



SEN. ROGER J. KATZ, CHAIR
REP. DAVID C. BURNS, CHAIR

MEMBERS:

SEN. MARGARET M. CRAVEN
SEN. BILL DIAMOND
SEN. EARLE L. MCCORMICK
SEN. NANCY B. SULLIVAN
SEN. GARRETT P. MASON
REP. DONALD E. PILON
REP. ANDREA M. BOLAND
REP. JOYCE A. FITZPATRICK
REP. LESLIE T. FOSSEL
REP. CHUCK KRUGER

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY

November 15, 2012

Accepted January 18, 2013

CALL TO ORDER

The Chair, Sen. Katz, called the Government Oversight Committee to order at 10:00 a.m. in the Burton Cross Building.

ATTENDANCE

Senators: Sen. Katz, Sen. Craven, and Sen. McCormick
Joining the meeting in progress: Sen. Sullivan and Sen. Diamond
Absent: Sen. Mason

Representatives: Rep. Burns, Rep. Boland, Rep. Fitzpatrick, Rep. Fossil,
and Rep. Kruger
Absent: Rep. Pilon

Legislative Officers and Staff: Beth Ashcroft, Director of OPEGA
Wendy Cherubini, Senior Analyst, OPEGA
Kristen McAuley, Senior Analyst, OPEGA
Maura Pillsbury, Analyst, OPEGA
Etta Connors, Adm. Secretary, OPEGA

Executive Branch Officers and Staff Providing
Information to the Committee: Mary Mayhew, Commissioner, Department of Health and
Human Services
Pola Buckley, Principal Auditor, Department of Audit
Cindy Brown, Director Child Development Services,
Department of Education

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

The members of the Government Oversight Committee introduced themselves for the benefit of the listening audience.

SUMMARY OF THE SEPTEMBER 20, 2012 GOC MEETING

The Meeting Summary of September 20, 2012 was accepted as written.

Chair Katz noted that the Presentation of the Final Report on Communications Regarding MaineCare Computer System Weaknesses and the report back from Commissioner Mayhew on OPEGA's MaineCare Durable Medical Equipment and Medical Supplies and DHHS Contracting for Cost-Shared Non-MaineCare Human Services would be heard at 1:00 p.m.

Chair Katz moved to Project Direction Recommendation for OPEGA's Review of Office of Information Technology.

NEW BUSINESS

• Project Direction Recommendation for OPEGA's Review of Office of Information Technology

Director Ashcroft summarized for the GOC what previous GOCs and OPEGA had done regarding OIT.

OPEGA's recommendation for a project direction for an OPEGA review of the Office of Information Technology would be to perform a formal follow-up review of some of the issues in OPEGA's 2005 review of the State's Information Technology. The follow-up review would focus on ensuring OIT has a roadmap for getting from the current state to the desired future state and is making acceptable progress in the critical areas of:

- Project Management,
- Business Continuity Planning and Disaster Recovery, and
- Supporting the Data Needs of Executive Branch Departments.

OPEGA's work would include:

1. Requesting that OIT provide a detailed description of what improvements the organization could reasonably expect to achieve in two years' time with regard to the three critical areas listed above; and assessing whether those improvement goals appear adequate and appropriate to address the State's needs.
2. Requesting that OIT provide an action plan, including timeline, for how the organization will reach those improvement goals and specify what benchmarks will be used to verify that the progress has been as desired; and assessing whether the action plan and benchmarks appear adequate and appropriate.
3. Assessing whether the planned actions are successfully completed as scheduled in the action plan.

OPEGA anticipates that a consultant may be required to assist in OPEGA's assessment of adequacy and appropriateness for some of these objectives. Given that the consultant would primarily be serving as a subject matter expert when needed, OPEGA anticipates the consulting costs should be relatively low.

OPEGA's work would be ongoing, but potentially sporadic, depending on OIT's action plan, over a period of 2 years. As a result, the Director expects this review would not be completed until the end of the first quarter 2015. Should OIT successfully complete all of its planned actions in any of the three critical areas sooner, OPEGA could potentially release targeted reports focused on those areas as they are completed.

Following a brief GOC discussion the following motion was made.

Motion: That the Government Oversight Committee approves the Project Direction Recommendation for OPEGA's Review of Office of Information Technology. (Motion by Rep. Kruger, second by Sen. Sullivan)

Sen. Craven asked that OPEGA report more often to the GOC over the course of the review of where OIT is in the process and what progress is being made on any of the objectives. She suggested OPEGA report every six months. A verbal report back would suffice.

Rep. Kruger and Sen. Sullivan agreed to Sen. Craven's friendly amendment.

Motion: That the Government Oversight Committee approves the Project Direction Recommendation for OPEGA's Review of Office of Information Technology and that OPEGA will verbally report to the GOC on OIT's progress every six months. (Motion by Rep. Kruger, second by Sen. Sullivan, passed, vote 10-0.)

- **Project Direction Recommendation for OPEGA's Review of the Public Utilities Commission**

Director Ashcroft summarized the background of this review request.

Based on its preliminary work, OPEGA recommends continuing this review with a focus on the following questions:

- Is the PUC acting in compliance with its statute and rules when handling 10-person complaints filed with the Commission under 35-A MRSA §1302(1)? Is the process accessible to citizens and responsive to their concerns?
- What measures are in place to ensure the PUC acts in an unbiased and impartial manner when regulating public utilities? Are these measures adequate? Is the PUC acting in accordance with these measures?

Senators Craven and Sullivan, Rep. Boland and Chair Burns also noted concerns about whether there were other processes available for groups of citizens or municipalities to have their complaints heard. Following Committee discussion the following motion was made:

Motion: That the Government Oversight Committee accepts the recommendations of OPEGA for the Review of the Public Utilities Commission with the understanding that OPEGA will develop and pursue a third question that encompasses the additional concerns expressed by the Committee. (Motion by Sen. Sullivan, second by Rep. Boland, passed, vote 10-0.)

(Note: The third question was drafted and approved by the GOC after its lunch recess. See page 5.)

UNFINISHED BUSINESS

- **Report on Child Development Services**

- **Draft Schedule of Dates for MDOE and DHHS to Report Back to GOC**

Director Ashcroft suggested the Government Oversight Committee receive a report back regarding the Child Development Services Report from the Department of Education and Child Development Services in February and August 2013 and from the Department of Health and Human Services in February, 2013. The Committee agreed.

- **Draft of Amended Language to Title 20-A §7209 sub§ 4 ¶ D**

Director Ashcroft referred members to the draft language of "An Act to Implement the Recommendations of the Office of Program Evaluation and Government Accountability and the Government Oversight Committee Regarding Child Development Services". She consulted with the Legislature's Office of Fiscal and Program Review (OFPR) and the Office of Policy and Legal Analysis (OPLA) to get their input of what they might like to see included for reporting to the Legislature. She also reviewed the draft legislation with CDS to assess what information would be readily available for reporting.

The language in the legislation mostly relates to what will be reported to the Legislature and when with regard to financial and program data on CDS. It is expected this will help the Legislature in its oversight of this

General Fund program that is captured differently in the budget that other agencies that the Legislature has oversight of and which is also administered through an organizational structure that is somewhat independent of MDOE. There is a statutory requirement for CDS to do an annual report to the Legislature, but the language in the statute currently does not require anything in particular to be reported and the description of what “may” be included is quite general. When Director Ashcroft met with the CDS Director, the Director was not certain what the language in statute was referring to.

Director Ashcroft has reviewed the draft legislation with CDS, and the Department of Education has also had an opportunity to review it and is comfortable with the language. OFPR thinks the draft meets their needs to be able to answer legislators’ questions.

Rep. Boland said she would like to see CDS report on client (parent) feedback or input on effectiveness of the services received. Director Ashcroft said that may be one way in which CDS might choose to measure effectiveness, but is not sure she would advocate for adding specific language saying you need to survey clients because there may be other ways they will measure effectiveness that would be more efficient for them and would speak more to the effectiveness issue. Language could be added to the draft that said “which may include perspectives from clients served on the effectiveness of services provided to them”. Cindy Brown, Director of CDS, thought that was a fair statement and said parent surveys are something that have been done historically.

Motion: That the Government Oversight Committee approves the draft CDS legislation and directs Director Ashcroft to add Rep. Boland’s suggestion of including getting client feedback or input on effectiveness of the services and submit the legislation to the Revisor’s Office. (Motion by Sen. Sullivan, second by Rep. Fitzpatrick, passed, vote 10 – 0.)

REPORT FROM OPEGA DIRECTOR

• Project Status Report

The reviews of the **Office of Information Technology** and **Public Utilities Commission** were discussed earlier in the meeting.

Maine State Housing Authority review is in fieldwork with the focus on the Weatherization and LIHEAP programs. OPEGA is just getting started on the review with a request for information from the Housing Authority. Three OPEGA staff are assigned to the review.

Wendy Cherubini is assigned to the **Special Project: Technical Assistance for Education Committee Contracted Study of Education Funding** and is working closely with Phillip McCarthy, Sr. Legislative Analyst, OPLA, to make sure the study is on track and is going to provide the Education Committee what it envisioned when it put together the Resolve that the Legislature approved. Director Ashcroft believes OPEGA’s role is going to be expanded in terms of serving sometimes as a facilitator as well as tracking the progress of the consultant. She is comfortable with that and thinks it will serve to make sure there is a good end result for the Legislature.

The **BETR, BETE and TIF** review request is currently listed as suspended on OPEGA’s Work Plan. The Director asked whether the GOC would like to remove it from the Work Plan. OPEGA is currently going through a process of summarizing everything that has been done in the Legislature to address the economic development issues that were in OPEGA’s 2005 Report. The Director will see what is left to be addressed from that report and will discuss it with the next GOC noting that this GOC wanted to introduce legislation to implement any recommendations that had not been addressed.

Rep. Kruger would like to share whatever material is available from the work OPEGA had done so far on BETR and BETE with the 126th Taxation Committee. He would be agreeable to handing the topic to that Committee

and checking with them in about a year on the status. Chair Katz thought the Labor, Commerce, Research and Economic Development (LCRED) Committee should also be provided the information because they may be dealing with the same issues as well.

Motion: That the information OPEGA has put together from its preliminary research on the BETR, BETE and TIFF review be forwarded to both the Taxation and LCRED Committees for their work in the 126th Legislature. The GOC removes the BETR, BETE and TIFF topic off OPEGA's Work Plan. (Motion by Rep. Kruger, second by Chair Katz, passed, vote 10-0.)

Director Ashcroft reminded the GOC that at their last meeting they requested that Commissioner Bernhardt answer questions regarding the balance in the GOMaine vanpool fund. On the Committee's behalf, she sent him questions and referred the GOC to the Commissioner's response.

Commissioner Bernhardt noted the riders did sign an agreement to participate in the van pool that stated the van pool was a shared expense operation and that may have led the riders to believe that all costs for the vans, including capital costs for new vans, were covered. As previous explained, the fees were not sufficient to cover all the costs associated with the program and consequently riders' fees have not purchased replacement vans since 2005.

MDOT does not believe the remaining \$236,000 balance should be refunded to van pool riders because the riders paid a fee to have a daily ride to work and received that service. Therefore, the Commissioner does not believe they are entitled to a refund. The service has been subsidized by other funds over the years for administration and capital costs and if fees from van pool riders were used to cover those costs there would not be a remaining balance. In addition, the cash balance that is currently remaining in the account is relatively the same as it was over 10 years ago so the most recent riders did not contribute more than what was expended from the account during the past 10 years. That fact did show up in the information revenue and expense information OPEGA had originally put together for the GOC.

Unless the GOC wants further information, OPEGA will consider their work done on the review request. Rep. Kruger requested the Commissioner's response be sent to Rep. Pilon who was not in attendance at the meeting.

RECESS

The Government Oversight Committee recessed at 11:45 a.m. on the motion of Chair Burns.

RECONVENED

Chair Katz reconvened the meeting at 1:00 p.m.

The GOC went back to the Project Direction Recommendation for OPEGA's Review of the Public Utilities Commission. Over the lunch break OPEGA drafted the additional question requested by the Committee and Chair Katz asked the members to review the prepared questions. The added question – What other avenues are available to groups of citizens with common concerns about utility plans and practices? Are those avenues accessible and responsive to their concerns? - was approved by the GOC.

NEW BUSINESS

- **Presentation of Final Report on Communications Regarding MaineCare Computer System Weaknesses**

Director Ashcroft presented OPEGA's Communications Regarding MaineCare Computer System Weaknesses Report. She thanked OPEGA analysts Wendy Cherubini and Maura Pillsbury for their work on this review and the management and staff at the Department of Health and Human Services and the Department of

Administrative and Financial Services, who have been very cooperative and timely in their responses to OPEGA's requests. She also thanked OFPR, OPLA, the Attorney General's Office and the State Auditor's Office for assistance and providing information.

Sen. Craven wanted to clarify that the patient does not receive the payment, that it is the provider who gets paid for a service. Director Ashcroft agreed. Chair Katz noted that the provider would not know the person was not eligible, but the person receiving care did know or should have known. Director Ashcroft agreed.

Sen. Diamond recalled that there was a lot of anticipation and anxieties surrounding the new MIHMS project because DHHS delayed the go-live date several times.

Sen. Sullivan asked why questions weren't asked when DHHS encountered inconsistencies in the MaineCare case load data changing over to MIHMS as the data source. Director Ashcroft said the inconsistencies were recognized, questioned and OFPR was asking questions. DHHS recognized the inconsistencies, but thought the cause of them was because of differences in the way that the old system and new system were counting members that were eligible in multiple benefit categories. DHHS addressed the inconsistencies by figuring out the details of how members were being counted differently and making adjustments to MIHMS where necessary to make the number more consistent. What they did not recognize is that the ineligible segments issue was also impacting the case load data in MIHMS.

Chair Burns asked what other problems the ineligible segments problem was competing with when the new MIHMS system went online such that it did not get more attention. Director Ashcroft said the ineligible segments issue was not at the bottom of the list. It was given a high priority and rated as severe, but so were a lot of other issues. OPEGA was told that Molina played a role in determining which of the priority issues were going to get addressed. This fix was complex and they were struggling to get a solution in a timely manner. Also, DHHS was prioritizing those issues that needed to be fixed to make sure that providers were getting paid. The system also had problems recognizing members that were eligible so there was a period of time when there were about 100,000 members who were eligible for services that looked like they were ineligible. Consequently, providers were getting bridge payments until DHHS could get the claims processed. The issues required to be fixed in order for the system to receive federal certification, were also being given a very high priority.

Chair Katz wanted to confirm his understanding that at that particular point MIHMS was not designed to remove ineligible people. Director Ashcroft said there are scenarios in which someone becomes ineligible at a retroactive point in time. It might not be clear that a person was ineligible at the time they receive a service and the System is designed to pay the provider in those instances. There were unforeseen circumstances or complications that ended up in the volume of records with retroactive ineligibility being much greater than anticipated. DHHS originally thought they could correct those records manually in MIHMS, but the volume was greater than anticipated.

Chair Katz also wanted to confirm that the Change Request came to be when DHHS found out that they were not going to be able to correct the records of ineligible members manually because there were too many and they would have to come up with another plan. His understanding is that a team member recognized the problem in September 2010 before the System went live and put in a change request to Molina to fix it. It was incumbent upon Molina as the provider of the System, as well as the fiscal agent, to fix and they did not. Director Ashcroft said that was correct. She said it was going to be a complex fix and there were a lot of other issues they were struggling to get done. DHHS was giving direction to prioritize certain kinds of issues and fixes.

Chair Katz said if someone is ineligible and is still receiving benefits, the State is wasting State dollars that could be used somewhere else and the State also runs the risk, which is now a reality, that the State will have to pay back federal dollars. He asked how DHHS' vendor, who is being paid to operate the System, could not think this was a priority issue to fix. Director Ashcroft said OPEGA's observation was that overall there was not a risk assessment process that took those particular kinds of risks into account when either prioritizing

issues or determining what should be escalated to the MIHMS Steering Committee or beyond. They were focused on certain kinds of problems that had occurred with MECMS, namely being able to get providers paid since providers were still complaining about MIHMS, and the certification risks, so other issues did not get the same priority.

Chair Katz noted that seven months later, the same project team member who reported the ineligible segments problem reported it again in March, 2011. He asked if it was at that time that the issue made it to the stabilization list which is the higher priority list. Director Ashcroft said that was correct.

Rep. Fitzpatrick asked why DHHS went live with MIHMS if they knew there were problems with it. Director Ashcroft said Berry Dunn, the independent verification and validation contractor, and the federal CMS, both told OPEGA that as bad as the issues with MIHMS were, even after going live, it was still much better than MECMS and a significant improvement.

Chair Burns asked what the Steering Committee's responsibility and involvement was. Director Ashcroft said OPEGA did note an issue regarding the Steering Committee. They did meet regularly, but there were spans of time when they did not keep minutes so it was difficult for OPEGA to discern what was going on. OPEGA's observation is that there was a lack of clarity about what the Steering Committee's purpose was, who was leading it, and the role it was playing. OPEGA heard that from DHHS staff and others who were participating in the project that the Steering Committee was not set up effectively. It did not appear that the Steering Committee was being used to manage risks.

Chair Katz asked what the Steering Committee's role was after receiving reports. Ms. Pillsbury said they did not receive reports on all change requests. The Contractor selectively reported on certain change requests so they did not specifically see the one that was related to the ineligible segments issue. Chair Katz said although the ineligible segments issues got on the stabilization list to Molina, they did not communicate that fact to the Steering Committee. Ms. Pillsbury said that was correct.

Rep. Boland asked if the Steering Committee was shown the stabilization list or had it gone to just Molina. Ms. Cherubini said the Steering Committee saw a list of change requests but did not see a description of what each request was for or its impact. Steering Committee members were higher up than the project manager, and a list may have gone up the line, but if it is a list with just a code next to the problem, they would not know what the risk was.

Sen. McCormick believes the valuable part of OPEGA's Report is what it says about part of the project that is done before a system is implemented – defining what the project is, designing it, what the deliverables should be, setting up a team of managers, the steering committee and having timelines and check points along the way so that you know you are on time at the end. It is obvious this did not happen with the MIHMS project and even more disturbing is that it comes on the heels of the MECMS project where the State spent years and over \$60 million trying to fix the system and eventually threw it out. As Chair of the HHS Committee, he recalls that at the beginning of the 125th Legislature that committee was getting constant briefings from the DHHS Commissioner. The 125th Legislature inherited a system that was put in service in September, 2010 with known defects and against the advice of somebody on the project. In the HHS Committee's discussion with the Commissioner, they learned that at one point there were over 150 defects identified. This system has to be fixed, there is no going back. Sen. McCormick gave DHHS staff a lot of credit for keeping the HHS Committee informed on what the problems were, how many there were, and how they were trying to resolve them.

Sen. Craven agreed that the administration and the 125th Legislature inherited terrible problems with the MIHMS system, but thinks the piece missing was the level of trust that the Legislature felt with the information that was given. The level of communication and people trusting each other and knowing that when a number is given that it is the true number or it should be said that they don't know.

Sen. Diamond said he did not think DHHS dared to go back to the AFA Committee in September 2010 saying they needed another extension before going live with MIHMS. Legislators are partly to blame for putting

pressure on DHHS by asking why they kept needing more time and couldn't get it right. DHHS was under an enormous amount of pressure to have the system go live when it was not ready.

Chair Katz said that explains why the system did not work well at the beginning, but when somebody within the Department points out the problem in August 2010 and it is not fixed for 16 months and \$10.5 million in improper payments later, that is not okay. He does not fault the Commissioner because she learned about it not long before everyone else did. He knows DHHS staff are all good people and doing the very best they can, but when information like this cannot get to the Commissioner's level for 16 months, something is very wrong.

In response to Chair Katz's question of whether anyone from Molina was interviewed during OPEGA's review, Director Ashcroft said no.

Director Ashcroft noted that this was the last GOC meeting for the 125th Legislature. The Committee would normally hold a public comment period on the Report, but she was not sure, due to the nature of the Report, that a public comment period was as relevant. If the GOC was not going to hold a public comment period, this meeting would be their opportunity to ask questions of Commissioner Mayhew. Director Ashcroft believes the Commissioner is prepared to answer the Committee's questions.

Chair Katz closed the Report presentation, members agreed that a public comment period was not needed for the Report and the Committee moved to the Work Session.

Chair Katz recognized Commissioner Mayhew. She read her response to OPEGA's Report on Communications Regarding a Computer System Weakness Resulting in MaineCare Claims Payments for Ineligible Individuals. A copy of that letter is included at the back of the Report.

Chair Katz asked what would happen now if a team member reported to their superior that ineligible people were still getting services. Commissioner Mayhew said DHHS has established a much more defined governance structure that would take that issue and put it through the kind of evaluation analysis she previous outlined in her letter. The issue's impact on members, the issue's fiscal impact and its impact on providers would be quantified and that information would become part of a report that would be reviewed by the Steering Committee and be part of their discussion in the MIHMS executive team meeting.

Commissioner Mayhew said the intent behind governance is to create automatic processes and protocols so that as the issues are identified they are inputted into a system but that there is greater depth behind the issue so that as DHHS prioritizes, they are prioritizing based upon a more comprehensive view of the issues and the impact.

Chair Katz noted that the issues did not come to the Commissioner's attention until late 2011 and asked if systems were now in place so that such a delay in important concerns getting to the Commissioner would not repeat itself. Commissioner Mayhew said that function is being created for the Steering Committee. The Steering Committee is now an operational steering committee that is providing governance to the operations of the MaineCare system. Also, risk committees have been created throughout the Department and are reporting up through the Division of Audit. The Commissioner serves on the Audit Committee which meets regularly.

Rep. Kruger noted that given the size of DHHS and MaineCare, the system's requirements must be beyond what most could conceive, and that their vendor is not only providing system design and operation, but fiscal services. He asked if there were a lot of companies that could respond to an RFP for such services or did Molina come in and form their service package to the State based on what was needed. Commissioner Mayhew hesitated to comment on the contract that occurred back in 2008. That contract preceded her and there was also change in the ownership of the entity that originally won the bid so that probably contributed to some of the challenges. Molina does operate in other states providing the same role.

Rep. Kruger asked if there were other vendors who could do the work for DHHS if it was found that Molina was not meeting the State's needs. Commissioner Mayhew said there are other vendors. She said there have been huge challenges, but asserted that DHHS has come quite far in the quality of MIHMS. It is a very good

system, they have made significant progress and DHHS' relationship with Molina has improved greatly. There is always room for further improvements, but she believes they are on the right path.

Sen. Craven asked how close the State was getting to full functionality of MIHMS. Commissioner Mayhew said she has requested that the DHHS project management team working with Molina, develop a report card. She thinks a report card that resonates that they are looking holistically at the system and establishing benchmark measures will be critical for the Legislature to have. The federal government did certify MIHMS in the fall of 2011.

In response to Chair Burns' question of whether the State considered Molina a vendor or partner, Commissioner Mayhew said they were considered a partner. He asked if at some point the State should be looking at Molina as having some responsibility for the repayment the State will need to make to the federal government. The Commissioner clarified that the word partner to her demonstrates the collaborative nature and the importance of healthy communications with the vendor in moving toward the successful outcomes DHHS needs for the system. That does not mean that DHHS does not have the obligation to continue to ensure that Molina is held accountable for obligations as the State's partner and as a contracted entity. The State is reviewing various terms of the contract. To the extent that there are areas DHHS thinks they need to hold Molina accountable, and there are financial consequences, the State is working with Molina on those. Over the last year or so the State has taken other measures with Molina because of concerns that Molina was not producing some of the outcomes DHHS expected in a timely way. It is imperative that DHHS continues to build on their relationship with Molina to ensure that they are able to work collaboratively and move forward to attain the desired outcomes.

Chair Burns noted that some providers submitted claims and were paid for services they rendered to ineligible members. He asked if those providers would have to repay the State. Commissioner Mayhew said the State was not pursuing recovery from providers.

Chair Burns had concerns about the Steering Committee and asked Commissioner Mayhew several questions regarding it. She believes DHHS has a lot of work to do within their management structure, one that involves communication throughout the organization and not a top down management structure. The Commissioner said she has an incredible amount of respect and appreciation for DHHS staff. She noted the Steering Committee was originally focused on the design and development of the system and all of the action that needed to occur up until go live. Commissioner Mayhew said there are Steering Committee minutes, but she would have to go back to see if there were any breaks in times when there are none. The Steering Committee reported to the Deputy Commissioner of Finance and the previous Commissioner, so it was within the Commissioner's Office that the Steering Committee exists and continues to exist.

Rep. Boland wanted to know to what degree Molina was being pressed to take responsibility for costing the State a significant amount of money. Commissioner Mayhew said it is a contractual relationship with Molina so she has to be careful in responding. She emphasized that the State has looked at the terms of the contract and where they believe there are areas that Molina needs to be held responsible. The State withheld payment to Molina for a considerable period of time because they were concerned about their commitment to Maine and to the outcomes needed. She emphasized how much progress has been made since then and she is pleased with their commitment, the changes that have occurred and the resources that Molina has devoted to Maine to continue to make improvements in the System.

Chair Katz asked whether the Commissioner felt DHHS now has adequate personnel resources working on the issues and Molina also has adequate people working on the issues. Commissioner Mayhew preferred to look at the score card, at their benchmark measures of where they think the system is and where it needs to be, and then come back before the GOC with an answer as to whether or not the staff resources are adequate.

The members of the GOC thanked Commissioner Mayhew for the information she provided and for answering their questions.

Sen. Craven noted that there was some staff from the Department of Audit at the meeting and that they may want the opportunity to comment on OPEGA's Communications Regarding a Computer System Weakness Resulting in MaineCare Claims Payments for Ineligible Individuals Report. Chair Katz recognized Ms. Buckley.

Ms. Buckley said she reviewed MIHMS for about 3 months and for much of that time worked in the MaineCare Office. In March, April and May, 2012 she reviewed all the Steering Committee notes. The Steering Committee included 2 individuals from the federal government and the Committee was well represented by people in relevant positions in the State. What she found to be concerning was they would talk about the number of severe conditions that needed to be corrected rather than specific issues that had a fiscal impact. People did not know how to estimate fiscal notes so management could not prioritize.

Chair Katz noted the problem was on the stabilization list in March 2011 and asked Ms. Buckley if she saw that problem on the list. She said it might have been one of a list of things, but did not think it was specifically listed on a Steering Committee agenda. There were never fiscal impacts associated with the information so those in a position to change anything did not have enough information to change the priority of an issue.

Sen. Sullivan asked for clarification between the Steering Committee and management. Ms. Buckley said the Steering Committee was upper level executives. She did not think the individuals with the day-to-day responsibility for making things happen, seeing the mistakes firsthand and being the most likely to understand the potential impact, were at the meetings.

The Committee thanked Ms. Buckley for the information she provided.

Chair Katz asked if there was anyone else at the meeting who would like the opportunity to speak on OPEGA's Report. There were none.

Sen. Craven said DHHS has to do a lot of reporting to legislative committees that oversee the Department and that there were no surprises in OPEGA's Report so she would recommend not taking any action as a Committee. Sens. McCormick and Sullivan agreed.

Chair Katz requested that the Report be forwarded to the 126th HHS and AFA Committees.

Sen. Diamond said many of the issues raised in this review will continue over the next few years and asked if more can be done other than just distribution to the HHS and AFA Committees. He thinks each joint standing committee should have at least a 15 minute Report presentation. Sen. Sullivan suggested the Report be given to both the Chairs and Leads of all joint standing committees of the 126th Legislature. Director Ashcroft committed to finding a way to have an opportunity to speak, at a minimum, to the Chairs and Leads of each committee.

Motion: That the Government Oversight Committee endorses OPEGA's Communications Regarding a Computer System Weakness Resulting in MaineCare Claims Payments for Ineligible Individuals Report. (Motion by Chair Burns, second by Sen. Diamond, passed, vote 10-0.)

• **Report Back From Department of Health and Human Services**

The GOC asked for a report back on the status of actions related to recommendations in two of OPEGA's previous reports.

-MaineCare Durable Medical Equipment and Medical Supplies – Report issued July, 2009

Attached to the Meeting Summary is Commissioner Mayhew's response to Recommendations in OPEGA's Report on MaineCare Durable Medical Equipment and Medical Supplies.

Sen. Craven asked if the MaineCare Claims System (MIHMS) would pick up if the medical equipment or supply description did not match the code used. Commissioner Mayhew said if the code was inconsistent with the product for which the claim is being submitted, MIHMS should identify that and the claim would be denied. It would be through the process of the provider taking a look at that denial and determining whether or not they simply put the wrong code in and resubmitting the claim.

Chair Katz asked if the Commissioner knew the status of the questionable claims activity identified by OPEGA which were referred to the AG's Office and whether any actions were taken. Commissioner Mayhew said they have communicated with the AG's Office, but have not yet received a report back on the status.

-DHHS Contracting for Cost-Shared Non-MaineCare Human Services – Report issued July, 2008

Attached to the Meeting Summary is Commissioner Mayhew's response to Recommendations in DHHS Contracting for Cost Shared Non-MaineCare Human Services.

The members of the GOC thanked Commissioner Mayhew for the report backs and for answering their questions.

Director Ashcroft said OPEGA is continuing to do some follow up to understand the details of MIHMS and JSURS. She asked if the GOC would feel comfortable with OPEGA no longer continuing follow-up on the MaineCare Durable Medical Equipment and Medical Supplies and DHHS Contracting for Cost-Shared Non-MaineCare Human Services Reports if OPEGA believed all the issues had been substantially addressed. If there is an item OPEGA thinks is still outstanding and still of significance she would report that back to the next GOC. Chair Katz asked if there was any objection to the Director's recommendation and heard none.

• Review of GOC and OPEGA Accomplishments and Challenges During the 125th Legislature

Director Ashcroft expressed appreciation to the members of the Committee for their engagement in OPEGA's work and in the seriousness with which they took the Committee's role in the Legislature. The meeting attendance of members over the last 2 years has been above reproach. She thanked the Chairs for being responsive and attentive when she needed their input or decisions and for providing timely feedback.

She noted the Committee established itself in the Legislature in a way it had not been in prior years, and carved out its role in a way that people saw as appropriate. It is now known as the Government Oversight Committee and not the OPEGA Committee.

The type of work the GOC asked of OPEGA over the last two years also had some new twists and Director Ashcroft referred to it as accountability work. The Committee took on the role of serving the people by getting to the bottom of some of the questions that were showing up in the media. While that had its own challenges as to how to proceed with consistency in processes, she hopes it has served to boost the public confidence through the Legislature's oversight of these concerning actions and situations.

Director Ashcroft believes this is the first time the GOC has ever served in the role of an investigating committee of its own and the GOC did that on several occasions over the last 2 years. She felt good that the Committee and OPEGA were able to be of greater assistance to the policy committees and felt there was a higher level of legislative interest and involvement in GOC/OPEGA work. That is partly because the GOC was requesting legislator sponsorship for the OPEGA review requests that came before them, but also there were a number of policy committees that asked for assistance when they felt it was a subject matter they did not have the time or appropriate resources to take on.

Director Ashcroft noted that there are still challenges. She thinks GOC/OPEGA is challenged to consistently and efficiently deal with the new review requests. Different avenues have been tried to address them this term and the GOC had been bombarded by outside individuals trying to influence how members felt about a request. She does not have a good answer yet as to how to rein that in, or even whether it should be, but noted it as a challenge in trying to handle review requests consistently. Report follow-up is also still a challenge area. Lastly, while the Director feels good about turning projects around more quickly, she worries that trying to meet that goal potentially impacts the quality of the product or ability to deal with the agencies in the manner OPEGA has typically been dealing with them.

Director Ashcroft thanked the Committee.

The members of the GOC thanked Director Ashcroft and the OPEGA staff for their work with the Committee.

ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 4:04 p.m. (Motion by Sen. Sullivan, second Rep. Fitzpatrick, unanimous.)