

Minutes
LEGISLATIVE AUDIT COMMISSION
October 29, 2019

Members Present:

Representative Rick Hansen
Representative Tina Liebling
Senator Mary Kiffmeyer
Senator Matt D. Klein
Senator Mark W. Koran
Senator Ann H. Rest

Members Absent:

Representative Connie Bernardy
Representative Sondra Erickson
Representative Nels Pierson
Representative Duane Quam
Senator Michelle Benson
Senator Nick A. Frentz

Representative Hansen, Chair, called the Legislative Audit Commission (LAC) meeting to order at 2:01 p.m. The purpose of the meeting was to release an Office of the Legislative Auditor (OLA) special review, *Department of Human Services: Payments for Self-Administered Opioid Treatment Medication*.

Representative Hansen introduced Jim Nobles, Legislative Auditor. Mr. Nobles explained that the Department of Human Services (DHS) paid the White Earth Nation and the Leech Lake Band of Ojibwe when clients in their opioid treatment programs self-administered medications at home even though DHS did not have the authority to make the payments. He said that earlier this year, DHS decided that it should not have made these payments and told the tribes they must return the payments, which total approximately \$29 million. Mr. Nobles said the review made three recommendations: (1) the Legislature should by law require DHS to design and implement a comprehensive system of documented management reviews and approvals to ensure that payments made by the department with Medicaid funds comply with state and federal legal requirements; (2) the Legislature should clarify in law whether DHS has authority to pay a health care provider a service payment when a patient or client self-administers medication outside of the provider's facility; and (3) the Legislature should consider enacting exceptions to the law that requires DHS to recover payments to providers that resulted from department errors. Mr. Nobles answered members' questions.

Jodi Harpstead, DHS Commissioner, provided a response to the review. Ms. Harpstead said the department agrees that it is at fault for providing incorrect guidance to the tribes that resulted in the billing errors. She added that the department did not have the internal controls necessary to catch the issue. Ms. Harpstead responded to the recommendations as follows: (1) the department does not agree that a new law is necessary, and DHS has initiated a process to strengthen internal controls to include a system of several checks and balances, including requiring high-level approvals for each payment policy; (2) the department thinks the law regarding payments to tribes for self-administered medications is clear, but it is open to considering whether there is a need to clarify the laws for nontribal payments of this sort; and (3) the department supports a legislative review to allow for exceptions to the repayment requirement when there is department error and good faith reliance on that error by recipients of department payments. Ms. Harpstead answered questions from members.

LeRoy Staples Fairbanks, District III Representative, Leech Lake Band of Ojibwe, gave a statement to the commission. Mr. Fairbanks said that Leech Lake will not repay the overpayments because the tribe is not at fault. The tribe strongly supports recommendation three of the review, as repayment to the state would cause catastrophic cuts to the tribe's programs.

With no further business, Representative Hansen adjourned the meeting at 3:33 p.m.