with state and local governments and that they had done several performance reviews of this magnitude over the last few years. She reported that Public Works was reviewing the organizational and administrative structure of the Department of Health and Social Services for the performance review. She noted that they were finishing up the field work, which had included extensive interviews and focus groups with state employees statewide. She reported that her group was also conducting research nationwide on best practices. She lauded the interactions Public Works had had with department staff.

10:13:40 AM

CHAIR HAWKER opened public testimony.

10:14:13 AM

JEANETTE GRASTO, President, NAMI (National Alliance on Mental Illness) of Fairbanks, explained that the NAMI mission was to support education and advocacy for people with serious mental illness and their families. She declared that the mental health system in Fairbanks had broken about one and a half years prior, and, for about three weeks, there had not been any public mental health service until the Anchorage Community Mental Health

Services, Inc. (ACMHS) came to their aid. ACMHS was helping to re-build the program, although fiscal constraints were slowing it. She stated that ACMHS did not have the capacity to meet the current needs, even as the more serious mentally ill in Fairbanks were being moved to Anchorage. She asked if the review team had spoken with consumers, as they were an essential component for information to the success of the [behavioral health] division. She relayed that people with serious mental illness needed a continuum of care for recovery, and this did not exist in Fairbanks. She relayed that the people currently being accepted into the Fairbanks community mental health services were those coming out of institutional care, such as hospitals or jail. She pointed out that private individuals were "way down on the list for being admitted into services, which isn't right." She described that continuum of care included a doctor available all of the time, and she offered an anecdote for a medication issue. She spoke about case management, access to counseling and therapy, and vocational support, noting that recovery for many individuals was marked by a return to work. She pointed out that people needed day treatment with a place to go and rebuild their skills, and housing. She declared that there was not any supported housing or assisted living for people with mental illness in Fairbanks, reporting that it was really hard to manage a mental illness without housing. She relayed that, although the State of Alaska had requested that Fairbanks do an assessment of housing needs before there was funding and building, there was an immediate need for medical stability for many people. She stated that family and peer support was essential, especially for information of where to get help. Although NAMI could provide this support, they had no funding other than through donations and fund raisers. She acknowledged that [Division of] Behavioral Health wanted to serve the seriously mentally ill, but she questioned where support for the medium mentally ill would be delivered. She stated that it had been proven that these people were fine with treatment, but without treatment they would "end up in the hospital." She declared that another serious issue in Fairbanks was for limited availability to Medicaid paid counseling or therapy, as current capacity was filled, and expanded access would keep people out of the hospital. She emphasized that without services at the local community level of care, there would be services needed institutionally, which was so much more expensive.

10:22:04 AM

REPRESENTATIVE TAMMIE WILSON, Alaska State Legislature, asked if the review for behavioral health included the grantees, as well as the clients.

10:23:03 AM

SANTA CLAUS referenced his background as a former special assistant to the deputy police commissioner of New York City, as well as a former emergency response chaplain and child and victim advocate. He expressed his concern with the way the Office of Children's Services (OCS) was working, and his displeasure with the current director. He offered his belief that none of the recommendations for change to OCS from the Office of the Ombudsman had been adopted. He referenced an example of an alleged incident as an example of the need for a change. He offered his belief that OCS should be put on notice, suggesting that the listed job description, experience, and qualifications should be examined. He suggested that a grievance process be implemented.

10:32:34 AM

RICK SIKMA, Pastor, shared his background in family and marriage counseling, noting that he had been a pastor for 40 years. He shared an anecdote regarding a prior meeting with OCS which resulted in his questioning the "rules of the state." He recognized that there were occasions for removal of children from homes, but he suggested that there were organizations other than OCS that could have dealt with these situations. He reflected on earlier meetings he and other pastors had attended with OCS, and he recollected his understanding for some of the agreements.

MR. SIKMA, in response to Representative Wilson, offered his belief that the aforementioned meetings had occurred about five years prior.

10:37:56 AM

ALLISON LEE, Executive Director, ResCare Alaska, explained that this was a statewide agency serving more than 800 Alaskans for home and community based services. She said that she was testifying as a citizen, as she was currently on medical leave from her position. She reported that she began her career as a nurse assessor in home and community based services in rural Alaska more than 10 years prior. She shared that she had worked in "some capacity with the Department of Health and Social

Services, particularly senior and disability services." She noted that the current leadership at DHSS had genuinely sought public comment, participation from stakeholders, and provider input, especially as they were now faced with some complicated issues from both state and federal mandates. She reported that the provider community had concerns with the Division of Senior and Disabilities Services staff interpretations of waiver regulations which denied eligibility to older Alaskans. She suggested that there had been issues with the fair hearing process, and, although she stated that it had vastly improved, she encouraged the [performance review] contractors to look into this process to ensure the effective use of resources. She offered three suggestions for consideration, which included an opportunity for comprehensive person centered care management and care coordination, though not limited to home and community based services, but across the spectrum of care. She relayed that an individual receiving waiver services could have multiple case managers, and that this was an opportunity for a holistic approach to case management and care coordination, especially with the federal mandate for conflict free case management. She suggested to look at the provider certification and quality assurance unit within the division, as it had gone through a lot of change and shifted a lot of resources to meet its needs. She encouraged more mutual understanding between the providers and the division on the requirements and realities in delivery of services, although she questioned the best use of resources. She reported that biannual on-site reviews were now required, and, as she had eight locations across Alaska, this would be better and more effectively served with a review in Anchorage as all of her programs were the same throughout the state. She listed the multiple audits she conducted and pointed out that this did lead to "a certain degree of audit fatigue." She offered her belief that an on-site review shortly after certification would be excellent for establishing a partnership and on-going relationship, offering an example of the educational audits in Montana. She expressed her hope and concern that the Division of Senior and Disabilities Services had the internal and external resources and support necessary to do the heavy lifting to realize the very real dream of achieving substantial reform in home and community based services, with conflict free case management, the 1915(i) and 1915(k) options. She explained that these options provided real opportunities for savings in the Medicaid home and community based services programs, and offered the ability to increase access to services to the underserved populations which were currently being served in more costly care environments. In response to Chair Hawker, she explained that the 1915(k) option was the community first

choice option, introduced a few years prior, and that a lot of the current Medicaid services could be moved to this option, as it had some enhanced case management and a 6 percent enhanced FMAP (Federal Medical Assistance Percentages). She acknowledged that this was a specialized area within the waiver services, and that the 1915(i) option would allow individuals with severe mental illness, Alzheimer's and related dementia, and other currently underserved populations to be served outside more costly environments. She encouraged that the review process speak with the provider agencies.

CHAIR HAWKER lauded the success by providers for developing the home and community based service alternatives to traditional institutional services, noting that Alaska was the national leader in development of this approach.

MS. LEE pointed out that most people would prefer to be at home at the end of their lives.

10:48:37 AM

ROGER HUGHES offered further testimony to an earlier anecdote by Mr. Sikma.

CHAIR HAWKER suggested that Mr. Hughes speak with the Office of the Ombudsman, which could often provide a venue for pursuit of concerns with state agencies.

10:54:52 AM

MARIA RENSEL reported that she had recently been asked to attend a TDM (team decision meeting) by the mother of two children involved in a case with OCS. She related her experience with OCS, noting that it was "a bad experience." She offered her belief that this was the "tip of the iceberg" and was indicative of OCS's daily operation. She described her role at the TDM as a "watchdog," a representative of the family to ensure that things were conducted correctly, and shared that she had only listened during the meeting. She offered her comments regarding the meeting.

11:01:58 AM

CHAIR HAWKER noted that Patrice Lee would be submitting public testimony.

11:02:40 AM

GERALD BROWN, Pharmacist, asked for support to Medicaid Expansion.

CHAIR HAWKER clarified that this was not a Medicaid hearing, and was a performance review of the Department of Health and Social Services.

MR. BROWN spoke about the reimbursement schedules for prescriptions, noting that they were sub-adequate, based on rates and costs determined by CMS (Centers for Medicare and Medicaid Services) that were below the cost of acquisition, as these rates did not include shipping to Alaska. He stated that the dispensing fees had also been reduced and that the maximum allowable cost, arbitrarily set by CMS, was not adequate. He reported that there had been increases in prices, but a decrease in the reimbursement. He stated that often the margins were dropping by more than 50 percent, sometimes to between 5 and 10 percent below the acquisition costs. He pointed out the difficulty for local pharmacies to maintain their businesses. He mentioned his concern for the University of Alaska system mandate for mail order pharmacy, a requirement for prescription service outside of the State of Alaska. He spoke about the rebates to Medicaid and other insurance companies, suggesting that a drug business was placed into the second or third tier if they did not offer a rebate. He opined that the rebates were paid by increasing the prices to the local pharmacies, and that it was the insurance companies processing the claims which made the money. He said that the Medicaid system was still making money on rebates, and that the net cost was not fully transparent. He remarked that this had to be dealt with on the national level, as well.

CHAIR HAWKER asked if the pharmacy provider could choose not to fill prescriptions in which they did not have any profit margin, but still remain a registered provider on other products.

MR. BROWN replied that, as they were under contract for both commercial and Medicaid, when they were presented a prescription, they were obligated to fill that prescription, as a provider. He pointed out that 95 percent of their revenue was determined by someone else, noting that the prices were determined by the third party insurance, even though they had no idea of the cost. He said that the dispensing fees, transmission fees, labels, and vials were not covered under this. He said that the costs were now an unrealistic amount, and that the pharmacies were asking to either have the

dispensing fees increased, or have a more realistic rate with a bigger buffer percentage included for Alaska. He said that ultimately, the pharmacies were subsidizing these programs. He reported that Medicaid was considering mail order for its recipients, and he strongly suggested not to do this, as this was not good health care. He offered an anecdote defining some of these problems.

CHAIR HAWKER referenced providers who had elected not to take on Medicaid because of the inadequate reimbursement rates, and asked if pharmacists would go this same route.

MR. BROWN replied that small pharmacies were very close to this, especially with the inverse reimbursement rates and a recent change to dispense policies for small pharmacies.

11:18:44 AM

KAREN VAN REINAN referenced an article about the increase in children taken into custody by the state, and spoke about the Indian Child Welfare Act (ICWA), abuses by OCS, and attacks against families.

11:35:49 AM

REPRESENTATIVE WILSON expressed her hope that the funding sources for OCS would be reviewed, as well as the processes for ICWA and OCS.

11:39:09 AM

REBECCA DAVIES offered a story of a current interaction with OCS at the apartment of her niece, Jolene Sutton.

JOLENE SUTTON interjected and explained the background for the interaction.

CHAIR HAWKER acknowledged the concerns and stated that it was inappropriate for the legislature to be interfering with the actions of the case worker.

11:49:28 AM

DEBORAH BROLLINI shared her personal experiences about working with the commissioner's office at DHSS, reflecting that the office mandate had been to treat every Alaskan entering the office as if they were the governor. She offered her thoughts

about OCS, and the trauma and long term impact for breaking up a family. She shared that she had worked in research for the Alaska Native Tribal Health Consortium (ANTHC). She opined that, although prevention was the means to reduce health care costs, the model could not be broadly applied as each community was different. She asked that communities participate in the policy making. She offered an anecdote about the release of health data. She opined that complaints about OCS should receive due process.

11:54:11 AM

CRIS TYREE offered her personal anecdote about interactions with OCS.

12:04:09 PM

PAUL NELSON offered his personal opinions about interactions with OCS.

12:06:21 PM

CHAIR HAWKER closed the online public testimony.

12:06:42 PM

KIMBERLY BOOKEY offered her opinion about interactions with OCS.

12:11:22 PM

REPRESENTATIVE WILSON offered her belief that the Department of Labor & Workforce Development had reviewed OCS and suggested that the job descriptions be clarified. She declared her desire that social work activity be clearly defined. She questioned the amount of money being spent in the court room process for OCS hearings. She expressed her desire that the OCS procedures be reviewed.

12:19:12 PM

CHAIR HAWKER closed public testimony on the performance review of Department of Health and Social Services.

12:19:36 PM

ADJOURNMENT

There being no further business before the committee, the Legislative Budget and Audit Committee meeting was adjourned at 12:19 p.m.