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December 2023 Monthly Report

November kicked off with local elections across the state. Many races were close, leading to shake-ups of city council members and mayors around the state. We saw a few runoffs, recounts, and even a tie in Marsing, Idaho, where a coin toss was the determining factor for the winner of the city council seat. Interim Committees are now wrapping up their work, many making recommendations for the upcoming session and having a newfound knowledge of nuanced subjects such as Medicaid, natural resources, and occupational and professional licenses. Now we enter December, meaning the Legislative Session is one month away from kicking off another policy season in Idaho.

November also brought the Joint Finance Appropriations Committee (JFAC) meetings for three days early in the month to hear from the new Legislative Services Office (LSO) staff on the larger and more contentious agency budget requests. The Co-Chairs of the Committee also gave Committee members and the public a preview of what the Committee's new process is to look like during the 2024 session. Historically, JFAC uses the first half of the session to hear from agency directors on their department, the successes, and their budget requests. Typically taking several hours per day. The hearing process will be dramatically shortened in 2024, giving only about half the normal time to preset, LSO staff will present a basic overview of operations and obligations to review. Every agency has also seen new and updated versions of last year's accountability audit language included in appropriations, as well as budgets reflecting audit findings, and corrections.

We have also learned, following LSO presentations, JFAC will break out into small (non-quorum) sized working groups to work budgets outside the public process. These meetings being closed to the public, are a new and potentially harmful change to an otherwise successful process from the founding days of our state. The Co-Chairs' goal is to get budgets to the floor earlier in session, as early as February, to avoid last-minute budget decisions. But this goal is also mixed with a cap on the budget increases to make room for tax cuts, education vouchers, and other legislation in an election year. This also comes with the weaponizing of "maintenance budgets". After the 2024 session, JFAC will also begin to investigate 1/5 of the budgets each year on a rolling basis and dive into what the base budgets are made up of.

These changes have both JFAC members and other legislators very concerned about what will become of the state agency budgets. Although supporters tout the new process as being far more efficient, it leaves plenty of room for games, suspicion, political hostages, and a select few JFAC members and leadership to make drastic cuts and alterations to funding in Idaho as we approach a gloomy forecast for state revenues, work to manage the new LUMA system and round out the last tiny morsels of strategic one-time funding from past years programs. Many legislators have been looking into the larger budgets such as transportation, Medicaid, education, and more to find ways to cut spending to appease the Legislature without damaging the advancements the state has made in the past three years.

The annual Associated Taxpayers of Idaho (ATI) conference, typically known as the unofficial start of the session, also took place in late November. Numerous tax policy ideas for the next year were discussed, along with an overview of the national and Idaho economic standpoints for the year and looking to the future. This is also a great opportunity to revisit issues and get to hear from legislators on what they are most excited to be working on.

Heading into December, BB&A is hard at work to set you and your priorities up for success. We have met with agency leadership, the Governor's Office, Legislative Leadership, and legislators across the state. As they continue to reach out for our input on budgets and legislation, we will be active in helping advance your goals and supporting good policies for Idaho. This is the position we like to be in. We know the most tumultuous part of the session is the unknown ideas that can arise at any time. Triangulating and strategically planning to eliminate as much of the unknown as we can is crucial; however, having a portion of unknown ideas pop up is inevitable. As we learn more about what is coming, we will share and discuss with you including sharing drafts and other relevant information to ensure you can be successful. For a full list of proposed and pending rules, click HERE.

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NABIP December 2023 Highlights

On November 7, 2023, the Medicaid Managed Care Task Force met to hear relevant topics requested during their last meeting. The goal was also to discuss drafted legislation and discuss the final report. Co-Chair Van Orden (R-30) discussed the hope of this being their last meeting. She also stated that the goal is to think financially but also noted that the Task Force all know how Medicaid is beneficial to the state of Idaho.

The presenters started with a School-Based Medicaid Report from Chynna Hirasaki, Special Education Director for the State Department of Education. Co-Chair Van Orden was the one who had requested to hear about this topic since it was covered in the Sellars Dorsey report but was one of the only topics not covered thus far. School districts can submit claims for reimbursements for certain direct services; not all students are eligible and not all services are covered. The costs of Medicaid covered $36M for special education funding; without this funding, this would need to be covered by other aspects of the budget. The services included through Medicaid such as physical or speech therapists. The question was asked what budget these costs fall into, and Administrator Charron answered they fall in the enhanced Children's Services budget through the Idaho Department of Health and Welfare.

Next, the Task Force heard from Dani Jones, COO of St. Luke's Health Partners, who spoke on the benefits of the VCO model. Their argument is having the provider in more control of the Medicaid program allows for a better program overall and treats patients the best. Jessica Perry, Administrator of Pocatello Children's Clinic, also spoke on their view on keeping the VCO model. Chairman Vander Woude questioned if the two entities have a fund reserve to allow for the VCO to take on more risk with a cushion to fall back on; both answered yes. Ms. Perry continued to see a few stop loss increases be put on VCOs regarding pharmaceuticals and behavioral health. Rep. Redman (R-3) questioned how care coordination works from a VCO standpoint; the Pocatello Children's Clinic has a care coordinator who coordinates between services, transportation, and other needs of the patient to ensure the best care. At St. Luke's, this process is more centralized but still has a personalized touch. Rep. Redman questioned what innovative procedures VCOs have thought of to decrease the costs without lowering the quality of care. Both parties gave solutions of preventative care and ensuring recipients can receive care.

The Task Force started to review the proposed drafted legislation which has been provided to the members. The legislation would create a Medicaid Legislative Review Panel that meets regularly inside and outside the session. Sen. Cook expressed his dislike for the draft since this doesn't involve the germane Health and Welfare Committees; Sen. Wintrow doubled down on this stating this doesn't give more compensation to the members involved while being asked to meet year-round. Rep. Tanner (R-14), Rep. Redman, and Co-Chair Van Orden all spoke in support to ensure additional oversight over the Medicaid Budget. Co-Chair Van Orden questioned if having the germane committees could be involved after the session, which can happen with the permission of House and Senate Leadership.

The Review Panel would be made up of:

- Chair of House Health and Welfare
- Chair of Senate Health and Welfare
- At least one (1) minority member from both the House and Senate
- Additional members may be added by the Speaker of the House and Senate President Pro Tempore

The Medicaid Review Panel would meet to review contracts related to Medicaid, make recommendations regarding key indicators and performance metrics to be included in Medicaid contracts, recommend data to collect, or other duties and recommendations. These recommendations must be submitted to report to the Legislative Council. Co-Chair Van Orden made a motion to support the drafted legislation, and Rep. Tanner seconded the motion. The motion passed with a roll call vote of 5-4. Sen. Cook (R-32), Sen. Wintrow (D-19), Sen. Zudervield (R-24), and Rep. Roberts (D-29) all voted nay.

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Both Sen. Cook and Co-Chair Vander Woude had changes they'd like to add to the report. Sen. Wintrow made a substitute amended motion to change the language to add subjective language that stated most of the Task Force agreed with the report but not all. Some of the changes for quality measures were added by Sen. Cook but not all. The final draft will be posted after LSO can gather all intent from the motion and fix the current language. After hearing the intent and language, we believe these recommendations are not direct and primarily discuss the need for oversight on MCO and VCO contracts with more quality control measures. This was done in a hurry to prevent the Task Force from needing to meet again.

On November 8th, 2023, the Idaho Medicaid Care Advisory Committee met for their final quarterly meeting of the year. Liz Caval-Williams discussed membership and previewed the flier they created to try and increase memberships and beneficiaries. The flier includes who is a good candidate as well as benefits and how to submit interest. The benefits include an hourly stipend for participation, resume-building opportunities, networking and connecting with others in the community, and the opportunity to impact Idaho Medicaid. There is an online application or individuals can email a resume and short interest paragraph to ecaval@havenllc.com. The flier will launch at the end of the month.

Megan Ellis presented on Hippotherapy. The goal is to help educate on the terminology confusion in hippotherapy treatment. Hippotherapy is the evidence-based practice and clinical reasoning in the purposeful manipulation of medical quality equine movement. It is recognized by APTA, AOTA, and ASHA. Hippotherapy is a therapy too and not a procedure, strategy, or service.

Mike Bonetto and Susan Stuard discussed the pharmacy benefits program and whether they should go to a managed care program. The presenters are from the Center for Evidence-based Policy. The current system in place is a fee-for-service system. The cost for them is the cost of the drug minus the rebate, the rebate is the amount of money you get from the manufacturer for making their drug preferred. Every drug has a rebate for it to be used in Medicaid, this is to ensure that Medicaid gets the best price. The Center for Evidence-Based Policy is based at Oregon Health and Science University. The State Medicaid Alternative Reimbursement and Purchasing Test for High-Cost Drugs (SMART-D) supports Idaho Medicaid as it provides an option for the management of pharmacy benefits. The pharmacy program objectives look at health outcomes, health access, provider experience, public and population health, and value. Idaho currently administers its Medicaid fee-for-service structure, and the state directly pays all medical and pharmacy claims and takes the financial risk of administering the program. The Preferred Drug List (PDL) identifies outpatient drugs deemed to be medically appropriate and cost-effective, and not generally requiring prior authorization. States vary in their use of PDLs. Single PDL is generally used by a state's FFs and any contracting MCO.

Multiple PDLs and pharmacy carved into managed care:

- State secures annual budget predictability with capitation.
- The state oversees MCO contract.
- MCOs manage provider and patient interactions and can align with medical benefits.
- MCO can use its PBM across lines of business.
- Nevada, New Mexico, Oregon, Pennsylvania, South Carolina

Single PDLs and pharmacy carved into managed care:

- State secures annual budget predictability with capitation.
- One PDL and PA process for patients and providers.
- Offers consistent access to medications regardless of the delivery system being used.
- Kentucky, Louisiana, Minnesota, Ohio, Texas, Utah, Washington

Single PDLs and pharmacy paid and managed in state fee-for-service:

- State seeking greatest transparency for cost and utilization.
- State control of policy and decision-making.

The state manages provider and patient interactions.
One PDL and PA process for patients and providers.
FFS states are Alabama, Idaho, Montana, Wyoming
MCO states with pharmacy carve out are Missouri, New York, North Dakota, Tennessee, West Virginia

Multiple PDLs and pharmacy paid and managed in state fee-for-service:
States generally do not have multiple PDLs when paying from FFS.

Ashley Porter, Program Manager at the Idaho Behavioral Health Plan Governance Bureau, presented the 115 Behavioral Health Transformation (BHT) Waiver. The waiver was approved in April 2020, and in March 2022 they completed the implementation period, in July 2022 the provider enrollment opened for residential substance use disorder services, in May 2023 the midpoint assessment was submitted, in March 2024 the interim report was due, in April 2024 the waiter extension request was due to CMS, in August 2026 the summative evaluation is due.

In October 2023 oversight transitioned to the Idaho Behavioral Health Plan (IBHP) Governance Bureau. The bureau is a joint bureau between Medicaid and the Division of Behavioral Health. They have oversight of the new IBHP managed care contract. Some of the remaining dependencies on IBHP are an increase in the availability of ongoing community-based services, support growth and sustainability of CCBHCs, including residential and inpatient behavioral health services within the IBHP, and enhanced crisis systems across the state. One question is whether to expand to 18–21-year-olds as right now it is only 21-year-olds, and the second question is whether to allow younger kids as well. Charles Beal discussed they only cover those ages twenty-one (21) to sixty-four (64).

Jenna Tetrault presented a managed care quality strategy update and stated there will be a draft ready in the coming weeks that will be presented at the next meeting on January 24, 2023. Part of the analysis includes how EPSDT applications intersect with the proposed benefits/treatment settings.

Martijn van Beek presented a population Health Quality Strategy Update, he stated they drafted a strategy, and is being internally reviewed. He would like everyone to read it and have feedback prepared for the meeting in January.

Juliet Charron, Medicaid Administrator, discussed the Division of Medicaid budget and stated her openness to answering any questions the committee might have. The FY25 budget has been proposed to the Division of Financial Management but Ms. Charron didn't want to get too specific as they are still waiting to see what the Governor's recommendations will be in January. She suggested coming back in January to present the budget in detail. At a high-level view, the division is aiming for budget stability; as this is something they have frequently heard from the legislature, they want cost containment and minimal growth in general fund requests. She noted they will see many areas where they have implemented cost control mechanisms, that mainly focus on provider assessments.

Ms. Charron briefly touched on Medicaid disenrollment, and they had one hundred and twenty thousand (120,000) people removed from Medicaid. But they saw eighteen thousand (18,000) come back due to disenrollment errors, they have also seen individuals who have been procedurally removed coming back on.

Going back to the budget she highlighted a giveback of $92M to the state. There is a delay in the IBHP procurement so the division will be giving back funds for this as well. The federal funding match also went down 1.85%, this is because the per capita income for Idaho is increasing. Ms. Charron mentioned a couple of line items, the first being the addition of sixty (60) new staff division-wide for Medicaid. Another line item is a provider rate increase request and several other contractual items. MCAC committee members were encouraged to watch the presentation made to JFAC today on the Medicaid FY25 budget.

The Division of Medicaid is proposing two (2) provider assessment increases to allow them to support general fund needs for provider rate increases and the staffing increase as well. The first assessment would be at nursing homes and the second would be at hospitals. Toni Lawson, Idaho Hospital Association, cautioned about referring to hospital and provider taxes as cost containment and she thinks there should be another way to refer to this revenue. Ms. Lawson noted the hospitals have concerns about increasing hospital provider taxes. There were questions about the adult dental removal, Ms. Charron mentioned that there are some legislatures who want to look at dental and pharmacy, but nothing is certain yet. Ms. Charon discussed some potential legislation of the Division; the provider assessment would need to be legislation. There would also be one on updated third-party liability requirements through CMS.

She finished by discussing the managed care task force and the committee voted on draft legislation and the final committee report. Her takeaway is there were mixed opinions about managed care and couldn't reach a consensus, they decided to continue the VCO model as it hasn't had enough time to show benefits. There is a desire of the legislature to be more engaged in Medicaid, now that they have learned a lot, they want to keep up with how the system works. Ms. Lawson stated her opinion that they still don't fully understand pharmaceuticals and how one can and can't manage those costs in Medicaid. Ms. Lawson asked if with Medicaid expansion and more individuals coming into behavioral health treatment is there any kind of tracking being done or any data if increased pharmaceutical costs aren't a bad thing if it is keeping people out of hospitals. Ms. Charron thinks that there are some members concerned with the state paying for specific classifications of drugs, to which Ms. Lawson noted it is the behavioral health drugs and this is something we need to be aware of. The meeting dates for 2024 are scheduled for January 24, April 24, July 24, and November 6. All from 2-5 pm.

The Joint Finance and Appropriation Committee (JFAC) met November 8-10 to hear preliminary budget requests before the start of session. Alex Williamson presented the FY25 budget request for the Idaho Department of Health and Welfare Division of Medicaid. The FY24 original appropriation was $4.68B. The Division of Medicaid has three supplementals which are as follows:

Forecasted Onetime Recission: ($92,897,600)
Children's Behavioral Health Staff: $131,400
Electronic Records Incentive Program: ($69,600)

Ms. Williamson explained the forecasted one-time recission has multiple factors that go into the Medicaid forecasted expense, such as caseloads, utilization for equipment, and more. The Division anticipates a fair amount of unused funds some of which are due to the delay of the Idaho Behavioral Health Plan, now expected to roll out in March of 2024. Within ARPA there are appropriations for home and community-based services, but they weren't used to the extent that was expected, following that are the changes that happened with the determination when the emergency funds ended. The $92M is a number they calculate monthly, and it could change between now and the time they present during session. Ms. Williamson discussed how any unused funds and trustee benefits will revert and the division is prepared to give back halfway through the year if suggested by JFAC.

For FY25, there are base adjustments that can be added to the recission. Ms. Williamson discussed the reason behind this approach being that doing them at one-time transfers shows the incremental changes with the subtraction of one-time expenditures and additions into the recission. The FY25 original appropriation is $4,716B, and the budget has the following line items:

New Staff Division Wide: 60 FTP, $6,013,700
Children's Behavioral Health Staff: $262,800
Provider Rate Adjustments: $66,818,200
Increased Hospital Assessment
ICF Rate Adjustment: $8,418,000
MMIS Current Vendor Annual Increase: $2,806,800
Postpartum Coverage

Personal Care Services Case Mgmt.: $4,400,000
Phase 1- MMIS Procurement Year Two: $132,378,000

Ms. Williamson explained the line item for Increased Hospital Assessment had a zero line across the funds is for pending legislation. The Division is also wondering why it wasn't as high as anticipated, they have seen ups and downs and there is a possibility the services will increase but for now, these are the numbers. Sen. VanOrden asked if it had anything to do with the Behavioral Health Transformation Section 1115 Demonstration Waiver. Ms. Williamson replied she did not have an answer for her at the time.

Numerous committee members asked about the additional 60 FTP and why all at once. Ms. Williamson stated there was a report done on staffing needs and the Division reported they were highly understaffed. Sen. VanOrden asked if it was in the OPE report, which Ms. Williamson stated it was.

Rep. Tanner asked also why the FTP request was so high as there was a high number of cuts during the pandemic. Ms. Williamson said it is related to the cuts that happened in 2009 and the agency is working from a deficit. From her understanding, it was related to the dollar amount rather than the number of people. Rep. Tanner asked if there was pushback from the hospitals, Medicaid, or on the federal lever, and as he was interested in the provider increase and why certain ones were increasing. Ms. Williamson shared she would have to get back to him on it but did comment that the OPE report on the direct care workforce does highlight the hiring and retiring staff.

Sen. Herndon (R-1) asked about the 60.00 FTP and if other items needed to be looked at instead of increasing staffing. Ms. Williamson was unsure and said she would have to get back to him. Sen. Herndon followed up asking if it was necessary or if claims were up and if services had increased; Ms. Williamson was unsure and would have to get back to him as well.

Sen. Cook asked about the same issue as he is on the Medicaid Taskforce which has been meeting regularly since the end of session. He said they with all the presentations and chances for communication not once did they hear that they were low on staff, as the Task Force was to determine whether to use the VCO or MCO model for Medicaid because the amount of people they have now is not adequate to monitor either. Ms. Williamson didn't have an answer at the time but would get back to him.

Co-Chair Grow (R-14) congratulated Ms. Williamson and condemned her for taking on the big budget. He wanted to emphasize the risk of the $58 million under the General Fund, listed under the FY25 base for the nondiscretionary adjustments. He relayed to the Committee some helpful information that the state of the idea is 70/30 with the Federal Government for Medicaid and 90/10 with the Federal Government for Medicaid Expansion. With the federal government decreasing their funds from 70% to 68%, it cost the state $58M. Looking at the projection there could be a greater increase the state has to pay due to the Federal Government not funding as much. The state has gone from 10% to 30% it could be a $240M increase, this shows why JFAC must be careful with budgeting, not only for a recession, but what the federal government will do.

On November 14th BB&A attended the Board of Health and Welfare Meeting. Trinette Middlebrook, Program Specialist for the Division of Management Services, presented a rules summary and legislative proposal summary to the board. The Medicaid rules are direct authority and there won't be a presentation on them, and there are four (4) rulemakings for this section. They include:

Docket 16-0309-2301: Medicaid Basic Plan Benefits – Decreases regulatory burdens, provides corrections, removes public health emergency language, updates rules to comply with Idaho statutes. Changes the Idaho state plan for behavioral health services appropriated by the legislature.

Docket 16-0310-2101: Medicaid Enhanced Plan Benefits – Decreases regulatory burdens, provides corrections, removes public health emergency language, updates rules to comply with K.W. Settlement, and aligns with federal regulations regarding conflicts of interest.
Docket 16-0313-2101: Consumer Directed Services – Decreases regulatory burdens, provides corrections, removes public health emergency language, updates rules to comply with K.W. Settlement, and aligns with federal regulations regarding conflicts of interest.
Docket 16-0318-2301: Medicaid Cost-Sharing – This rulemaking is due to the Executive Order requiring agencies to rewrite IDAPA chapters on a five (5) schedule.

Miren Unsworth, the Deputy Director at the Idaho Department of Health and Welfare, provided an update on Medicaid and behavioral health. Ms. Unsworth discussed the Idaho Behavioral Health Update and how Magellan and the Idaho Department of Health and Welfare have been working diligently for the March 1, 2024, launch date. They are continuing to monitor network and technical tasks, and potential risks and issues that could arise. She briefly discussed pending litigation and how the court granted a motion to dismiss but they won't know until early December if the other party will appeal. On October 25 there was a motion to dismiss the Optum Case and the result of this should become public soon.

Another update is State Hospital West achieved joint accreditation last month. This is a sixteen (16) bed facility for adolescents, and now with the joint accreditation the state can use Medicaid funds. CCBHCs are seeing progress, especially after the Executive order, and there are currently four (4) clinics in Idaho. They are in Coeur d'Alene, Spokane/Lewiston, Caldwell, and Twin Falls. Ms. Unsworth noted Kanisku, which serves Bonner and Boundary Counties, was awarded a 2023 SAMHSA grant and will be the fifth CCHBC in Idaho.

For the Medicaid update, Ms. Unsworth mentioned how the Medicaid Task Force concluded their meetings and is preparing a final report. One of the final recommendations is to establish a Medicaid Legislative Review Committee to review contracts and performance measures among other things. Sen. VanOrden, cochair of the Medicaid Task Force, was asked to provide extra detail on the 5-4 vote on the final task force recommendations. Sen. VanOrden discussed how Sen. Cook wanted the germane committees to have the responsibility of Medicaid oversight. Sen. Wintrow was a surprise no since she adjusted the motion to read as it did, but Sen. VanOrden believes Sen. Wintrow and Rep. Roberts wanted to go with the status quo. She doesn't, however, know why Sen. Zuiderveld voted no.

Ms. Unsworth discussed Juliet Charron's, Medicaid Administrator, presentation to the Joint Legislative Oversight Committee on the Office of Performance Evaluations report on Medicaid. The report highlights the need to increase the department's Medicaid management ability. Given this, they will be bringing forward a budget request for an additional sixty-two (62) positions with the Division of Medicaid to work on rate-setting policy work and contract management. This is a big request and they have been having numerous conversations about it, Ms. Unsworth noted their optimism about the increase in staff.

For general updates, she discussed how the Child Welfare Program has struggled to place children with complex needs, typically behavioral health, or a complex health disorder. In the past IDHW has rented short-term rentals and staffed them for children's services. They are now leasing a former residential facility and will be doing modifications and licensing it as a Children's Residential Facility. They are also working with the Idaho Department of Juvenile Corrections to modify their existing facility in Lewiston to have a juvenile multi-use treatment facility, which will do residential and substance abuse treatments.