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REP. DAWN HILL, CHAIR

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REP. MARGARET R. ROTUNDO  
REP. EVERETT W. MCLEOD, SR.

MAINE STATE LEGISLATURE  
GOVERNMENT OVERSIGHT COMMITTEE

**MEETING SUMMARY**

**March 13, 2009**

**Accepted March 27, 2009**

**CALL TO ORDER**

The Chair, Senator Simpson, called the Government Oversight Committee to order at 9:40 a.m. in the Burton Cross Building.

**ATTENDANCE**

Senators:	Sen. Simpson, Sen. Brannigan, and Sen. Nass, Joining the meeting in progress: Sen. Trahan Absent: Sen. Diamond and Sen. McCormick
Representatives:	Rep. Hill, Rep. Rotundo, Rep. Burns, Rep. Pendleton, Rep. Curtis, and Rep. Bickford
Legislative Officers and Staff:	Beth Ashcroft, Director of OPEGA Jennifer Reichenbach, Principal Analyst, OPEGA Scott Farwell, Analyst, OPEGA Etta Begin, Adm. Secretary, OPEGA
Executive Branch Officers and Staff Providing Information to the Committee:	Geoffrey Green, Deputy Commissioner, DHHS Lucky Hollander, Director Legislative Relations, DHHS Laura Fortman, Commissioner, Department of Labor Jill Duson, Director, Bureau of Rehabilitation Services, Department of Labor

**INTRODUCTION OF THE GOVERNMENT OVERSIGHT COMMITTEE**

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

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## SUMMARY OF THE FEBRUARY 27, 2009 MEETING

Sen. Nass noted when reviewing the Summary that the GOC voted to take the Maine Military Authority off the list of potential topics for OPEGA's work plan because the vehicles were owned by the Federal Government. He wondered if the GOC had a responsibility to inform the Federal Government about the potential concerns that were raised. Chair Hill did not have an objection to letting the Federal Government know of the concern.

Director Ashcroft will find an appropriate federal entity and draft a letter from the Chairs' forwarding the concern regarding the salvage at the Maine Military Authority to that entity. Chair Hill requested that Senator Susan Collins be copied on the letter.

**Motion:** That the Meeting Summary of February 27, 2009 be accepted as written. (Motion by Chair Hill, second by Sen. Nass, PASSED by unanimous vote 9-0).

## OPEGA FINAL REPORT

### • **MaineCare Children's Outpatient Mental Health Services**

Director Ashcroft referred members to the memo received from Commissioner Harvey responding to the Committee's questions from the last meeting. She also recognized Geoffrey Green, Deputy Commissioner, DHHS and Lucky Hollander, Director Legislative Relations, DHHS, who were at the meeting to respond to the Report and answer any questions of the GOC.

#### - **Public Comment Period**

Deputy Commissioner Green spoke on behalf of DHHS and briefly covered the DHHS responses in the memo from Commissioner Harvey addressing the GOC's questions from its February 27, 2009 meeting.

Q: Prior to the outpatient rate cap of \$88.08, what was the range in the individual negotiated rate for outpatient providers?

A: Rates ranged from \$76.48 to \$94.28 per hour.

Q: From the Department's perspective, why does the Children's Mental Health Oversight Committee no longer have members appointed to it?

A: It is DHHS' understanding that in 2003 a number of vacancies occurred in the seats for parental, provider and legislative members. Although the remaining membership tried to recruit individuals to fill those vacancies, and DHHS advised the Offices of the Speaker and President of the need to fill vacancies, no action was forthcoming and the CMHOC essentially ceased activity.

Q: Some providers reported to OPEGA that they must provide duplicative data associated with their licensing and reporting to APS. OPEGA mentioned the Administrative Burdens Work Group may be addressing this. What has been the outcome of the Administrative Burdens Work Group's efforts on this topic? In addition, what other specific efforts to streamline administrative requirements or reduce duplication for providers are underway?

A: DHHS provided the GOC a copy of the report issued by the Administrative Burdens Work Group in November, 2007 and the updated report issued in January, 2008. The report included 13 specific recommendations of which action has been taken to implement, or at least partially implement, 8 of them. With one exception, the items that have not yet been implemented are in process. Implementing recommendations such as major overhauls of licensing rules to incorporate "deeming" of accreditation standards has required extensive analysis but full implementation will be completed this year. Other

recommendations could not be fully implemented for reasons such as nonconformity with consent decree requirements.

In addition, DHHS requested APS HealthCare to collaborate with providers to catalog a complete listing of the administrative burdens identified by providers, and has developed detailed plans to address the issues. DHHS provided the GOC a copy of the report produced by APS HealthCare to document the work and the actions that have been taken to address administrative burdens.

Q: Why has the Rate Setting Unit not been included in the Department's CAP plan in the past? Specifically regarding the Rate Setting Unit, what has DHHS done to ensure they receive the Federal Reimbursement in the future?

A: The Rate Setting Unit is now being included in DHHS' cost allocation plan.

Q: What actions does the Department usually take to determine whether all available Federal monies are being accessed? Are there other federal monies for any other programs at DHHS that are being left on the table as of now?

A: Historically, DHHS has been aggressive in taking steps to maximize federal funding. In past years, consultants have been brought in to look for opportunities to maximize federal funding to help the Department implement those initiatives. It is highly unlikely that a significant amount of available federal funds are being left on the table. In several areas the federal government is now reconsidering past decisions to allow certain levels of federal participation and may reduce levels.

Q: What actions does DHHS take to ensure that providers bill for outpatient services for children that actually exist and actually receive the services being billed for? How does DHHS confirm that the child was eligible to receive outpatient services?

A: There is an eligibility determination process that everyone has to go through in order to become a MaineCare member. The process is regulated by very stringent federal requirements and before a provider can begin billing for services to a child, they have to receive an authorization from the ASO who then enters the provider's authorization into the MaineCare billing system. Providers must retain documentation in their records to support all billing and the documentation is reviewed during periodic licensing surveys. Surveillance and utilization review auditors review billing data for all MaineCare services and investigate any instances of suspected fraud or abuse.

Deputy Commissioner Green then referred the GOC to Commissioner Harvey's response to OPEGA's review which is included in the back of the MaineCare Children's Outpatient Mental Health Services Report. He said that one of DHHS' concerns is that the Report very accurately made the statement that there are some differences in perspectives between providers and DHHS on administrative burdens. The concern for DHHS is that perspectives from providers were published in the report even though they had not been validated by OPEGA. DHHS feels that there was information available to OPEGA to validate some of the concerns raised by providers and if OPEGA had done so it would have shown that some of the providers' perspectives were not accurate descriptions of the current situation.

Deputy Commissioner Green addressed the Report's recommendation regarding the contract with the Administrative Services Organization (ASO). DHHS does not have an issue with the recommendation, but suggests that it is too soon to effectively evaluate the ASO initiative because it only began operating in December of 2007. Such an evaluation should wait until the initiative has been fully operational for a reasonable period of time and more data is available. DHHS has learned that a characteristic of virtually all successful utilization management initiatives, is that they have low denial rates. What utilization management initiative does do is change the way providers do their work, how they make decisions about who gets what services and how much of what services they receive because the decisions are now driven by a set of clinical criteria that are clear, straightforward, and standard across the board. A system transformation occurs when a utilization management initiative has been implemented and providers have changed the way they do business.

Chair Simpson asked if the members of the Committee had questions for Deputy Commissioner Green. Members' questions and Deputy Commissioner Green's (DHHS) responses included:

GOC: Sen. Trahan recognized the issue with the unsubstantiated accusations on the administrative costs problems and that DHHS had noted the new program was going to have more administrative costs. His concern is that there is an expectation that there is going to be a capped amount of money the State will pay to providers and when there are higher costs, as stated by DHHS, there are only a few areas where savings can be found and one would be in the services provided. That is a concern.

DHHS: Did not mean to convey that provider concerns should not be communicated to the Committee. DHHS' concern is that when information gets published in the report there is a perception that what is published has been validated. In response to Sen. Trahan's second point, DHHS has done a fair amount of work on rates recently and hired a national consulting firm to do an analysis of rates. DHHS feels it has good objective data that the rates being paid are reasonable.

GOC: Chair Hill asked how DHHS thought OPEGA might have handled this differently.

DHHS: DHHS sees the value of the process as hearing the concerns, doing the analysis and reaching a conclusion about what the facts are and thinks that is how the process can provide the greatest value for the Department, citizens of the State and the Legislature. OPEGA reported they had been told by providers that there had been multiple pages of information required for continuing stay reviews of children's outpatient services and that is no longer the case, it is now a one page form. The greatest value would be provided if the process was designed to look at that contention and then look at the document to see if that is the case, and then report the results of that investigation and that analysis. The report would then consist of here is what we have found to be the facts rather than here is what they say.

GOC: Rep. Rotundo said both sides need to be listened to, but then you have to make sure what you have heard has validity. Conclusions cannot be based on things that are not valid.

Sen. Nass is reluctant to have OPEGA change what it reports based on DHHS' comments. The utilization management program is very complex, and OPEGA's job is to look very broadly at the program, and make sure all input is given so the Committee can make recommendations or steer OPEGA to helping the GOC resolve the issues. He is not certain DHHS is willing to let the GOC participate in the complexity of a relatively new utilization management process.

DHHS: Deputy Commissioner Green agreed with the complexity in the process and was not saying it should not be looked at and critically. The hope was that a conclusion was based on an objective analysis of facts rather than just reporting concerns that had been expressed.

GOC: Chair Hill said there was a recommendation of resurrecting the Children's Oversight Committee but it seems there may be some duplicative measures already being taken with the Children's Cabinet. She asked for information on the Children's Cabinet and how DHHS sees them taking care of some of the concerns that OPEGA's Report addressed.

DHHS: Deputy Commissioner Green was not saying the Committee should or should not be resurrected. He wanted to provide the GOC with the information that there is now the Children's Cabinet mechanism that has a role and the GOC may want to think through as to what the respective roles and functions are.

GOC: Chair Hill asked what the Children's Cabinet does and how they might address this Report or play an active role in it.

- DHHS: Deputy Commissioner Green said he is not the person who participates on the Cabinet, but he will have someone available to answer the GOC's questions for the work session.
- GOC: Chair Hill referred back to the Administrative Burdens Work Group and DHHS' comment that 8 of the 13 recommendations have been fully or partially implemented and asked which recommendations were included in the 8 he referenced.
- DHHS: Deputy Commissioner Green referred the Committee to page 6 of the "Interim Report, Administrative Burdens Work Group Response to L.D. 499" that had been distributed to the Committee. The recommendations that have been partially or fully implemented are: Program memos; Alignment of core standards and deeming (partially implemented, but will be more fully implemented later this year); Treatment plan reviews (has been implemented with respect to Children's Services, but there is a consent decree requirement that gets in the way of the full implementation with respect to Adult Services); Life safety code inspections; Use of technology; Expanded use of APRN in Child Act Teams; Medication reviews; and Channel all adult enrollment and resources data summaries through ASO and eliminate duplication of enrollment/RDS.
- GOC: Chair Simpson referred members to the document in their books called Provider Responses to OPEGA Survey Questions Regarding Administrative Burdens. She asked Director Ashcroft if the responses shown here were gathered during the review or after.
- O: Director Ashcroft said the responses were received during the review process.

The GOC thanked Deputy Commissioner Green for the information he provided to the Committee.

Chair Simpson asked if there was anyone in attendance that would like to speak to the Report. She recognized Jack Comart, an attorney at the Maine Equal Justice Partners who wanted to speak about the Children's Mental Health Oversight Committee.

Mr. Comart said the Children's Mental Health Oversight Committee was created in the mid-nineties and he was one of the original members. The Committee was created due to a crisis in children's services. As the crisis subsided the Committee fell into disuse, but he felt that the Children's Mental Health Oversight Committee could be a forum for issues that providers and advocates could potentially get worked out before they have to go before the Legislature. The Committee may not need to have legislators as members. Perhaps it should be DHHS' committee that involves providers and advocates that meets 4 or 5 times a year so that when issues arose there would be a way of processing those issues. DHHS may want to consider a process that is a bit more proactive so providers and advocates could know what the Department is thinking of in terms of policy initiatives before they get too far down the road. The goal is to make sure that children have access to good quality cost-effective services.

Chair Simpson asked if the GOC had questions for Mr. Comart.

GOC: Sen. Brannigan believes the Health and Human Services Committee staff will be looking at the myriad reports that the Committee is supposed to receive but does not and would likely identify those that were supposed to be received from this Oversight Committee.

GOC: Chair Simpson asked if Mr. Comart had any experience with the Children's Cabinet.

A: Mr. Comart said he did not but he is aware of its existence. Its members do not include providers or advocates, they are from the Administration. He does not believe a lot of the issues being discussed here would come up there.

GOC: Chair Hill asked how issues came before the Children's Mental Health Oversight Committee and whether reports were brought to the Committee to follow up.

A: Mr. Comart said issues were brought up by members of the Committee and there was also a public comment period at meetings. Issues brought up at a meeting would be addressed at the next meeting. The Committee did a lot of follow up.

GOC: Rep. Pendleton said she was on the Children's Mental Health Oversight Committee. The Committee did not have written goals or policies and that may be why the Committee did not last. If another is established, she would encourage that it have goals, policies and objectives.

GOC: Rep. Burns said he was looking forward to when the Department could talk about the Children's Cabinet noting that he has had very positive experiences with the Cabinet. It has representatives from different regions and is a collection of professionals in the community that deal with child-related issues in that region.

The GOC thanked Mr. Comart for the information provided.

Chair Simpson recognized Chris Copeland, Executive Director, Tri-County Mental Health Services (TCMHS).

Director Copeland's presentation included:

- In FY 08 TCMHS was the 4<sup>th</sup> largest provider by number of individual children served;
- average cost per child was \$929;
- services are provided by master clinicians; and
- there are 6 TCMHS clinic sites and TCMHS is also integrated into primary care practices and over 26 schools.

Director Copeland said the information he provided was regarding TCMHS in response to the GOC's interest at the last meeting in hearing from providers.

Director Copeland said that TCMHS has a very good working relationship with the ASO. One of the questions the GOC had asked was whether there been any changes impacting provider administrative burdens. He noted that the initial forms that were required to be filled out by the ASO were 15 pages, but that has been reduced to 1 page.

Director Copeland said TCMHS' reimbursement rate has been cut 29% over the last 7 years. They are providing the same services but with a reimbursement rate that is now a standard \$84 an hour. Over the years to respond to the cuts, TCMHS has:

- cut over \$800,000 from supervision, support staff and administration; and
- stopped providing benefits to out-patient clinicians.

TCMHS estimates that it spent over \$600,000 in administration related to APS activities – that equates to over \$36,000 for Children's Outpatient Services. TCMHS is currently losing money providing outpatient services.

Director Copeland spoke on the duplication of reporting and data requirements. He said prior to the ASO, TCMHS' clinicians entered data into TCMHS' own electronic medical record system which automatically generated a bill to the billing department, which then billed the State through MECMS. When denials were received, they were fairly easy to fix. TCMHS now has to re-enter the data into this system for adequate documentation of the case record and also has to enter some of the same data into APS' Care Connections System. APS then gets an authorization from MECMS, provides it to TCMHS, and then TCMHS can bill. If it works the way it should, TCMHS gets paid. If TCMHS gets a denial from MECMS, they get a general denial of a claim and TCMHS has to research within its electronic medical record and APS Care Connections to find where the problem is. When TCMHS can find the problem it is okay, but when they can't, they have to ask for a clarification from MECMS of why the denial was made. TCMHI receives the clarification, has to

inform APS of changes they need to make. APS does what they need to do to fix the error and then contacts TCMHI to re-bill. For step 1 this process can take up to 4 weeks. TCMHI has suspended billings of about \$5,000 a week related to when the clinicians do not get the information into APS Care Connection right. TCMHI also has approximately 50 denials a week for another \$5,000 for other reasons. This is a total of approximately \$10,000 a week in unpaid claims that TCMHI spends 3 full days a week of staff time researching and correcting. TCMHI's rates have gone down and its administrative overhead has gone up because of these system issues. There is an increase in TCMHI's administrative burden.

The GOC thanked Director Copeland for the information he provided to the Committee.

Chair Simpson asked if there were questions the Committee had for Director Copeland. Committee questions included:

GOC: Rep. Bickford asked if TCMHI was experiencing a high increase in administrative cost with the new billing process.

TCMHI: TCMHI has increased administrative costs because of the ASO.

GOC: Sen. Nass inquired when the multiple page report was changed to 1 page and whether this occurred during the OPEGA review. He also asked if TCMHI's clinicians were independent contractors and that was why they did not receive health benefits.

TCMHI: Director Copeland said the multiple page report was changed to 1 page in August, 2008, and the clinicians are employees of TCMHI.

GOC: Rep. Pendleton asked what the bases for denial of claims were and if the technicians entering the data received any training.

TCMHI: Director Copeland said denials were received because TCMHI had entered something wrong into the system or APS did not transfer the information accurately. TCMHI has approximately 300 employees who use the APS system so TCMHI has a constant job of training them to understand the process.

GOC: Sen. Brannigan said he was concerned about TCMHI having some employees covered by health benefits and others not.

GOC: Rep. Rotundo asked how helpful it would be to TCMHI to have some other kind of body that they could bring concerns to if they felt they were not being heard or if things were not being dealt with effectively by others within State government.

TCMHI: Director Copeland said there is a good working relationship between clinical staff, program staff and the Office of Children's Behavioral Health Services. However, it would be helpful to have a place where they could talk objectively, and believes that one of the recommendations in OPEGA's report was about the health of the provider network. That is something that needs an objective view because providers have an opinion, the department has an opinion and it would be helpful to have someplace where difficulties could be arbitrated.

GOC: Chair Hill asked for the number of children TCMHI works with and if the amount stated earlier of \$10,000 a week in denials was from just children's outpatient services.

TCMHI: Director Copeland said TCMHI sees 5,000 to 6,000 people at any one time of which approximately 1,000 are children. The denials received are not just for children's outpatient services.

GOC: Chair Hill asked if Director Copeland could elaborate on the billing system.

TCMHI: Director Copeland said they have an electronic medical records system that staff use to enter their information. When the individual staff person electronically signs that, it automatically generates a bill to TCMHI's billing department who then electronically submits to MECMS. That is done 2 or 3 times a week. What they do not have yet is an electronic connection between TCMHI's electronic medical records system and the APS system, which is something he believes, is being worked on and that would make billing simpler.

The GOC thanked Director Copeland for the information he provided.

Chair Simpson recognized Ken Olson, LCPC, Regional Director of Foster Care and Community Programs KidsPeace National Centers. He was testifying in an effort to help clear up some ambiguities in OPEGA's report, particularly as it concerned his agency, and to offer a provider's perspective regarding the questions of administrative burden and accountability that are central to the findings in the Report.

KidsPeace provides a broad range of services, in addition to outpatient counseling. Five of the services KidsPeace provides are funded, at least in part, by MaineCare. Those other services provided to children were not included in OPEGA's analysis of the provider network due to an artifact of the data analysis methodology used and limitations on the data coming from the MECMS system. OPEGA was pulling information by provider ID numbers and because KidsPeace has a specific provider number for outpatient mental health services in Portland that was the only service that shows up in the report while KidsPeace also provides five other services out of the Portland office.

Each of the KidsPeace programs shares in the administrative overhead of the agency which allows them to minimize the overall administrative expense of each program by itself. Many agencies, like KidsPeace, also offer an array of services. The administrative burdens of these agencies are an accumulation of requirements, each typically derived from an apparently reasonable rationale that often combines with all others to the point of unreasonableness.

Director Olson said that rate reductions and the reforms of the last several years have reduced the capacity of many agencies to offer outpatient therapy to those who seek it. Non clinic-based models of providing this service might deliver cost savings. The public policy question, however, is whether this has a favorable or unfavorable impact on service recipients and, ultimately, whether the purported savings of this model are, by themselves, an acceptable outcome for those children and families who desperately need the services.

The GOC thanked Director Olson for his testimony.

Chair Simpson asked if there were questions.

GOC: Sen. Trahan asked how the Legislature could go back and revisit the reforms made over the last several years that were intended and marketed as a way to provide better and more services, but has actually had the opposite effect, and try to correct the problems Director Olson testified to.

KidsPeace: Director Olson said rate reductions across the system created in the interest of cost savings, has had an impact on agencies with respect to what they do with their staff and how they achieve those cost savings. Director Olson said his Agency has had to reduce the employees' benefits and also has had to cut back on its services because of losing money at providing certain services.

GOC: Sen. Nass asked if past problems with the MECMS system and unreliability of MECMS data was what Director Olson was referring to when he spoke of the lack of information on his agency in the OPEGA Report.



KidsPeace: Director Olson said KidsPeace has six or seven stars on the map contained in OPEGA's report that show KidsPeace as only providing outpatient services. This is because OPEGA's analysis was done using provider ID numbers from MECMS. For example, all of the money received by TCMHS has been billed under one provider number and KidsPeace has different provider numbers for each service provided at each location.

GOC: Sen. Brannigan asked if employees had been put on per diem.

Kidspeace: Director Olson said outpatient clinicians are now part-time employees working 32 hours a week which is not enough hours under the agency's policies to qualify for benefits.

GOC: Sen. Nass commented that system changes seem to have had unexpected outcomes.

KidsPeace: Director Olson believes there is widespread agreement that the implementation of a utilization review process increases administrative burdens and increases administrative costs. The overall cost of the system may come down because of utilization management for some of the reasons Deputy Commissioner Green talked about in terms of care management, but as that happens, administrative costs go up and then costs have to be covered from somewhere else.

GOC: Rep. Rotundo said the reason the State changed to standardized rates was because in the area of mental health the State had some of the highest reimbursement rates in the country.

KidsPeace: Director Olson said the rates in Maine compared to the rates in other states were generally higher but that costs were also higher in Maine.

GOC: Chair Hill asked the percentage of what the administrative costs for KidsPeace was.

Kidspeace: Director Olson believes administrative costs for his organization are approximately 14%.

The GOC thanked Director Olson for information he provided.

Chair Simpson asked if anyone else had comments to share with the Committee. Hearing that no one else had comments she closed the public comment period of the meeting.

Chair Simpson asked if there was objection to taking an item out of order. Hearing none, she moved to **New Business, Maine Department of Labor, Bureau of Rehabilitation Services.**

## **NEW BUSINESS**

- **Maine Department of Labor, Bureau of Rehabilitation Services**

Director Ashcroft reminded the Committee that OPEGA had released a report from a review of the procurements of goods and services for consumers of the Vocational Rehabilitation Programs within BRS. OPEGA identified some very significant issues in the Report and the Department has put significant effort into actions to address those concerns. Director Ashcroft thanked the Department for keeping the GOC and OPEGA apprised of their progress throughout the process.

Chair Simpson recognized Laura Fortman, Commissioner, Department of Labor.

- **Briefing by Bureau of Rehabilitation Services on Status of Management Action Plan related to OPEGA's Report on Bureau of Rehabilitation Services: Procurements for Consumers.**

Commissioner Fortman thanked OPEGA for the consultation and assistance provided to the Bureau during the process and Jill Duson, Director of the Bureau of Rehabilitation and her staff for the hard work they have done in completing the management plan on time and addressing issues looking forward. It was not something looked at

as a one time need to make it through a check list, but rather an opportunity to look at the entire system and processes and determine how the Bureau could provide quality service.

Commissioner Fortman said the Bureau has completed all of the Management Actions that were identified within the timeline it had given the GOC. She said BRS created a monitoring plan because it wanted to make sure that this was not a one time look at the issues raised, but rather that the Bureau had a plan moving forward to make sure they continue on a service improvement model. Commissioner Fortman said one of the gifts received from OPEGA during the review was a data mining process that BRS is regularly using to identify potential issues. BRS is also working closely with its Service Center. The Service Center is conducting quarterly audits for BRS to review. It is BRS' goal to identify any potential problem before it goes into the regular audit process and wants to make sure that internally, they are aware of potential issues and are doing everything to make sure the limited resources are spent in the most appropriate way to meet the needs of people they are trying to serve.

GOC: Sen. Nass asked if the Bureau had a sense whether the individuals they serve have been affected by the Bureau's changes.

BRS: Commissioner Fortman said she has not received complaints from the changes. She also noted that the Bureau has an appeals process if people want to dispute decisions of the Bureau. The Commissioner believes OPEGA's recommendations were more focused on tightening internal controls and making sure that the procurement process was clear, that there was appropriate support, supervision and training for staff. The focus was not on cutting services for clients but rather making sure the Bureau had the internal procedures in place to assure that good decisions were being made and that those decisions were supported with adequate documentation.

GOC: Sen. Nass asked for clarification of exactly what was included in the Report.

BRS: Commissioner Fortman recognized Director Duson. Director Duson explained that BRS counselors negotiate an individual plan for employment with each consumer and they sign off on that plan. BRS details to the client what services will be provided, either internally or purchased, and the value of those services. The customer has the opportunity to choose a service provider. OPEGA's review was about refocusing on core mission. Most of the dollars are supposed to be spent to assist a person with disabilities to return to employment or to retain employment and BRS had, to some extent, gotten off track in terms of providing some services that were not directly related to an employment outcome or goal. In addition, BRS was not documenting the case decisions in the detail they should have in order for BRS to then go back and do internal control around the quality of the decisions being made.

Rep. Bickford and Rep. Pendleton commended the Department, Bureau and OPEGA for the success of everyone working together throughout the process.

Commissioner Fortman said they were grateful for the tools they received from OPEGA that the Bureau would not have had the capacity to develop.

Chair Hill thanked Commissioner Fortman and Director Duson for the information provided.

## **RECESS**

The Government Oversight Committee recessed at 11:50 a.m. on the motion of the Chair Hill.

## **RECONVENED**

Chair Hill reconvened the meeting at 12:39 p.m.

Chair Hill asked if there was objection to taking an item out of order. Hearing none, moved to **New Business, Discussion of Potential Needs for OPEGA's Consulting Budget.**

## NEW BUSINESS

### • Discussion of Potential Needs for OPEGA's Consulting Budget

Director Ashcroft informed the GOC of the Legislative Council's Budget Subcommittee's request that the GOC further consider what level of funds were needed for OPEGA's consulting budget.

Director Ashcroft said OPEGA has \$150,000 in its budget for FY09. If the Council does not take action to lapse that money back to the General Fund, which is what has been happening over last couple years, then theoretically OPEGA has an unencumbered balance of \$150,000 that could be brought forward. If that is the case, then OPEGA's consulting budget for FY10/FY11 could be further reduced and OPEGA would still have some funds available that could be brought forward from unencumbered balances if the GOC wanted OPEGA to do projects that required the money. However, if the funds are lapsed back and the Council takes more from FY10/FY11, then OPEGA or the GOC would not have the same capacity to do consulting work.

Director Ashcroft said the discussion at the last Council Budget Subcommittee meeting indicated that the items they were considering for reductions would be considered as one time only reductions, for just the next biennium. If that is the case, then reducing OPEGA's consulting budget should not mean that the reduction affects the baseline budget going forward, but she will need to clarify that with the Council. Director Ashcroft did not know which is the more politically tenable option. No one has talked about the fact that OPEGA may have an unencumbered balance available at the end of FY09 yet. She was just making the GOC aware of that so they would have the information before making decisions.

Committee members' discussion regarding OPEGA's consulting budget included the following points:

- That consulting funds budgeted and not used in the past have been lapsed back to the General Fund. Since OPEGA's work plan has not yet been decided, it should retain the \$100,000 for FY10 and FY11, and any unspent funds can be lapsed back at the end of those fiscal years.
- The Economic Development Report recently released did not identify programs that were no longer needed as was anticipated by a number of Legislators. The GOC may want to direct OPEGA to do follow up work on that report and that may require a consultant.
- That OPEGA has not used its consulting fees in the past and it would be inappropriate of the GOC to use the consulting fees just for the sake of spending them. They should be offered up. It was noted that no member of the GOC is advocating spending the money if not necessary, but a budget line item should be reserved.
- Concern that there will not be adequate funds available if the GOC asks questions that OPEGA does not have the technical expertise to answer by itself or there is a project that is not getting done that is of such a high priority for the Committee that it is worth hiring a consultant.
- In tight budget times, it is important for the GOC, in order to earn the respect of colleagues, to show the Committee's willingness to forego and budget according to, not what is in the budget, but what has been needed in the past.
- Constituents that know of the GOC and OPEGA consider it as a watchdog organization and they expect the GOC and OPEGA to have tools to do its work and consulting money is an important tool. It is a very inappropriate time to give up the funds and the concern is more about what the general public is expecting legislators to do than it is about colleagues.
- The GOC has already demonstrated the willingness to give up substantial amounts and any further reduction could reduce the capacity of what the GOC and OPEGA can do.

- That the \$150,000 consulting fees for FY09, if unused, be given to the General Fund and that OPEGA's consulting fees for FY10 and FY11 could also be reduced to \$50,000.

Sen. Trahan requested caucuses.

## RECESS

The Government Oversight Committee recessed at 1:20 p.m. on the motion of the Chair Simpson.

## RECONVENED

Chair Simpson reconvened the meeting at 1:25 p.m.

Following Committee discussion the following motion was offered.

**Motion:** That a letter be sent from the Government Oversight Committee to the Legislative Council affirming that the OPEGA consulting budget should be maintained at a level of \$100,000 in each of the years FY10 and FY11. (Motion by Rep. Bickford).

Sen. Trahan offered a friendly amendment to the Motion.

**Amendment:** That the \$25,000 reduction previously recommended by the GOC is intended to be a one time reduction and the consulting budget would be restored to \$125,000 per year in the proposed budget for FY12 and FY13 biennium.

**Motion:** That a letter be sent from the Government Oversight Committee to the Legislative Council affirming that the OPEGA consulting budget should be maintained at a level of \$100,000 in each of the years FY10 and FY11 as was previously recommended by the GOC with the letter also expressing that the recommended \$25,000 reduction is intended to be a one time reduction and the consulting budget would be restored to \$125,000 per year in the FY12 and FY13 biennium. (Motion by Rep. Bickford, second by Sen. Nass, PASSED 9-3. Opposed: Chair Simpson, Sen. Brannigan and Sen. Diamond).

Members opposed wanted the letter sent from the GOC to the Legislative Council to reflect that several members were comfortable offering an additional \$50,000 reduction in OPEGA's consulting budget for FY10 and FY11 in addition to sweeping whatever is left in the consulting budget for the end of FY09 (estimated to be \$150,000) and agreed with the language about the reductions being one-time only.

## OPEGA FINAL REPORT

- **MaineCare Children's Outpatient Mental Health Services**

- **Committee Work Session**

Will be discussed at the next GOC meeting.

O: Director Ashcroft asked, on behalf of Lucky Hollander, if the Committee had any direction for DHHS about any thing in particular the GOC would like to have from DHHS for the work session.

GOC: Chair Simpson asked the Director for clarification of the process, noting the GOC has been presented with the report, have had a public hearing and that there have been issues raised that some members of the Committee are concerned with. She asked what the language would be for Committee vote if the Committee does not endorse the report.

O: Director Ashcroft said the language when voting on a report was to endorse the report, endorse in part, or not endorse.

GOC: Chair Simpson asked whether the content of the report would stay the same regardless of whether the Committee endorses the report or not. Director Ashcroft said that is correct, it is now a public document. It does not mean that OPEGA may not choose to add minor edits that may be important clarifications as long as it is clarifications regarding work that has already been done and documented. OPEGA could not, however, make substantial changes to its conclusions and recommendations at this point.

Chair Simpson said she was concerned about provider comments on the number of pages providers had to complete being included in the report since those requirements no longer existed when OPEGA began to work on the report.

GOC: Sen. Nass said he would like to hear from the Director now regarding that issue raised by DHHS.

O: Director Ashcroft said what is in the report around providers' perspectives are described in the report as perspectives. OPEGA got this feedback from providers when it surveyed them about what they felt were their administrative burdens. There is a point in every review where the Director has to make a decision about how much further work OPEGA has time to do, including what we might be able to verify of the information we've received. Sometimes we end up saying that this needs a closer look in another review.

OPEGA's goal here was to hear from providers on what they perceived their administrative burdens were. OPEGA did not publish every comment every provider gave. Our work was to identify themes in what we heard and make those themes known. We balanced the report by also including DHHS' perspective on what the providers had said and gave DHHS' viewpoint as well.

OPEGA has no conclusions or findings based on any of that in that we did not treat any of it as a factual representation of the situation. What is fact is that the providers hold those perceptions and that is what they reported to OPEGA. OPEGA has reported it because we think it is relevant for what you are considering as a legislator. What we have reported is that we heard a difference in perspectives between the providers and DHHS and we were not surprised to hear the difference in perspectives because what is going on is a culture shift. OPEGA did not conclude that standardized rates are bad or that the utilization review function was bad, but what OPEGA did say is that it all deserves monitoring. There is a difference in perspectives that may cause problems now and in the long term. Because so many of the requirements providers perceived as burdensome were related to the ASO, we recommended taking a closer look at the ASO, the contract, how much it was really saving, and whether there were additional burdens related to it that should somehow be further eliminated or streamlined. All of this was also incorporated in our recommendation that there should be monitoring of the provider network to make sure there were not unintended consequences.

OPEGA is happy to have the GOC's feedback about whether our choice to include unvalidated perspectives in the report seemed appropriate, but the Director wanted to let the Committee know that that discussion will affect OPEGA reports in the future or how long projects take. In this case, if OPEGA had decided that it wanted to validate everything that was told to us by providers, we would have needed to go into Tri-County Mental Health, for example, and do what Director Copeland had done to put his diagram together about what their processes and burdens really are. Verifying or validating information we receive can be a piece of work all in and of itself.

As for the issue with the APS form no longer being multiple pages, OPEGA did not learn about this from the Department until later in our review when we were sharing with DHHS what we had heard from providers. They gave us the 1 page and we did acknowledge in the report that DHHS says it is now a 1 page form. However, without OPEGA going back to the providers we still do not know whether this is still the same form providers were referring to. We do not know whether they still think the 1 page form is burdensome because of how long it takes to complete. It's also possible that the 1 page form becomes multiple pages as it is filled in. The Director said she was not versed enough in medical terminology to be

sure about what some of the things are that are required on the form, but it did appear to the Director that some of the required information could potentially be quite involved. Ultimately, she made the decision that OPEGA was not going to spend the resources right now to go back to the providers and try to validate whether the 1 page form has made a huge difference for them. Instead, OPEGA recommended that any continuing administrative burdens be monitored along with the health of the provider network.

GOC: Chair Hill said her concern was readers of the report in the public may not realize that OPEGA is only reporting perspectives. She would want OPEGA to make sure that anyone reading would understand that these are strictly perspectives and have not been verified whether it is done by footnote or highlighted.

Sen. Trahan said that when OPEGA comes out with a report the agency is going to look for any weak spot and that will be attacked. It is part of a culture change. What the GOC has to be careful of is giving too much credence to some of the criticisms because it under mines the value of the report altogether.

## **REPORT FROM OPEGA DIRECTOR**

- **Project Status Report**

Not discussed.

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

Not discussed.

- **Proposed Legislation With Impact to OPEGA**

Not discussed

## **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.**

Sen. Nass said he was uncomfortable that it is now mid-March and the GOC has not completed a work plan for OPEGA. If the Committee needs to meet more often, he would be willing to that. The Committee needs to get a work plan completed.

Other members felt it would be difficult to schedule more frequent meetings given that all GOC members are on other committees.

## **NEXT COMMITTEE MEETING**

March 27, 2009 at 9:30 a.m.

## **ADJOURNMENT**

The Government Oversight Committee meeting was adjourned at 2:32 p.m. on the motion of Chair Simpson.