



SEN. ELIZABETH H. MITCHELL, CHAIR
REP. MARILYN E. CANAVAN, CHAIR

MEMBERS:

SEN. PHILIP L. BARTLETT, II
SEN. JONATHAN T.E. COURTNEY
SEN. DANA L. DOW
SEN. JOSEPH C. PERRY
SEN. KEVIN L. RAYE
REP. ANDREA M. BOLAND
REP. SCOTT E. LANSLEY
REP. EVERETT W. MCLEOD, SR.
REP. PEGGY A. PENDLETON
REP. MICHAEL A. VAUGHAN

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY

July 30, 2008

Accepted September 15, 2008

CALL TO ORDER

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

ATTENDANCE

Senators:	Sen. Mitchell, Sen. Raye, Sen. Perry, and Sen. Courtney Joining the meeting in progress: Sen. Dow Absent: Sen. Bartlett
Representatives:	Rep. Canavan, Rep. Pendleton, Rep. Boland, and Rep. McLeod, Joining the meeting in progress: Rep. Lansley and Rep. Vaughan
Legislative Officers and Staff:	Beth Ashcroft, Director of OPEGA Etta Begin, Adm. Secretary, OPEGA
Executive Branch Officers and Staff Providing Information to the Committee:	Laura Fortman, Commissioner, Department of Labor Lucky Hollander, Director, Legislative Relations, Department of Health and Human Services

INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS

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

Chair Mitchell asked if there was objection to taking items out of order. Hearing none, the Committee moved to **Unfinished Business, Follow Up on Action Items from Prior OPEGA Reports.**

UNFINISHED BUSINESS

• **Follow Up on Action Items From Prior OPEGA Reports**

- **Bureau of Rehabilitation Services**

Chair Mitchell recognized Commissioner Fortman, Department of Labor.

Commissioner Fortman gave a six month progress report on service improvement and management actions that included:

- The Bureau of Rehabilitation Services is on target for all of the management actions contained in OPEGA's Report;
- The only item that has not been completed by the target date is related to ORSIS controls improvements. OPEGA had recommended that when changes to ORSIS are made that a separate testing environment should be set up. OIT is responsible for setting up the testing and they are not, at this time, able to set up exactly the environment that was recommended.
- Strengthen written policies and procedures have a completion target date of September, 2008 and is 80% complete.
- Conduct system wide training programs has a completion target date of December, 2008 and is 90% complete.
- Implement redesigned case review system has a completion target date of December, 2008 and is 50% complete.

Commissioner Fortman reiterated that the Department is on target for meeting all of the management actions outlined in OPEGA's Report on the Bureau of Rehabilitation Services: Procurements for Consumers. She said that staff from the Department were in attendance at the meeting and available to answer any questions the GOC may have.

Chair Mitchell asked if the GOC members had any questions. Hearing none, the Chair asked if Director Ashcroft had any comments.

Director Ashcroft said OPEGA is very pleased with the progress on the management action items and very appreciative of the fact that OPEGA has not had to track this information down, the Department has reported on a regular basis as action items have been completed.

The GOC thanked Commissioner Fortman and her staff for the information provided to the Committee and look forward to having an update on the management actions in December.

SUMMARY OF JULY 8, 2008 MEETING

The July 8, 2008 Meeting Summary was accepted as written. (Motion by Sen. Raye, second by Rep. McLeod, PASSED, 11-0).

COMMITTEE VOTE ON OPEGA FINAL REPORT

• DHHS Contracting for Cost Shared Non-MaineCare Social Services - Public Comment Period

Director Ashcroft said that no written comments had been received.

Chair Mitchell asked if there were public comments on the above Report to be heard at this meeting.

- Dana Roberts, citizen, testified regarding the Healthy Futures Program and newsletters he had been receiving from that organization that he did not request and did not find useful. He was making comment because he had learned that the State was being charged for these mailings on his behalf and he had several related concerns.

Following Mr. Roberts' testimony the GOC's discussion included the following with Lucky Hollander answering some of the GOC's questions:

- the Healthy Futures Program is funded under the Fund for a Healthy Maine;
- how the organization sending the newsletters got Mr. Roberts' name and address;

- the cost being billed to the State by Healthy Futures for their services;
- the potential charges to Mr. Roberts' estate for recovery of the charges for the services provided in the Program;
- the Maine Center for Disease Control is the State agency that would be responsible for the contracts or grants with the organization; and
- whether the Program is a State agency or a nonprofit.

Chair Mitchell thanked Mr. Roberts for his testimony and asked Director Ashcroft to add a discussion on Fund For Healthy Maine to the agenda for the next GOC meeting.

- **Committee Work Session**

Director Ashcroft reviewed for the Committee items discussed regarding the Report at its July 8, 2008 meeting. Some items would have to be answered by Commissioner Harvey and the Department of Health and Human Services regarding their financial transformation, what resources that was consuming, and status. Commissioner Harvey was not available to be at this meeting but would be happy to provide the status at the next GOC meeting. The Chair requested that this item be added to the next meeting agenda.

At its previous meeting the GOC asked Director Ashcroft to find out how many different organizations were providers within the non-MaineCare Human Services pool. OPEGA did a quick count of those listed in DHHS' Annual Report on Services Contracts With Community Based Agencies Fiscal Year Ending June 30, 2008 and found 507, which include 30 school districts and some towns.

- **Committee Vote**

Motion: That the Government Oversight Committee endorses the Report on DHHS Contracting for Cost Shared Non-MaineCare Social Services. (Motion by Sen. Perry, second by Sen. Dow, PASSED, vote unanimous 11-0).

UNFINISHED BUSINESS

• **Referral of Leasing of State Owned Lands**

Director Ashcroft was seeking clarification of what action the GOC took at its July 8, 2008 meeting regarding the project direction on Leasing of State Owned Lands. As part of the Committee discussion at that meeting it was requested that OPEGA refer the Project Direction Statement and the questions it included to other Joint Standing Committees and the Executive Branch. Director Ashcroft requested further specifics as to who she should be sending a memo to and what the GOC wanted it to say.

The action taken by the GOC was that the project of Leasing of State Owned Lands be referred to the State and Local Government Joint Standing Committee with a memo. The memo will explain the work that OPEGA has done, its recommended scope, and that although the questions raised are worthwhile, OPEGA is not going to pursue the topic prior to the next session. The memo will make State and Local aware of these questions should they be relevant to the Committee's work next session. The memo will also request that State and Local Government communicate back to the GOC on what action it takes and what information it receives on this topic. Leasing of State Owned Lands remains on the GOC's list as an item of interest.

• **Follow Up on Action Items From Prior OPEGA Reports**

- **Economic Development Programs in Maine**

Director Ashcroft said that OPEGA applied for consideration to receive an impact award from National Legislative Program Evaluation Society regarding the Economic Development Programs in Maine Report and the action that has been taken on it. OPEGA did receive the award.

Director Ashcroft said that OPEGA had recommended there be further evaluation of certain economic development programs. These programs are included in an evaluation plan that the Department of Economic and Community Development has put together and that Department is in the process of pursuing an annual evaluation. DECD has recommended a new definition to be included in statute as to what economic development incentive programs are and hired the Maine Development Foundation to create an inventory, or the whole portfolio, of programs based on that definition. That inventory has been completed. DECD put together a plan for evaluations to be done annually which would bring together all the programs with the goal of understanding how they were impacting the economy and what the performance was like. DECD has issued an RFP for an external organization with expertise to perform the evaluation, bids have been received and they have selected the team who will be doing the evaluation. DECD hopes to have the results available for the Legislature in March, 2009. An issue that may come up in the next session is how the evaluation could be funded on an ongoing basis.

Director Ashcroft was asked to send a letter to the Appropriations and Financial Affairs Joint Standing Committee expressing the GOC's support for finding funding for on-going evaluation.

- **Performance Audit of Guardians *ad litem* for Children in Child Protection Cases**

Director Ashcroft reminded the GOC that at its February 27, 2008 meeting, Charles C. LaVerdiere, Deputy Chief Judge, Maine District Court reported that the Judicial Branch Advisory Committee on Children and Families had completed its work and the report had been forwarded to Chief Justice Saufley for her review of the recommendations and to determine whether there were any that could be implemented within their current budgetary constraints.

The Judicial Department was to make a presentation before the Judiciary Joint Standing Committee to update the Committee on the status of all items last session, but that presentation was not done.

Director Ashcroft said an option to receive the updated information may be for the GOC to ask the Judiciary Committee to request a formal status report in writing that could be shared with the GOC.

Motion: That the Government Oversight Committee request the Judiciary Joint Standing Committee make a request to the Judicial Department that a written response be provided regarding the status of recommendations by the Advisory Committee on Children and Families. (Motion by Sen. Raye, second by Rep. McLeod, PASSED, unanimous vote 11-0).

The Chair, with the GOC's permission, moved to **Potential Focuses for MaineCare Related Review.**

• **Potential Focuses for MaineCare Related Review**

Director Ashcroft was asked to poll members of the Health and Human Services Joint Standing Committee. Director Ashcroft sent an email to the Health and Human Services and Appropriations and Financial Affairs Committees, and the Legislative Council members. OPEGA staff researched what other states had done for Medicaid related reviews, looked at what the GAO and OMS had for reports and Director Ashcroft has talked with Jane Orbeton, OPLA Analysis, Health and Human Resources Committee, to find out what she has observed in Committee meetings and questions that arise.

Director Ashcroft said that OPEGA is working on Children's Mental Health which is an area that MaineCare funds and found out that MaineCare is larger than just Medicaid.

As a result of this research, OPEGA offered the following potential focus areas for consideration:

1. Effectiveness of any cost containment measures that are already in place, i.e. prescription drugs.
2. Adequacy of any measures we have in place in the State to prevent, detect, or correct fraud, waste and abuse from a provider, recipient or employee.
3. State's management of large managed care contracts.

4. Administrative costs of delivery system (provider network).
5. Mandatory vs. optional eligibility/services
 - costs associated with
 - comparison to other states.
6. Disproportionate share.
7. Rate-setting
 - how standardized rates are developed
 - effect on providers and services.
8. Administrative burdens on providers.

Discussion regarding the above topics, other topics and order of importance included:

- rate setting is a high priority;
- if OPEGA does not look at rate-setting, DHHS may be prepared to look for an outside resource to help with rate-setting;
- an effort to clarify for members of the Health and Human Services Committee and members of the Legislature in general, the conflicting information presented with respect to the costs of the system and the eligibility and services that are provided;
- OPEGA could provide an unbiased assessment of information being provided to the HHS Committee on mandatory vs. optional cost, eligibility and service;
- cost-effectiveness of individual programs;
- understanding what administrative burdens are being imposed to participate as a MaineCare provider and what the associated costs are;
- the difference between the administrative requirements imposed upon providers and the administrative requirements imposed upon the Department itself;
- how out of control DHHS is and the enormous part of the State's budget that goes to DHHS;
- cost-shifting from MaineCare to private insurers;
- rate-setting as it relates to reimbursements for parental services, trends over time, and comparison to other states, or a national average;
- the State's management of the large managed care contracts;
- the State rewards for services provided, but does not reward for helping people so they no longer need the services and in order to reform the system this needs to be looked at; and
- costs for services are not part of the education for individuals in the medical profession.

The GOC asked Director Hollander to furnish to the GOC the following information DHHS had compiled for the Health and Human Services and Appropriations and Financial Affairs Committees:

- a list of all the services provided under MaineCare;
- a list of what is not provided by other states; and
- a list of who is eligible.

Sen. Raye, speaking as a member of the HHS Committee, said the Committee has been in situations where it is their understanding that something is mandatory, but then at the next meeting they learn there is a new ruling on that. It is very difficult to keep abreast of all of the variations. In addition, the Committee is not dealing with just the DHHS, but hearing from lobbyist from both sides. He feels OPEGA has the credibility of a neutral observer, unvarnished, and will not be looking at it from a particular point of view so will be able to present just the facts.

Director Ashcroft said prior to the next GOC meeting, OPEGA will put together some understanding of what information already exists around this question of optional vs. mandatory, and a comparison to other states. OPEGA can see what is existing and how we can patch that together and get information about what they are already doing.

The GOC agreed it would be best to meet after the HHS Committee meeting on September 10th. It will give Director Ashcroft an opportunity to meet with the HHS Committee to summarize what the GOC discussed at

today's meeting. It will also give her the time to work with the DHHS to get what has already been done in terms of mandatory vs. optional and when the GOC meets the following week, will have the benefit of the thinking of the committee of jurisdiction as well as OPEGA's information from further scoping out the adequacy of measures in place to prevent, detect and correct instances of fraud, waste and abuse.

- **Potential Changes to OPEGA Statute Regarding Confidentiality of Work Papers**

Not discussed.

- **Work Session on State Administration Staffing Report**

Director Ashcroft reminded the GOC that they wanted to talk further about whether the GOC should take action, or recommend that someone else take action. She talked with Commissioner Wyke and referred members to the letter from the Commissioner contained in their GOC notebooks and also to the information she had put together regarding what the next steps will be in implementing the recommendations from OPEGA's Report on State Administration Staffing. The Administration does see the value in the recommendations and is already moving forward with the piece around the market study, and their expectation is it will also help provide a foundation of information that will feed the development of organizational charts. OPEGA will share with the Administration what it has learned. Commissioner Wyke is prepared to attend the next GOC meeting, give a status report of where they are and then can talk about it further at that time.

NEW BUSINESS

None.

REPORT FROM OPEGA DIRECTOR

- **Status of Audits in Progress**

Not discussed.

SCHEDULE NEXT COMMITTEE MEETING

To be scheduled

ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 11:58 a.m. (Motion by Sen. Perry, second by Rep. McLeod, unanimous).