



SEN. DEBORAH L. SIMPSON, CHAIR
REP. DAWN HILL, CHAIR

MEMBERS:

SEN. RICHARD A. NASS
SEN. JOSEPH C. BRANNIGAN
SEN. BILL DIAMOND
SEN. EARLE L. MCCORMICK
SEN. DAVID TRAHAN
REP. DAVID C. BURNS
REP. BRUCE A. BICKFORD
REP. PHILIP A. CURTIS
REP. PEGGY A. PENDLETON
REP. MARGARET R. ROTUNDO
REP. EVERETT W. MCLEOD, SR.

MAINE STATE LEGISLATURE
GOVERNMENT OVERSIGHT COMMITTEE

MEETING SUMMARY
February 27, 2009
Accepted March 13, 2009

CALL TO ORDER

The Chair, Senator Simpson, called the Government Oversight Committee to order at 9:36 a.m. in the Burton Cross Building.

ATTENDANCE

Senators: Sen. Simpson, Sen. McCormick, and Sen. Trahan
Absent: Sen. Nass, Sen. Brannigan, and Sen. Diamond

Representatives: Rep. Hill, Rep. Burns, Rep. Pendleton, Rep. Curtis, and Rep. Bickford
Absent: Rep. Rotundo

Legislative Officers and Staff: Beth Ashcroft, Director of OPEGA
Jennifer Reichenbach, Principal Analyst, OPEGA
Wendy Cherubini, Senior Analyst, OPEGA
Scott Farwell, Analyst, OPEGA
Matthew Kruk, Analyst, OPEGA
Susan Reynolds, Analyst, OPEGA
Etta Begin, Adm. Secretary, OPEGA

INTRODUCTION OF THE GOVERNMENT OVERSIGHT COMMITTEE

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

Chair Simpson moved to the **Presentation of Final Report**.

PRESENTATION OF FINAL REPORT

• MaineCare Children's Outpatient Mental Health Services

Director Ashcroft orally summarized the Purpose, Methodology and Background sections of the Final Report for the Committee. She introduced Jennifer Reichenbach, lead OPEGA Analyst on the Report, and Scott Farwell and Matthew Kruk, who assisted. Ms. Reichenbach proceeded with a briefing on the Report's Summary and Recommendations.

During the presentation, GOC members expressed interest in several areas (GOC) and the Director and Ms. Reichenbach provided additional or clarifying information summarized below (O).

GOC: Sen. Trahan asked whether providers that are clustered in some of the most populated areas all had their own administration or whether they were sharing resources.

O: The map of provider locations on page 7 of the report is based on data from MECMS. MECMS captures information by the provider ID that bills for the services. Providers have the option of establishing individual provider IDs for individual service locations within their organization or one provider ID for the organization as a whole. OPEGA identified that there were 63 provider IDs with claims that were paid in MECMS for FY08 and estimated that represented approximately 57 individual organizations. It is likely that those provider organizations each have their own administrative structures and many of them may have more service locations that are shown on the map. OPEGA did hear of some providers that were exploring joint purchasing arrangements and there had apparently been some mergers of organizations over the years.

GOC: Chair Hill asked whether providers have independent counselors working for them or just billing through them and whether independent counselors had their earnings reported on IRS Form 1099's or W-2s.

O: It appears that some counselors working for the providers are salaried and others work on a per diem basis. OPEGA does not know whether those receiving per diem are treated as independent contractors with earnings reported on an IRS Form 1099.

GOC: Rep. Bickford asked whether the functions performed by the ASO could be done, or are duplications of functions being performed, within DHHS.

O: The ASO services are a care management type function. They register the children and that allows the provider to bill MaineCare for the child, but in addition, they also monitor what services are being provided to the child. The providers need to justify to ASO the amount and type of services they want to provide to the child, which is referred to as a utilization review. The ASO is in a position to question the providers about the particular service treatment plan for a child and may offer other alternatives or suggestions.

This is not a function that existed within DHHS in the past. It is a new initiative and we understand it is a model that states are moving toward in terms of standards for best practice in trying to contain costs for mental health. As we currently understand it, this ASO function is not a duplication of any particular function within DHHS.

GOC: Sen. Trahan asked whether OPEGA found any duplication in the administrative requirements imposed on providers that may warrant OPEGA looking further to find out if some of the administrative processes could be streamlined.

- O: Some providers surveyed by OPEGA did raise concerns they had about specific types of administrative burdens and some of the administrative requirements were described as duplicative. OPEGA did not have time in this review to determine the extent of any actual duplicative efforts and what opportunities there may be to reduce those.
- GOC: Sen. Simpson asked for clarification on the percentage in the standardized rates for providers' administrative costs and how it relates to providers' actual costs.
- O: OPEGA did not look at individual providers actual costs because the State has moved to a standard rate. Built into the standard rate is an allowance for indirect costs. It has become somewhat incumbent on providers to operate within the standard rate and the indirect cost allowances. They are no longer negotiating what they will get to cover their costs. With the standard rate, the State does not pay out any more for administrative costs than what the indirect allowance in the rate is. Given that this is currently the situation, OPEGA chose to estimate providers' administrative costs based on the indirect cost allowance built into the DHHS calculation for DHHS cost-based standard rates. That cost-based calculation, and the indirect cost allowance, has recently been supported by an independent study done by Deloitte Consulting. OPEGA does not know to what degree providers' actual costs were considered during that study. The Director will check with DHHS for further explanation on where the indirect cost percentages in the standard rate were derived from.
- GOC: Sen. Trahan asked why appointments stopped being made to the Children's Mental Health Oversight Committee.
- O: Not sure. Possibly the Committee's role had become outdated or the emergence of the Children's Cabinet mentioned by DHHS made it unnecessary.
- GOC: Sen. Simpson asked whether there are duplicative reporting requirements for providers related to licensing and the ASO and whether those duplications could be removed.
- O: In conversations with DHHS, they have had the Administrative Burden's Working Group ongoing for a period of time. The Group is still working through some of the issues that they had heard from providers in the past, but Director Ashcroft did not know where that particular effort stands, or whether it addresses this particular issue. DHHS may be better able to address that question.
- GOC: Chair Hill asked how DHHS determines what functions are eligible for federal reimbursement and how they missed including the Rate Setting Unit when the State has been looking for money for some time.
- O: Ms. Reichenbach did not know how DHHS would respond to that specifically. She said DHHS has been in the process of trying to update what they had for a very old Cost Allocation Plan for some time and it is a complex plan. They are now having staff in the Rate Setting Unit record how they spend their time so they are in the position to have the data they need to be able to appropriately backup the amount of federal reimbursement they are requesting.
- GOC: Chair Hill would like more information from DHHS on what they have done to improve their capture of data necessary for federal reimbursement.
- GOC: Chair Hill asked how DHHS knows that a child for which services are being requested exists, and how they monitor that the child is receiving the requested services.
- O: At the public comment period on March 13, DHHS may be in a position to answer how they are monitoring that the children providers are billing for actually exist and are actually receiving the services.

Director Ashcroft thanked the Department of Health and Human Services, DHHS Service Center, the providers and family advocates who provided information, APS Healthcare, OFPR, OPLA and the State Auditor's Office for their work with OPEGA throughout the review.

The Committee will hold a public comment period and work session on the MaineCare Children's Outpatient Mental Health Services Report at its meeting on March 13, 2009. The GOC may also vote on the Report at that meeting.

RECESS

The Government Oversight Committee recessed at 10:34 a.m. on the motion of the Chair Simpson.

RECONVENED

Chair Hill reconvened the meeting at 10:55 a.m.

PRESENTATION OF INFORMATION BRIEF

- **Fund for Healthy Maine: Programs, Allocations and Expenditures**

Director Ashcroft said OPEGA has a review in progress of Fund for Healthy Maine Programs and this presentation includes information that has been gathered to date regarding the Fund for Healthy Maine Programs. OPEGA completed the work that addressed one of the questions the Health and Human Services Committee had regarding comparing Maine to other states on how they spend their tobacco settlement money. The Information Brief answers that question and provides some context on the Fund for Healthy Maine and Programs.

Director Ashcroft said that as OPEGA moves forward with the Fund for Healthy Maine Review, it will be looking at the programs listed in the Brief to decide which it should focus its attention on and what kinds of questions need to be asked about each program. The focus will be on whether the right structures are in place to be able to tell if they are cost effective, efficient, etc.

Director Ashcroft introduced Wendy Cherubini, lead analyst on the Review, and Susan Reynolds, who is assisting.

Ms. Cherubini did the presentation of the Information Brief. During the presentation the GOC members expressed interest in several areas and the Director and Ms. Cherubini provided additional or clarifying information as summarized below.

- GOC: Sen. Trahan asked whether there is a way to measure the progress regarding achieving the goal of getting dental services into underserved areas.
- O: Ms. Cherubini said there are 2 programs funded at the Finance Authority of Maine related to health. One is the Area Health Education Centers contracted with University of New England to attract and retain health care personnel in underserved areas. The other is the dental education program that provides loans to dental students and also provides forgiveness of loans for those who practice in Maine under certain conditions. She will get more information on how progress is measured for those programs and report back to the GOC.
- GOC: Sen. McCormick said that it is important not only what the State is spending on smoking cessation compared to other states but whether that money is spent well. He questioned whether other states had done studies that show whether there is a diminishing return where you do not need to spend more money to get the same message out to have the same impact.
- GOC: Chair Hill asked if OPEGA knew what the other states are spending the money on if they are not spending it on preventive health programs.

- O: Ms. Cherubini said 19 states are putting the money into the General Fund for general purposes, 4 states are assigning money to reserves or rainy day funds, a number of states securitized their tobacco master settlement payments and now use the annual payments to pay the debt service on those bonds, in tobacco regions states are using it for economic development, and 20 states do spend money on health.
- GOC: Chair Simpson asked if there is help with tobacco cessation medication.
- O: Ms. Cherubini said the Tobacco Prevention and Control Program has a helpline, counseling available, and also medication is provided to those who would like to quit smoking.
- GOC: Sen. Trahan mentioned that in the past he had gotten information from OFPR that there were 130 different prevention programs in the State. He wanted to know if any of the FFHM programs were duplicative with these.
- O: Ms. Cherubini said she would follow up with OFPR on the question and report back to the Committee.

Ms. Cherubini thanked all those that OPEGA spoke with and received information from in preparing the Information Brief including the State agencies that have Fund for Healthy Maine funding, OFPR, OPLA, University of New England, FAME, the Friends of the Fund for a Healthy Maine, and GAO and staff from other states who responded to OPEGA's survey.

Director Ashcroft said copies of both the MaineCare Children's Outpatient Mental Health Services Report and the Fund for a Healthy Maine Programs Information Brief will be provided to the Health and Human Services and Appropriations and Financial Affairs Committees, the Legislative Council, and she will make all Legislators aware of the reports.

Chair Hill and Rep. Burns were interested in whether OPEGA could provide the number of hours and cost of the Children's Mental Health review. The Director will provide that information for the Children's Mental Health review at the next meeting.

Chair Hill mentioned that a provider attending the meeting brought to her attention his concern that information included in the MaineCare Children's Outpatient Mental Health Services Report misrepresented his organization. Chair Hill asked if OPEGA would follow up on this concern and whether the Report would be amended to correct any inaccuracies. Director Ashcroft said OPEGA would look into it and whether there would be amendments to the Report would depend on what the cause of the issue was.

SUMMARY OF THE FEBRUARY 13, 2009 MEETING

Motion: That the Meeting Summary of February 13, 2009 be accepted as written. (Motion by Rep. Pendleton, second by Sen. Trahan, PASSED by unanimous vote 8-0).

Chair Hill asked if there was objection to taking an item out of order. Hearing none, the Committee moved to the **Report of the OPEGA Director.**

REPORT FROM OPEGA DIRECTOR

• Project Status Report

Director Ashcroft said the status of OPEGA's reviews has not changed significantly from the last GOC meeting with the exception of the MaineCare Children's Outpatient Mental Health Services review which was is now complete.

Fund for Healthy Maine is still in progress and OPEGA is at a phase where it will be deciding which of the programs it will review in more detail for cost effectiveness, accountability and transparency. Given the complexity of the programs the report will probably be issued in the 2nd quarter. She said OPEGA welcomes any input GOC members may have about particular FFHM programs that are of interest to them.

Durable Medical Equipment and Supplies – OPEGA is finishing up a lot of data analysis and will be following up on questions arising from that analysis.

- **Status of Action Items From Last Meeting**

Director Ashcroft referred members to material in their notebooks that responded to GOC requests for information from prior meetings.

- **Proposed Legislation With Impact to OPEGA**

Director Ashcroft said LD 696, Resolve, To Reclaim Past Unredeemed Beverage Container Deposits requires OPEGA to conduct an audit to estimate deposit amounts unaccounted for during the last 15 years, with initiators required to make payment to the State based on OPEGA's estimates.

Director Ashcroft said in the past the GOC members had wanted to weigh in on bills requiring the use of OPEGA's resources. Rep. Pendleton described efforts by GOC members on several bills during the 123rd where members gave testimony before joint standing committees hearing legislation containing requests that OPEGA perform reviews, or staff special commissions. The testimony was about the GOC's statutory authority to direct OPEGA's resources, and the process that already existed for legislators to bring requests for OPEGA reviews to the GOC.

Following the Committee members' discussion of the process the GOC and OPEGA has in place for requesting reviews, and the concerns about OPEGA getting direction for its work through legislation and not the GOC, it was agreed that the GOC Chairs would meet with the bill's sponsor and report back to the rest of the Committee.

RECESS

The Government Oversight Committee recessed at 11:53 a.m. on the motion of Chair Simpson.

RECONVENED

Chair Hill reconvened the meeting at 12:50 p.m.

UNFINISHED BUSINESS

- **Workplan Development – Discussion of Potential Topics**
 - **Further discussion of topics reviewed at last meeting.**
 - **New topics from GOC members.**
 - **New topics from other sources.**
 - **Tapping into reports and results from other reviews and studies.**

Director Ashcroft referred members to the revised list of topics. Topics voted off the list at the last meeting had been removed and a new request filed by a legislator had been added.

Chair Hill suggested, because some GOC members were in other committee meetings, that the GOC not vote on its workplan at this meeting, but go through the list of topics making any further recommendations for what to do with them. She also said that the GOC Chairs will contact the Chairs of the Joint Standing Committees to invite them to submit any requests they have prior to the GOC voting on the work plan. Chair Hill also suggested that ideas brought forward by members of the GOC should have a vetting process.

Director Ashcroft proceeded to address particular topics on the revised list that she had additional information on to share with the Committee.

- Wallop-Braux Program – Director Ashcroft described the new request received from a Legislator. No GOC action taken.
- Maine Military Authority: Maine Readiness Sustainment Maintenance Center – Director Ashcroft said that the Maine Military Authority is an enterprise fund account which means they are supposed to be self-sufficient. Their statute says if they have any profits over and above what they need for their own expenses and for capital improvements, they would forward those to the State. The State has no obligation to provide any State funds. The work they do is for the federal government working on federal government vehicles so any salvage materials from those vehicles are owned by the federal government. The federal government has contracts with vendors around the salvage material. The contract around the salvage and what happens to it are not functions of the Maine Military Authority, they are functions of the federal agency.
- New Technology to Reduce Oil Consumption in State Buildings – Sen. Simpson asked if this topic could be removed from the list. Sen. Trahan said the information has been referred to the Bureau of General Services for consideration and that more agencies were beginning to look at possible opportunities so he was comfortable removing it.

Motion: That the Maine Military Authority and New Technology to Reduce Oil Consumption in State Buildings be taken off the list for OPEGA Reviews. (Motion by Rep. Bickford, second by Sen. McCormick, PASSED, 7-0).

Director Ashcroft noted that she was in the process of talking with the State Auditor regarding the following topics:

- ASPIRE Program;
- Tax Collection (income, sales, use fuel, cigarette).

Director Ashcroft has made contact with the State Auditor, but a meeting needs to be scheduled for further discussion of the topics. That meeting will be scheduled as soon as possible.

Director Ashcroft had no further information for the topics for consideration and reconsideration.

Chair Hill said the GOC is looking to decide on OPEGA's work plan by the end of March. Chair Hill referred to Director Ashcroft for her comments on an approach the GOC may take in selecting topics.

Director Ashcroft reminded the GOC that it had previously discussed whether there should be a strategic approach to what it is the Committee wanted OPEGA focused on for the coming year or two. The Director suggested that the Committee may want to decide whether there is a particular strategy, approach or theme they would like to pursue before making final decisions on the topics that should be on OPEGA's plan. She noted that such a decision would likely be driven by a discussion of where OPEGA could add the most value for the Legislature given some of its unique characteristics and its statutory purpose. The Director described categories of added work OPEGA could do including playing a role in helping the Legislature get to a point where it has good information in the future for making the kinds of decision it is currently trying to make with the budget. For example, making sure there are good performance measures in place for programs, making sure we know what the programs and activities are and what is being spent on them. That is a larger scale effort and part of it may dovetail with what the Government Evaluation Act is supposed to be trying to do. Rep. Burns said that is something the agency should be responsible for, to compile that list of what is under their authority, and should not be OPEGA's responsibility to do it for them.

Chair Hill asked if Director Ashcroft could compile her thoughts into a memo for GOC members so those who are not in attendance at the meeting can be thinking about it before the next GOC meeting.

Rep. Burns asked if there was a comprehensive list of all State programs anywhere. Director Ashcroft said the budget is the closest thing she is aware of. OPEGA has been trying to build such a list as it gathers information during reviews, but she does not believe there is one list for all programs. She does believe, however, that each State Department and agency should be able to give a list of its own programs.

Director Ashcroft wanted to make the GOC aware that at the Legislative Council's Budget Subcommittee meeting, she was asked about OPEGA's consulting budget and what the impact would be to OPEGA, and its function, if it were further reduced. Director Ashcroft was looking for direction from the GOC. Sen. Trahan said he would prefer that OPEGA have its work plan prior to the GOC offering any more of OPEGA's consultant fees. Director Ashcroft is to report to the GOC when the Council Budget Subcommittee schedules its next meeting.

NEW BUSINESS

None.

NEXT COMMITTEE MEETING

March 13, 2009 at 9:30 a.m.

ADJOURNMENT

The Government Oversight Committee meeting was adjourned at 1:24 p.m. on the motion of Chair Simpson.