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REP. CHUCK KRUGER, HOUSE CHAIR

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REP. ANNE-MARIE MASTRACCIO  
REP. DEBORAH J. SANDERSON

MAINE STATE LEGISLATURE  
GOVERNMENT OVERSIGHT COMMITTEE

**MEETING SUMMARY**  
**June 23, 2016**  
**Accepted July 21, 2016**

**CALL TO ORDER**

The Chair, Sen. Katz, called the Government Oversight Committee to order at 9:32 a.m. in the Cross Office Building.

**ATTENDANCE**

Senators: Sen. Katz, Sen. Johnson, Sen. Burns, Sen. Davis, and Sen. Diamond  
Joining the meeting in progress: Sen. Gerzofsky

Representatives: Rep. Kruger, Rep. McClellan, and Rep. Mastraccio  
Joining the meeting in progress: Rep. Campbell  
Absent: Rep. Duchesne and Rep. Sanderson

Legislative Officers and Staff: Beth Ashcroft, Director of OPEGA  
Scott Farwell, Senior Analyst, OPEGA  
Etta Connors, Adm. Secretary, OPEGA

**INTRODUCTION OF GOVERNMENT OVERSIGHT COMMITTEE MEMBERS**

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

Chair Kruger introduced Jack Hildreth, great grand-nephew of Governor Horace Hildreth, who was visiting several State Houses during the summer. The members of the Committee welcomed Jack and his family.

**SUMMARY OF THE MAY 19, 2016 GOC MEETING**

The Meeting Summary of May 19, 2016 was accepted as written.

Chair Katz asked if there was objection to taking items out of order. Hearing none he moved to **Unfinished Business, Final Report on Riverview Psychiatric Center.**

## UNFINISHED BUSINESS

### • Final Report on Riverview Psychiatric Center

#### - Committee Work Session

Chair Katz noted that the GOC received the presentation of the Riverview Psychiatric Center Report, held the public comment on the Report and has voted to endorse it. The Committee is now in Work Session on the Report.

Director Ashcroft explained that the GOC typically considered what actions the GOC may need to take to address implementing the Recommendations that were in OPEGA's Report. As of the last time this Report was discussed, the GOC wanted clarification from RPC and DHHS with regard to what their planned actions were for several of the recommendations. She said OPEGA sent the questions to DHHS and they have responded. From DHHS's responses, OPEGA now has a sufficient understanding of what they intend to do and she did not have any concerns at this time about whether there is going to be an adequate response to the Recommendations in the Report. She said it appears that RPC intends to either implement the Recommendations or has suggested alternatives. These actions have either already been taken or are in the process of being done with the exception of Recommendation 5. For that Recommendation RPC feels what they are already doing is sufficient and they will try to use the documentation they currently keep rather than increase documentation. Director Ashcroft said she did not have any reservations or concerns about that at this time.

Sen. Johnson referred to Recommendation 8 and said from RPC's response it was not clear to him they are saying they will be collecting and reporting on that data. He said it was great to have the information in a data dictionary, but if you do not have the application built to enable that collection and a data base to be able to report from it then you really do not have it. He asked if the time frame of when they expected to have that capability could be clarified. Director Ashcroft said RPC already has that capability. The concerns were more about how they were defining what they were going to count as an allegation of abuse or how they were counting and putting together the different factors of causation.

Chair Katz said it is one thing to have good protocol in place and the other is to make sure that everybody who works there understands that and is educated about what their responsibilities are in terms of reporting. He said there has been a lot of turnover at RPC in both leadership and front line workers. He asked Director Ashcroft if she was convinced that they are doing an effective job of making sure everybody who works at RPC understands their respective responsibilities for reporting. Director Ashcroft believed everybody did and to the degree that they are making changes and clarifications based on OPEGA's Recommendations, it does seem that RPC is making sure that gets rolled out in terms of training and explanation to everyone. With the heightened awareness that has come out of the RPC review, she feels comfortable that will happen.

Sen. Johnson said a number of DHHS/RPC's responses are relying on the new electronic medical records system to address the concerns raised. He asked if the GOC should be doing a check back once it has been in place to see whether it is successful. Director Ashcroft said OPEGA can and will put it on their regular follow-up for this Report.

Director Ashcroft said when RPC says it has taken a particular action OPEGA will try to confirm and verify that the action has been taken by getting supporting documentation. The Office, will send additional inquiries to RPC and DHHS until there is a point where OPEGA thinks they either have that issue addressed, or DHHS has made a decision that they are not going to address it and OPEGA understands the reason why. OPEGA will bring that information back to the GOC to give the Committee the opportunity to weigh in one more time on any recommendations that remain unaddressed, or are not effectively addressed.

The GOC decided there was no Committee action necessary at this time. (A copy of the Memo from R. Hamilton, Deputy Commissioner of Programs, DHHS dated June 22, 2016 is attached to the Meeting Summary.)

- **Request for Review of Independent Living Services**

- **Consideration of Requested Information From Prior Meeting (OPEGA)**

Rep. McClellan recused himself from the discussion and/or vote regarding the Request for Review of Independent Living Services (ILS) because he is the Executive Director of an organization that advocates for independent living. ILS services and products allow individuals with significant disability to live more independently in their homes and communities.

Director Ashcroft noted that, at the May 19<sup>th</sup> GOC meeting, members considered a request for a review of the ILS Program which is administered through the Department of Labor's (DOL) Bureau of Rehabilitation Services, Division of Vocational Rehabilitation. In the Committee's discussion and from Rep. Craft's testimony, some larger issues were raised as to whether there should be a broader review of all the different programs statewide that offer some amount of independent living services or products because it appeared there needed to be coordination among programs in order to best serve clients with needs.

Director Ashcroft reminded the Committee that they had asked her to come back to this meeting with a scope for a broader review and she referred members to the document in their notebooks titled Potential Scope and Areas of Focus for OPEGA Review of Independent Living Services Provided or Funded by State Agencies. She summarized the Potential Scope. (A copy is attached to the Meeting Summary.)

Chair Kruger asked how long it would take OPEGA to do the preliminary research on the broader review. Director Ashcroft gave an estimate of 750 to 1,000 hours with two analysts so would be about three to four months. Chair Kruger noted that it would be a major review so the next GOC is going to have to balance the perceived seriousness of the problem with the resources required from OPEGA. He said it is a decision the Committee has to be mindful of and does not want to set the next GOC on the wrong path.

Rep. Mastraccio said the preliminary research would probably give the GOC an idea of whether there were any issues. She said one of the issues is you have two major departments doing similar things and are they joined together. Rep. Mastraccio would like to know what is being talked about and how much is State, Federal or private money because the program affects people in a real way and is important.

Sen. Johnson agreed with doing the preliminary research in order to find out the degree to which there are people who are not having their needs met and identify where there may be problem areas worth looking into further.

Sen. Diamond asked Director Ashcroft to explain again why this issue rises to the level of this importance. Director Ashcroft said DHHS and DOL are currently engaged in an effort to understand why there is a waiting list for the ILS Program and why clients in priority three and four categories are waiting so long to be served. The ILS Program is supposed to be a program of last resort and their research has shown so far that quite a few individuals on the waiting list are eligible to receive at least some of what they needed under other programs. She said it already appears that there is no coordination going on between the various programs and that begged the question of should OPEGA be looking at the subject more holistically than just the ILS Program to answer the questions Rep. Crafts was raising about whether folks were getting served well.

Rep. Campbell asked if OPEGA has ever been through a review of services provided through multiple departments and found it valuable to look at the process across departments. Director Ashcroft thought that a similar question has arisen in many OPEGA reviews and there are currently other topics on the GOC's "On Deck" list involving services provided by multiple departments.

Rep. Campbell asked if OPEGA would be looking at or expecting a response on the financial feasibilities for the different departments and programs. Director Ashcroft referred to page 1 of the Potential Scope which includes looking at how resources are allocated as well as the timeliness and effectiveness of services.

Chair Katz noted that the original request for a review was to look at DOL's ILS Program as a free standing program and asked, given what the Committee has learned at the meeting, was there any member who thought the Committee should limit the review to the original request. None of the GOC members said that course of action should be taken.

Sen. Diamond wanted to clarify the review would not include the actual homecare program the State now has. He was referring to the program where people go into the home so elderly people can stay in their own home. Director Ashcroft believed that homecare would likely be encompassed within some of the MaineCare Programs that would be included in the broader review, but it would not necessarily be doing a lot of work on homecare, in particular, to see how well that program was functioning.

Sen. Burns asked how many different agencies would be involved. Director Ashcroft believes, although she did not have the exact amount, there are numerous agencies involved. She thinks there are possibly non-state entities providing some of the services with State or federal funding that are not included on the list she has provided to the Committee.

Sen. Burns asked what the GOC was trying to determine. Director Ashcroft thought the review would look at whether all the State or, State administered, resources going to the programs are efficiently and effectively coordinated whether people are getting served as quickly as possible and whether the services are effective in helping them live independently.

Rep. Mastraccio believed the reason that ILS is under the DOL is because a lot of those services are for people they are trying to get back to work. That is one of the issues Rep. Crafts brought up because sometimes it is not just about getting back to work it is about being in your community and being able to participate. She said many of the programs that the Director is talking about in terms of elderly people are more under community based services for adults with other related conditions. Director Ashcroft referred members to page 2 listing the Division of Vocational Rehabilitation which has a program that is about helping people get back to work and eliminating whatever barriers to helping them get and keep a job. The Director said the ILS Program is separate from that and it is not just about people returning to work. She said the concern raised by Rep. Crafts was that they were looking for the Division of Vocational Rehabilitation to put more of the funding that it had available under the vocational rehabilitation program into the ILS Program and that was where the rub was coming from about the balance between work and non-work needs. The reason the ILS Program is under the Division of Vocational Rehabilitation is partly because the State Independent Living Council (SLIC) has said it thought Vocational Rehabilitation ought to be the State agency that administers it. Director Ashcroft said there is the State Independent Living Plan that has to be submitted to the Federal Government. SILC develops the plan and is supposed to get input from whatever State agency is administering the Program, in this case, DOL. She said changing the State agency that administers the Program would be a change to that plan and there is a prescribed process to follow to do that. Director Ashcroft said the priorities in that Program are as listed on Page 5.

Rep. Mastraccio thought it was possible in the preliminary review that OPEGA may find out that it is a program that is very difficult for an elderly person to access. Director Ashcroft said that was possible.

Sen. Burns asked for clarification as to exactly what the Committee was discussing. He thought he understood the point of discussion when the GOC heard the testimony from Rep. Crafts, but today's conversation sounds like it should be a shotgun approach rather than being focused in on one thing. Director Ashcroft said Sen. Burns was right. OPEGA can start the review with just the ILS Program, but it is not the only program that provides the services Rep. Crafts talked about.

Sen. Diamond said the definition of homecare is to have a qualified professional go to someone's home and referred to the Chaptered laws on page 2, and Priority 1 on Page 5 of the Potential Scope document. He was not sure that is what Rep. Crafts talked about, but that is what OPEGA/GOC is talking about. Sen. Diamond said he owns a business that does MaineCare so he may have to also recuse himself if the GOC goes in that area. Director Ashcroft said nursing homes are not the primary focus and while it may get captured in the broad net of things, it is more about products and services so she did not think OPEGA would be getting full blown into home healthcare, nursing homes, etc.

Director Ashcroft asked the Committee if they were still interested in a possible broader review or looking at only the ILS Program. Chair Katz noted that he had asked that question earlier and the Committee decided not to limit the review to just the ILS Program.

Sen. Johnson said the suggestion was that there is too much emphasis on the vocational rehabilitation without enough on ILS. There is also a suggestion that there may be services that people should be availing themselves of that are provided elsewhere so he thinks the broader review is needed to know what the core issue is. Rep. Mastraccio agreed.

**Motion:** That the Government Oversight Committee proceed with the preliminary investigation with the areas of focus being in the broader context as outlined on Page 1 of the Potential Scope and Areas of Focus for OPEGA Review. (Motion by Sen. Johnson, second by Rep. Campbell)

**Discussion:** Director Ashcroft wanted to clarify a couple of things. First, that what the GOC was voting on was to put a project on OPEGA's Work Plan. She said the preliminary research phase is the traditional first phase of a review so the GOC would be giving OPEGA the review and the Office will be back to the GOC to see what they wanted to do once the preliminary research has been completed. Director Ashcroft asked if the GOC was voting on just putting it on OPEGA's Work Plan or voting that OPEGA also get started on the review right away.

Sen. Johnson said his intent was to add the review to the Work Plan because the Committee has not discussed where the topic falls in the project priorities. Rep. Campbell agreed.

Sen. Diamond asked if OPEGA would be getting into the MaineCare piece as listed on page 2. Director Ashcroft said that was correct.

**Amended Motion:** That the Government Oversight Committee put on OPEGA's Work Plan the broader review of the Independent Living Services Provided or Funded by State Agencies. (Motion by Sen. Johnson, second by Rep. Campbell. Motion passed 9-0-1. Rep. McClellan abstained.)

- **Review Status of Open Recommendations From OPEGA's 2006 Report on Economic Development Programs in Maine**
- **Consideration of Desired Objectives for Statutorily-Required Evaluation of Economic Development Programs (including Research and Development)**

Director Ashcroft said the GOC was engaged in an effort to implement, to whatever degree is possible and reasonable, the recommendations from OPEGA's 2006 Report on Economic Development. She said they had started by looking at the evaluation of economic development programs, to include research and development programs, and that was Recommendation 1 in OPEGA's Report. The Committee is currently focused on the statutorily required evaluation that DECD has been performing that came about as a result of trying to address Recommendation 1 and the effectiveness and efficiency and if that current evaluation is of concern. She said the GOC is working towards introducing legislation to the 128<sup>th</sup> Legislature to implement some changes that would improve the effectiveness and efficiency of that review.

Director Ashcroft said the topic for this meeting is how to better define what the desired objectives and results of the DECD evaluation would be from a legislative standpoint.

She summarized the Improving Effectiveness and Efficiency of Statutorily-Required Evaluations of the State's Economic Development and Research and Development Programs, Questions to Consider for Establishing Desired Objectives/Results from Evaluations document. (A copy is attached to the Meeting Summary.)

Rep. Mastraccio thinks the biggest issue is how do you do follow through on the evaluation and how do you put that in statute. She said you report on the outcome measures, but then what do you do with the information. She agreed with Director Ashcroft that things have to be put together. Director Ashcroft agreed with Rep. Mastraccio that a key question is how do they statutorily require the follow-up, noted that some ideas were drafted into the language of the draft legislation previously provided to the GOC, but said it is hard to hold somebody accountable for meeting the intent of statute if you have not laid out what is desired for information. Director Ashcroft said it is her observation that the Legislature has not been getting the results that they expected in the reports received.

Rep. Mastraccio said she needs to have the legislation be something that she can explain to her colleagues and said this is about Maine's future economy. Director Ashcroft said if you do not get a good upfront understanding of what evaluators are trying to do, then you have trouble with all of the backend pieces. She said at this meeting the Committee could clarify what the Legislature thinks would be useful information to come out of the economic development evaluations.

Chair Katz noted that first Maine should have in place a State economic development plan and then they would be deciding how things get evaluated as it relates to the plan. He said they are supposed to have an economic development plan and, by statute, the Maine Economic Growth Council (MEGC) was charged with developing a plan, but they have not been able to do it. He said in fairness to MEGC, the Legislature has never given them the resources needed to develop a plan. Chair Katz noted that at some point the GOC would be visiting the question of what they are going to recommend, if the Committee has a role, in how they ought to get a periodic economic development plan for the State of Maine.

Rep. Campbell asked if the GOC was looking at outcomes, considering the language of the statute, or might they find that the ineffectiveness is in how the programs are run. Director Ashcroft said on a program specific evaluation, for example the ones OPEGA is doing on tax expenditures, they are looking at both how the program is being run and administered and whether there are inefficiencies or extra costs. She said they were also trying to look at if the program is being effective in meeting its intent and are trying to use particular measures that OPEGA has picked out to give them a view of that. Director Ashcroft said OPEGA can ask those questions for each individual program, but they could ask the question about the outcomes in terms of the whole suite of programs as well. The outcomes to be measured should be related to what the goals are and we do not have goals unless you have a plan. When you say in statute for example – assess the overall economic performance of the incentives demonstrated by the number of jobs created, the number of wages paid and the amount of State revenues that come in, she said not all programs have that as an expected outcome.

She said the GOC might want to get more specific about what outcomes they want the evaluations to measure against and that may be the plan that is required to be developed by the MEGC. She said in that way you specify for the evaluators the plan that is supposed to exist is what we are using as a benchmark against which we want you to look at the effectiveness of these programs, as opposed to just leaving it up to each evaluator to decide what might be the best way to look at outcomes or effectiveness.

Sen. Burns said in 2006 they did not articulate anything that could be measured, and what the GOC is trying to do now is to come up with something that can actually be measured. Director Ashcroft said that was correct.

Sen. Johnson agreed that the effectiveness of the programs should be measured in relation to the plan. He said he was also concerned with having some reasonable basis. The evaluation has to be evidence based and that might be difficult to achieve in some of the programs. Sen. Johnson said he was also concerned that if you had an economic plan, it might involve things that are not directly in and of themselves creating those jobs yet. So, he thinks it is essential to hang the evaluation of these programs on how much was spent and what evidence you have that jobs and wages were produced by that. For example, is Maine maintaining jobs in a paper industry that they know is in decline, or are they creating opportunity for jobs around wood products in an area of technology that would be a strong one moving forward.

Sen. Burns asked how you would come up with measurable goals until there is a plan. Director Ashcroft said the idea would be to specify in statute that the benchmark or the thing against which the programs should be evaluated is whatever is in this plan and/or the measures of growth and focus for example, that is being development by the Maine Economic Development Council. She said that way it will be clear that whatever is in place the evaluation is supposed to look at those measures or goals from the current plan in relation to these programs and how the programs are contributing to each. There might be applicable measures even if there is not a complete plan yet.

Sen. Johnson said he understood that if there is no plan yet that at least referencing effectiveness in relation to the Measures of Growth indicators is worthwhile. He said, unfortunately, that is really looking in the rearview mirror and not at what the roadmap ahead is so it is very difficult to head the State in an important direction for its future when you are just looking at how well you have done by continuing on.

Rep. Mastraccio noted that MEGC has been in existence since about 1993 and said it did not seem that the Measures of Growth are that old. Director Ashcroft said they have been doing them for quite some time.

Director Ashcroft asked for the members' thoughts on which of the current objectives that have been established for the Tax Expenditures evaluations are things that they also would like to see answered with regard to other economic development and research and development programs. The objectives for the Tax Expenditure programs are a different level of review that is not currently getting captured in the DECD evaluation. If the GOC was interested in asking those kinds of questions about other specific programs, then she thinks the Committee would also want to talk about whether that is a reasonable thing to expect from a DECD evaluation or how are you going to accomplish that.

Rep. Mastraccio said the more information you have on the programs the easier it is to make decisions about whether they are programs the Legislature wants to continue. She said sometimes you need specific data and there is only one way to get it and that is to look at money.

Chair Katz asked if the Committee should be putting the same measures into statute with respect to the economic development programs that are currently part of the tax expenditure review. Director Ashcroft said that would be, for example substitute "tax expenditure" with the words "economic development/research and development programs" for objectives (a) through (i).

Sen. Johnson said he thinks they will need to be slightly adjusted and filtered because of the different question being asked, he thinks they are all worthwhile questions to ask that he did not believe had been asked before.

Chair Katz said if the Legislature wants to compare apples-to-apples in comparing tax expenditure with another expenditure of State funds he did not know why you would not want to have the same data with respect to all of them.

Chair Katz asked if the Director was looking for Committee feedback regarding (a) through (i). Director Ashcroft said she was looking for input on to what degree they wanted to get program specific at this level and said she thought the Committee had provided that input.

Sen. Burns asked for clarification about (a) through (i). He asked if they were specific enough and are they measurable if you change the language to fit economic development. Director Ashcroft said OPEGA had a suite of actual quantifiable measures that they were going to use to help answer these questions about the tax expenditure programs and she imagined that many of the performance measures would apply to the other economic development programs.

Director Ashcroft referred to the most recent report produced from DECD's statutorily required independent evaluation of economic development programs and was looking to get the GOC's input on what information in those reports they thought the Legislature would be most interested in for policy making, comparison of states, etc.

Chair Katz recalled from earlier discussions it was about the effectiveness of any of the programs in growing economic development in the State versus others kinds of expenditures by the Legislature. He said for example an expenditure in infrastructure or education or other expenditures such as reducing income tax rates, etc. that may play into investment decisions beyond tax expenditures and economic development programs including research and development. He thought that was beyond the scope the Committee could ask OPEGA to do.

Director Ashcroft noted that the GOC sounded interested in establishing what the benchmark should be and in specifying what the evaluation should be compared against. She said the GOC will have another discussion in the future about how to get to the next piece about the responsibilities of the MEGC and whether to expect in the future that they will have put together a plan or what challenges they face in trying to get a plan.

Chair Katz suggested inviting people from the Maine Development Foundation and the Maine Growth Council to a GOC meeting to discuss the above. Other members of the Committee agreed. Director Ashcroft will try to schedule that for the July meeting. She will also frame out the GOC's discussions regarding economic development and what the different pieces might be for the next meeting.

Rep. Mastraccio said she has not looked at MDF's website and asked if they had minutes of their meetings the GOC could review prior to MDF staff attending a meeting. Director Ashcroft said she will email links or will gather that information for the Committee. Chair Katz noted that there are legislators on the Maine Growth Council and GOC members could speak with their colleagues prior to the next meeting as well.

## **NEW BUSINESS**

### **• Review of Potential Follow-up and Report Backs on Prior OPEGA Reports**

Director Ashcroft explained that it is part of OPEGA's efforts to continue to follow-up on recommendations that they made in prior reports. The GOC's approved process for follow-up directs OPEGA to stop following up when a report gets to be more than two years old. She said whatever the state of the recommendations are at that time is how they will be captured unless OPEGA becomes aware on an ad hoc basis that something has been done that addresses one of the recommendations. Director Ashcroft said OPEGA did not spend a lot of time on follow-up work last year so there are some reports where there are open recommendations that OPEGA is now going to try to do their final piece of work on and then close out. Some of the reports listed below are more than two years old. For some of the other reports listed at the time the GOC was considering OPEGA's report there were other things that came up that the Committee was interested in hearing a report back from the agency on.

#### **- Child Development Services**

Director Ashcroft asked if the GOC wanted to check back on what has resulted from action the Committee took. She said the Child Development Services Report was issued in 2012. There are two recommendations from the Report that OPEGA will be closing out once it confirms whether the Agency



has done what it said it was going to do. She said as part of the GOC's work on that Report there was legislation that the Committee introduced to significantly enhance the annual reports that CDS gives to the Legislature on that Program. She said by virtue of that legislation there is a list of things specified in statute that need to be included in the annual report. She thought a question to ask is what CDS itself found to be an administrative burden or the benefit of producing the more enhanced report, and also what has the Legislature found useful and beneficial about it. Director Ashcroft said that might involve inviting Cindy Brown, Director of CDS, to a meeting and inquiring of the Chairs and Leads of the Education and Cultural Affairs and Appropriations and Financial Affairs Committees what they have used the report for. She also suggested checking with the Office of Fiscal and Program about whether they have been getting the report and if they find it useful.

Committee members agreed to invite Ms. Brown to a GOC meeting and that OPEGA send letters to the Education and AFA Committees and OFPR.

**- Maine State Housing Authority: Energy Assistance Programs LIHEAP and WAP**

Director Ashcroft said one of OPEGA's recommendations was that MaineHousing should establish performance benchmarks and measures for the Weatherization Program. At the time OPEGA's report came out, they were implementing a new system called ECOS and were going to use the data in that system to help capture what they needed for performance measures. She said MaineHousing made their action on establishing those performance benchmarks contingent on full implementation of ECOS. MaineHousing wanted to get the system implemented and, as they saw what the system was capable of producing for reports, they would weave that into their consideration of what benchmarks might be appropriate.

Director Ashcroft said at the time OPEGA issued the Report and staff was before the GOC, ECOS was a system that had been in development for a long time, and it had cost a lot of money. There were a lot of questions about that situation and MaineHousing had hired an independent auditor to review the system. She said the GOC also had Community Action Agencies representatives at the meeting telling the Committee that, with the implementation of the system, it was taking them a lot more time to get an estimate done on a weatherization project and it was administratively burdensome, etc. Director Ashcroft said the GOC had questions and concerns about that so the Committee had intended for MaineHousing to report back to the GOC at a future time about how the implementation of ECOS ended up. She said OPEGA still does not know if they have finally developed any performance benchmarks. The last formal report back from MaineHousing was in April, 2014 at which time they indicated that they were expecting the Department of Energy's approval of ECOS and then they would be in a position to develop performance benchmarks. Director Ashcroft noted that OPEGA did follow-up with MaineHousing in January, 2015 and at that time they reported that they were seeking a replacement data base for ECOS and that it would not be until they got the replacement that they would do the performance benchmarks.

Director Ashcroft said a potential GOC action would be to request that MaineHousing come to a meeting or report back in writing directly to the GOC on the status of the implementation, functionality and administrative burden associated with whatever system they currently have that the Community Action Agencies are using for the Weatherization Program and where they are in the process of establishing the performance benchmarks that OPEGA recommended. She said the GOC could also reach out to the Community Action Agencies and ask from their perspective what the experience has been with the system that is in place or planned to be in place.

Sen. Johnson said MaineHousing is not going to make much headway on what the Committee asked for until they have a system in place. He thought the important question to ask is how they were doing on that and if they have made progress, how well is it working for those using the system.

Director Ashcroft clarified that OPEGA would be following up to some degree themselves. She asked if the GOC would be interested in having a report back directly to the Committee and do they want somebody from the agency to be invited to a meeting.

In response to Rep. Campbell's question of how out of control MaineHousing's system was, Director Ashcroft said the Weatherization Program is a federal program and because of that there is a lot of federal reporting done and a lot of things that are monitored in terms of how the program is being operated. She said it was OPEGA's observation that what MaineHousing was reporting to the Federal Government did not speak to whether the program was effective in reducing energy costs or the effectiveness of the program itself. OPEGA was suggesting that there were other kinds of indicators or benchmarks that MaineHousing should establish that would help them understand that better. She said it would have been an enhancement on the data MaineHousing had available to be able to tell legislators and the public that the program was working or not working, etc.

Sen. Diamond said he always prefers to have individuals attend a meeting because it gave the opportunity for a two-way conversation. Other members agreed. Director Ashcroft will invite staff from MaineHousing and the Community Action Agency to a meeting.

#### - **Public Utilities Commission**

Director Ashcroft said OPEGA has one open recommendation from their Report and it is only still open because they have not been back to verify what the PUC had reported as completed action. She said OPEGA will do that.

Director Ashcroft noted that as a result of this report there was a movement by the GOC to introduce legislation to create a new position in the Office of the Public Advocate (OPA). The legislation did not pass but OPA did establish that position and she thinks it is still in place. She said one of the biggest issues coming out of OPEGA's PUC Report was how difficult it was for a citizen that wanted to represent themselves in a proceeding before the PUC and how complicated it was to understand what the PUC's procedures were so they could effectively represent themselves. Director Ashcroft said the new position was created in part to have somebody who would not be limited by ex parte communication rules and would be able to assist consumers in navigating the PUC proceedings.

Director Ashcroft asked if the GOC wanted to check with OPA on how they thought the position was working, and what percentage of the time the position was being asked for help by consumers.

Chair Katz asked if the Committee would like to have somebody from the PUC/OPA come to a meeting. The GOC members agreed they would like to have someone attend a meeting.

#### - **Healthy Maine Partnerships' FY13 Contracts and Funding**

Director Ashcroft noted that the GOC has been following the Records Management issue and had suggestions for changes in the procurement statute which did happen. They asked the Department of Administrative and Financial Affairs (DAFS), Division of Purchases to also make changes to the guidance in Rule 110 as well as the guidance that was available related to their policies on contract renewals and amendments. She said when OPEGA last reported to the GOC on this in February of 2016 they had not yet seen the revised policy. Director Ashcroft said she has now seen the policy on their website and it does include the specific language that the GOC recommended be added to deal with situations where there was a need to decrease funding involving multiple awardees.

Director Ashcroft reminded the GOC that they had recommended having guidance available should a situation happen like what happened with Healthy Maine Partnerships. The idea was if they were not going to reduce contracts amounts across the board, or on a percentage that was in relation to the original award, and the reductions were not related to a reduced amount of services that were being asked for, then it would require an RFP. She said that guidance now exists in Purchases' policies.

Director Ashcroft noted that it did not look like Rule 110 has been changed yet. She reminded the GOC that Commissioner Rosen had reported to the Committee that there were other changes they wanted to make to Rule 110 as well and he wanted to do them all together. She assumed the rule has not made its way through the rule making process because of that.

Director Ashcroft said another area the GOC looked at was the ethics policies, particularly for the Executive Branch, and introduced LD 6 late in 2014 to strengthen ethics practices and procedures for Executive Branch employees. She said that action by the GOC also relates to a recommendation that was in the PUC Report. LD 6 passed the House and the Senate put it on the Special Appropriations Table, carried it over to the 127<sup>th</sup> and the bill was in the Senate at the time of adjournment. Consequently, it has been placed in the legislative dead file.

Director Ashcroft also noted that the GOC was monitoring DHHS's progress in issuing a new RFP and making awards for the next round of Healthy Maine Partnership grant awards for contracts that were to begin in July, 2016. She recently followed up with DHHS on this and thanked Nick Adolphsen from DHHS, for answering her question so quickly. The RFP was issued March 11, 2016 and the new contracts from that RFP are expected to start October 1, 2016 with the current contracts being extended until that time. The proposals from the RFP were due June 1<sup>st</sup> so DHHS is in the process of reviewing them. DHHS did send a copy of the RFP to Director Ashcroft and she said it did appear it was focused on prevention of substance abuse of drugs and alcohol and prevention of tobacco use and exposure.

Chair Katz asked if the Director has received any information about when the contract awards would be made. Director Ashcroft said she did not look through the RFP to see what the time line was, but knew that in the past they have been working right up to the contract start date to negotiate those. She will look to see if DHHS has a plan or goal date for selection of awardees. Chair Katz said when the information on the awardees does come out, that the Director ask that she receive a list of the awardees and that she distribute it to the GOC.

Sen. Johnson was interested in receiving a copy of the RFP. Rep. Mastraccio noted that from what she knew things were going to be very different and Committee members may want to look at it because there is a lot of money involved. Director Ashcroft will get the RFP to the GOC members.

Director Ashcroft asked whether the GOC wanted to discuss the ethics piece any further. Chair Katz suggested putting it on the January, 2017 agenda to discuss with the new GOC because it will require new legislation.

#### - **Maine Economic Improvement Fund**

Director Ashcroft said there are currently two recommendations in the Report that are in open status. UMS was working on the recommendations in late 2014 but OPEGA has not had the opportunity to go back to follow up with them yet. She said both recommendations had to do with the allocation of resources on the projects they were using the funds for, as well as their ability to track project costs. She said in September, 2014 there was a lot of discussion about the equitable distribution of Maine Economic Improvement Funds among the various University of Maine System Campuses and how they were determining how much went to each campus. She said the Chancellor was at the GOC meeting and

described his vision of where he was headed with the UM System as a whole in terms of breaking down silos between campuses and looking at the System more holistically. As part of that, he indicated UMS would be thinking differently about the process by which they were allocating MEIF. He said it would be more driven by what top research priorities might be for the State, and of value to the State, as opposed to the way they were doing it now.

Director Ashcroft said it was the GOC's intent at that time to have the Chancellor come back in March of 2015 to talk about the progress being made, both on the recommendations of OPEGA's Report, and the other areas. She was checking with the Committee to see if they would like to schedule a report back from the Chancellor sometime before the end of the year.

Sen. Burns would like to invite the Chancellor to a future GOC meeting. Other members of the Committee agreed. Director Ashcroft will check the Chancellor's schedule to see what meeting he could attend.

#### - Follow-up Review of Office of Information Technology

Director Ashcroft reminded members that OIT had agreed to come to a meeting to give a report back at two different junctures. One was supposed to be earlier in the year by Jim Smith, CIO of OIT. He was going to give the Committee an actual action plan and time line for what they were going to do to address the recommendations in OPEGA's Report that were specific to OIT. She noted that there were some larger recommendations that involve more than just OIT and Commissioner Rosen was going to come to a GOC meeting in the fall to report on those.

Director Ashcroft said because OPEGA did not get Mr. Smith on the schedule earlier in the year, she has tentatively scheduled him to be at the Committee's July meeting. She said if the GOC was in agreement, she will have to send a letter of request to the Governor according to the protocol he established to get agency participation. She said the GOC also wanted to send a letter to the Legislative Council suggesting that they consider what alternatives might be available in the Legislature for getting a more effective understanding and oversight of information technology matters. Director Ashcroft said she will prepare a draft letter for the GOC's review. She said the Committee may also want to ask Mr. Smith what additional benefits he might see in having either a special committee, or a policy committee that has members that are more knowledgeable about information technology.

Director Ashcroft said, if the GOC agreed, both of those will be on the July agenda. Sen. Diamond said there has been problems communicating with OIT especially on Homeland Security issues like communications with the State Police, Fire, and Rescue since 2008 when they started discussing the new communication programs which is still not working well.

## REPORT FROM DIRECTOR

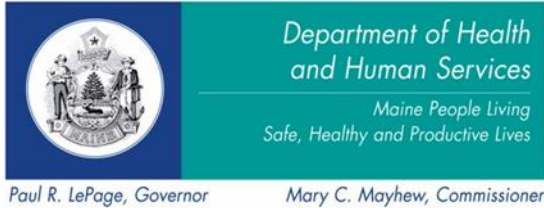
### • Status of Current Projects in Progress

Director Ashcroft said OPEGA has been developing the plan for field work phase of the **DHHS Licensing and Regulation of Child Care Providers** review. OPEGA is working on the **Northern New England Passenger Rail Authority** and nearing the end of preliminary research and expects to have the project direction recommendation statement for the Committee's July meeting. **State Lottery** is also in fieldwork. In response to Chair Katz's question of an estimate for when State Lottery may be completed, Director Ashcroft said she expects to have that discussion with the Committee in July. She noted that all of the reviews are at a point where she was hoping, in another couple of weeks, she will have a better view of what it is going to take to get them done. It is her plan to have the current reviews done by the end of the year.

Director Ashcroft said the **Tax Expenditure Evaluations** are well underway and coming together well. She did not know if they would be hitting all of the objectives to the level they had hoped to, but does think there will be some good and interesting information for discussion that comes from the tax expenditure evaluations. OPEGA is committed under statute to deliver the information regarding **Tax Expenditure Expedited Reviews– Necessity of Life** to the Taxation Committee by July 1 and OPEGA is on track to do that. OPEGA has a draft report that is currently being reviewed and then will be making a presentation to the Taxation Committee. That will be on the July GOC agenda in order to answer any questions of the GOC.

## **ADJOURN**

Chair Katz adjourned the GOC meeting at 11:51 a.m.



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June 22, 2016

To: Beth Ashcroft, Director, Office of Program Evaluation and Government Accountability

From: Ricker Hamilton, Deputy Commissioner of Programs, DHHS

Re: Final Report of OPEGA on Riverview Psychiatric Center—Primary Avenues for Reporting Incidents and Concerns Generally Effective in Ensuring Timely Attention of Appropriate Authorities; Inconsistencies in Policy, Practice and Documentation Noted; Some Reported Metrics May Be Unreliable—*outstanding questions*

### **Recommendation 3.**

#### **OPEGA Questions:**

As part of RPC's completed review of the grievance procedures and the training of staff on documentation, has RPC now:

1. Revised the process to incorporate the proposed solution that was being captured on a separate document into the Grievance form?
2. Reinforced with staff the need to get the patient to sign the form?
3. Required as part of policy/procedure that the staff should put a notation on the Grievance form if the patient refuses to sign?

#### **RPC Response:**

1. After careful review of hospital processes, review of the Rights of Recipients guidance, and based on the recommendation of Patient Advocates about our responses, the hospital will continue to use a separate document for the proposed solution to grievances. The hospital has revised the Grievance form to allow patients more space to write their complaint. The response form is attached to the original grievance when the case is closed.
2. Staff who respond to Grievances have participated in training about how to respond which includes having patients sign the form once the resolution has been presented.
3. Staff will note when the patient refuses to sign the Grievance form.

### **Recommendation 4.**

#### **OPEGA Questions:**

1. We are unclear from the portion of the response on Page 3, whether RPC understood the point of our recommendation and related issue. Our issue/recommendation is focused on the mandatory reporting requirements for certain professionals that exist in statute. The

statutory..... Is RPC using the term mandatory reporter the same as OPEGA intends in this portion of the response?

2. Have the staff trainings on reporting abuse and neglect pursuant to the Adult Protective Services Act with the Office of Aging and Disability Services that are referenced in the portion of the Response on Pages 1 and 2 already been scheduled and held?
  - a. If yes, did these trainings clarify for staff the specific points OPEGA recommended be clarified regarding individual professional responsibility, and what the individual employee's reporting requirements were when there were multiple witnesses?
  - b. If not, when are trainings expected to be held and are the recommended clarifications going to be part of those trainings?
  - c. Has RPC already incorporated any of the clarifications recommended by OPEGA into written policy or other written guidance for staff? If not, does RPC plan to do this and when it is expected to be done? If RPC does not plan to do this, why? Is it because it sees clarifications as unnecessary, unreasonable or not possible for some reasons? If so, please explain.

**RPC Response:**

1. The Superintendent, Deputy Superintendent, Director of Integrated Quality and Informatics, Staff and Organizational Development Manager, and Risk Manager met with the Adult Protective Services (APS) Program Manager and District Program Administrator to clarify requirements for meeting statutory requirements regarding mandated reporters. The hospital reviewed its reporting practices which APS staff confirmed are congruent with statutory expectations. For each event, APS requests one report from the hospital not a report from each mandated reporter who was present. The APS Program Manager suggested a change regarding internal documentation, it was clear this was a suggestion not a requirement. Regardless, the hospital is including this suggestion in its reporting procedures. There is no confusion among hospital administrative and clinical leadership about who is mandated to report by statute. The hospital has its own policy which augments the statutory requirement and makes all employees mandatory reporters. When this procedure was reviewed with the APS staff, they were in agreement and they acknowledged that this is the same policy requirement in place for many healthcare institutions in the state.
2. Adult Protective Services staff have provided training at the Medical Staff Meeting and the Social Work staff at the hospital. In these trainings, the APS staff reviewed mandatory reporting and their reporting expectations from hospitals. The hospital has made minor revisions to its reporting procedures based on the meeting with the APS Program Administrator and Manager and will train all hospital staff on these reporting requirements and documentation expectations. This hospital-wide training will be completed by July 31, 2016.
  - a. The trainings have been offered by APS about their expectations regarding reporting from the hospital. Where APS standards and not congruent with OPEGA recommendations, the hospital has chosen to follow the APS Act reporting expectations from the hospital.
  - b. Trainings have either been provided or are scheduled for the month of July 2016.
  - c. RPC has made minor changes to its procedures based on recommendations from APS regarding statutorily required reporting from mandated reporters.

## **Recommendation 5**

### **OPEGA Questions:**

1. We are unclear from the responses on Page 2 and 3 whether or not any additional documentation, beyond what was in place at the time of our review, is occurring, or planned to occur with regard to systemically monitoring or tracking/analyzing incidents of violations of the behavior policy. Please clarify if there is, or will be, any documentation of violations (or potential violations) other than the log of disciplinary actions. If no additional documentation is occurring or planned, why? Is this because RPC has determined it is unnecessary, unreasonable or not possible for some reason? Please explain.
2. Is any of the documentation that is being kept being used, or planned to be used, to systemically analyze/monitor staff behavior violations and the degree to which those violating behaviors are contributing to creating or escalating patient incidents?
  - a. If yes, please describe what is being done, or planned to be done, in that regard.
  - b. If not, has RPC removed the requirement in policy for DAFS HR to report quantitative information on the number of instances of violating behaviors to RPC leadership? If not, why not?

### **RPC Response:**

1. Tracking of Behaviors that Undermine a Culture of Safety is done through the log of disciplinary actions. RPC is not planning additional tracking mechanisms at this time. Employee actions that lead to a violation of this policy would be subject to disciplinary action and therefore, tracked on the log. Other employee behaviors that do not rise to the level of a policy violation are managed through the course of normal supervisory action. It is impractical to track casual conversations between an employee and their supervisor. Should there be continuing behaviors after the supervisor has initially addressed such with an employee, the steps of progressive discipline will be followed.
2. RPC currently tracks the number and duration of specific events in the hospital, including, but not limited to: Seclusion, patient to patient assaults, Hands on Holds, patient to staff assaults, employee injuries, STAT calls, patient self-abuse etc. This information is reviewed by Executive Leadership on a weekly basis. Trends regarding unit and shift are evaluated and investigated as appropriate. Additionally, events involving patients are reviewed via the Incident Report system. When there is a question regarding employee involvement in the incident, or if there appears to have been inappropriate patient treatment, a thorough investigation is initiated. These investigations involve the employee, any potential witnesses, a review of video recordings as well as review of the patient's medical record. If allegations are substantiated, appropriate personnel action is taken. Should that action be disciplinary, it is added to the Discipline log.

## **Recommendation 7**

### **OPEGA Questions:**

1. The first portion of OPEGA's recommendation is that RPC should further explore the cause of the Incident Report not being in MEDITECH.....Is this because RPC has decided that it will do no further exploration of that? Does RPC intend to look at whether any of the previously reported metrics should be updated? In other words, does RPC have any intention of implementing the first portion of OPEGA's recommendation? If not, why not?



2. The second part of RPC's response on Page 3 implies new controls have been implemented to ensure all reportable incidents are entered. Have new controls been added? Please describe specifically what controls are now in place.
3. OPEGA recommendation for implementing additional controls to address weaknesses in data collection and reporting was also for the grievance database. We see nothing in RPC's response that speaks to actions taken for the grievance database. Has DHHS Internal Audit reviewed the processes for data capture and entry into the grievance database to identify weaknesses?
  - a. If so, have additional controls been added?
  - b. If these steps have not been taken yet, is this something RPC/DHHS is planning to do? If not, why not? If so, when is that expected to happen?

**RPC Response:**

1. RPC and State OIT staff conducted an extensive exploration of the problem. Meditech, the vendor was contacted about changes to their coding that caused the problem. The hospital does not believe there is any additional useful information to be gathered. RPC/DHHS are actively engaged in the final stages of building and implementing a new Electronic Health Records system which is scheduled to go live in approximately 3 months. All available hospital and OIT resources continue to be devoted to this new project and not focused on resolution of the 5 cases identified by OPEGA.
2. RPC staff have implemented new controls for ensuring that all cases are available in Meditech. All reportable event forms sent for data entry are compared to the Incident Reporting number in Meditech. Any missing data are then entered and the system is rechecked to ensure that the Incident Report information is included. This control will become moot once the new Electronic Medical Records system is implemented in the next 3 months as staff on each unit will enter the Incident Report directly into the new EMR.
3. The hospital has not asked the DHHS Internal Auditor to review the legacy Grievance Database because grievances will be entered into the new Electronic Medical Record database. Once the new system is in place, a review of systems would be appropriate and a better use of staff resources. There are multiple controls in place to ensure that the hospital enters all grievances into the database. The Peer Support Office at the hospital collects and transfers all grievances to the Superintendent's Office. The Peer Support Office maintains a copy of the grievance which is compared to what is entered into the system. There is a review of grievances by the Patient Advocate and this information is reported to the hospital's Human Rights Committee. The data entry clerk for grievances tracks all grievances all provides written follow-up to staff who are responding to the grievances.

**Recommendation 8**

**OPEGA Questions:**

1. Has RPC taken any of the specific actions OPEGA recommended in the first paragraph under OPEGA recommendations above to address the criteria and reporting for Abuse and Neglect metric in the Quarterly Reports?
  - a. If yes, which actions have been completed or are in progress?
  - b. For any of the recommended actions not completed, or in progress, does RPC intend to take those steps or has RPC determined it is unnecessary, unreasonable, or not possible to take those actions? Please explain.
2. Has RPC discussed the standards for reporting factors of causation with the Court Master yet?
  - a. If so, when did that occur and what was the result, i.e. have any changes been made, and, if so, what were the changes?
  - b. If RPC has not yet discussed this issue with the Court Master, when is that expected to occur?

**RPC Response:**

1. The recommendation from OPEGA is still under review. The hospital reported the data in alignment with its long standing practice. Once the review is completed and a decision is made, that information will be incorporated into our data dictionaries for data collection and reporting. This should be completed by August 1, 2016, which is when the next quarterly report is due to be released.
2. RPC is reviewing the Consent Decree requirements and hospital reports on causation factors. The determination of the causation factors for many events do not neatly fit into the discrete categories as outlined in the Consent Decree. A thorough review of data definitions, determination of causative factors, and past coding practices are being reviewed to inform the hospital staff and the Court Master. The review and any possible recommendations on the data collection and reporting will be discussed with the Court Master at a regularly scheduled monthly meeting.

**Potential Scope and Areas of Focus for OPEGA Review of  
Independent Living Services Provided or Funded By State Agencies**

**Potential Scope of Review**

The multiple programs delivered through State agencies, or supported by State-administered funding, that provide products or services to assist individuals with significant disabilities in living more independently in their homes and communities. These products and services will be referred to generally as Independent Living Services (ILS).

**Possible Areas of Focus for Review**

1. The extent to which the number and types of programs providing ILS, and the resources allocated and used in those programs, are aligned with the current and predicted needs of the eligible client population. For example, is the balance of services and resources focused on returning a recipient to work compared to those focused on other aspects of independent living, such as transportation, housing and home modifications, emergency planning and preparedness, community-based living, and assistive technology, reflective of the portion of the potential client population for whom work is a realistic goal?
2. The extent to which the resources used in providing ILS, across all programs, are expended on:
  - Administrative costs versus direct delivery of services
  - Products provided versus services provided
3. The extent to which resources are used efficiently in providing ILS within programs. For example, whether processes are in place to ensure products and services are obtained at lowest reasonable cost and administrative costs are minimized.
4. The extent to which programs providing ILS are in compliance with State and federal program and funding requirements.
5. The extent to which programs providing ILS are coordinated to ensure appropriate planning and distribution of resources, timely and effective fulfillment of client needs, and efficient use of resources.
6. The extent to which the network of programs providing ILS is effective in improving the independence of recipients.

## **State-Administered or Funded Programs Providing ILS**

OPEGA asked the Maine Department of Labor (DOL) and Department of Health and Human Services (DHHS) to identify programs they administer, or fund, that provide products and services to assist people who have significant disabilities in living more independently in their homes and communities. The following programs were identified:

### Department of Labor, Bureau of Rehabilitation Services (BRS)

- Division of Vocational Rehabilitation – administers two relevant programs:
  - Vocational Rehabilitation (VR) Program - helps people who have physical, mental, or emotional disabilities to get and keep a job.
  - Independent Living Services (ILS) Program – provides assistance with home modification, accessibility, employment counseling, and other services to enable people significant disabilities to live more independently in their homes and communities. Services in this program are provided through a contracted Center for Independent Living (Alpha One).
- Division for the Blind and Visually Impaired (DBVI) - provides many services to persons with severe visual impairments that prevent carrying out the activities of daily living, getting an education or a job.
- Division for the Deaf, Hard-of-Hearing and Late-Deafened - provides services for deaf, hard-of-hearing and late-deafened people of Maine.

### Department of Health and Human Services, MaineCare

- Chapter 101, Section 12 – MaineCare Funded Consumer Directed Attendant Services
- Chapter 101, Section 19 – MaineCare Funded Home and Community Benefits for the Elderly and for Adults with Disabilities – Waiver. Services include:
  - Personal Emergency Response Systems (PERS);
  - Assistive technology devices and services;
  - Assistive technology transmission;
  - Assistive technology remote monitoring, and
  - Environmental modifications.
- Chapter 101, Section 96 – Private Duty Nursing and Personal Care Services
- Chapter 101, Section 18 - Home and Community-Based Services for Adults With Brain Injury
- Chapter 101, Section 20 - Home and Community Based Services for Adults with Other Related Conditions
- Chapter 101, Section 21 - Home and Community Benefits for Members with Intellectual Disabilities or Autistic Disorder
- Chapter 101, Section 29 - Support Services for Adults with Intellectual Disabilities or Autistic Disorder
- Chapter 101, Section 60 - Medical Supplies and Durable Medical Equipment

## Department of Health and Human Services, Bureau of Elder & Adult Services

- Chapter 5, Section 61 – Adult Day Services
- Chapter 5, Section 63 – Home Based Care
  - Personal Emergency Response Systems (PERS);
  - Environmental modifications
- Chapter 5, Section 69 – Independent Support Services – Homemaker

## Department of Health and Human Services, Office of Aging and Disability Services

- Chapter 11 – State Funded Consumer Directed Home Based Care

### **Estimated OPEGA Effort**

#### Multiple Program Review

OPEGA is unaware of any current or planned Executive Branch efforts that would address the potential areas of focus outlined. A broad OPEGA review of the multiple programs providing ILS would be a significant review for OPEGA at a rough estimate of 2500 hours. Staffed at a level of 3 to 4 full-time resources, estimated duration of this project would be 6 – 10 months. These estimates could be impacted to a great degree by the scope and objectives of the review as approved by the Government Oversight Committee following OPEGA's completion of its Preliminary Research Phase.

As with any full review, OPEGA first performs Preliminary Research for the purpose of gaining sufficient understanding of the topic, and relevant areas of concern and risk, to make a recommendation to the GOC on what the specific focus of a more detailed review of the topic should include. OPEGA's recommendation might ultimately encompass one or more of the previously described Potential Areas of Focus or other areas not yet identified.

The Preliminary Research Phase of the broad review outlined would be roughly estimated at 750 – 1000 hours. Staffed at a level of 2 full-time resources, Preliminary Research would take an estimated 3 - 4 months to complete. For this project, the Preliminary Research Phase would likely include, but not be limited to:

- identifying the universe of Independent Living Services programs/components, functions and services statewide that fall within the defined Scope;
- developing an understanding of each program identified including: types of products/services provided, target population and eligibility requirements, delivery system including contractors, sources and amount of funding, State agency role and resources, State and federal rules and requirements, and client statistics and demographics;
- identifying boards, commissions, councils or other entities with advisory, oversight, and/or coordination roles associated with any identified program;
- developing an understanding of the specific roles, responsibilities and authorities of board, commission, council or other entity identified; and

- developing an understanding of the overall relationships and coordination between identified programs and relevant State agencies and non-State entities (i.e. boards, commissions, councils, contractors).

Also as with all full reviews, the GOC's consideration of OPEGA's Project Direction Recommendation (at the completion of Preliminary Research) provides an opportunity for the GOC to determine that it would like OPEGA to end its review. Options at that point include directing OPEGA to produce an Information Brief to report out on the information gathered to date. (GOC members can reference the documents behind Tab M in the back section of their Committee binders to be reminded of OPEGA's Review Process.) The Information Brief could include OPEGA's observations on potential areas of concern and risk, or opportunities for improvement, that should be considered further. The GOC could then refer that on to the relevant Joint Standing Committees or potentially suggest the creation of a select committee or commission to address the observations.

### Individual ILS Program Review

An OPEGA review of ONLY the Independent Living Services Program administered by DOL would be estimated at 1200 – 1500 hours. Staffed at a level of 2 – 3 full-time resources, the expected duration would typically be 4 to 6 months. Potential Areas of Focus for this program-only review would be:

- Effectiveness of program in meeting its intent
- Compliance with requirements of the federal grant
- Timeliness of service provision
- Efficient and transparent use of resources
- Administration, oversight and delivery of program – structure, roles and responsibilities
- Coordination of ILS program with other State programs providing ILS services

Again, the resources and time required would be impacted by the GOC's decision on Project Direction following the Preliminary Research Phase. The project might also be somewhat expedited given the work already being done by DOL and DHHS as described below.

### **Current Executive Branch Efforts Regarding DOL's Independent Living Services Program**

An individual is determined eligible for ILS Program services through an evaluation(s). The evaluation(s) takes into consideration any relevant case record materials available from the ILS Program or other sources. A special diagnostic study(ies) is conducted for purposes of determining eligibility for ILS only if already available information is not complete, relevant, or current. The evaluation(s) shall be sufficient in scope to determine which services will best meet the current needs of the individual for functioning more independently in family or community setting.

An individual is found eligible for the ILS Program if the evaluation(s) determines:

- the individual has a significant physical or mental disability which, for that individual, constitutes or results in a severe limitation(s) in ability to function independently in family or community setting;
- ILS may reasonably be expected to assist the individual to function independently in a family or community setting; and
- The consumer is able to direct the ILS service planning and selection with or without assistance.

Eligible individuals are served in the following priority order:

Priority 1 Status -- Those eligible adults who will lose their current level of independence and would be required to move to a more restrictive setting immediately and permanently, unless they receive the assistance of a specific service or set of services which the ILS Program can provide.

Priority 2 Status -- Those eligible adults who, with the assistance of a specific service or set of services which the ILS Program can provide, can immediately move to a less restrictive and more independent setting.

Priority 3 Status -- Those eligible adults who, with the provision of a service or set of services which the ILS Program can provide, will be able to overcome a specific barrier or set of barriers to independent living.

Priority 4 Status -- All other eligible individuals.

DOL and DHHS recently undertook a review of the Independent Living Services Program's current wait list clients (primarily Priority Status 3 and 4) to determine whether those clients' needs could be met under other programs, such as MaineCare or other Adult Protective Services programs the clients were already enrolled in. This review determined that many of the clients on the waitlist were already enrolled in programs that make them eligible to get some or all of their needs met under these or other programs.

The final results of this review are pending, but further potential actions to address issues already identified may be:

- undertaking rule changes regarding the sharing of information between DOL and DHHS;
- revising definitions for Priority Status 3 and 4 clients to better reflect the intent of the ILS program;
- reviewing the cases for those non-waitlist clients in Priority Status 1 and 2 who were served immediately, to ensure that there were no other resources that could have been used to either provide them with more services up front or free up additional funds for clients in Priority Status 3 and 4;
- suggesting language for the State Independent Living Plan, including language that would have the contracted Center for Independent Living (CIL), Alpha One, take a more proactive approach to reviewing clients and identifying additional resources to support individual client goals, and
- negotiating to include tighter performance standards in the next contract with the CIL, effective Oct. 1 2016.

## Government Oversight Committee

### Improving Effectiveness and Efficiency of Statutorily-Required Evaluations of the State's Economic Development and Research and Development Programs

#### Questions to Consider for Establishing Desired Objectives/Results from Evaluations

Review current objectives for DECD evaluations in statute which are listed below. Are these still relevant? Are they specific enough? What is expected to result from pursuing these evaluation objectives that would be useful information for legislators?

1. Establish and report on outcome measures considered appropriate by public and private practitioners inside and outside of this State in the fields of research and development and economic development. Measures shall include, but not be limited to those that:
  - assess the overall economic performance of economic development incentives as defined in §13070-J.1.D as demonstrated by the number of jobs created and wages paid that are attributable to the program, and any state revenues that are attributable to the activities of the program;
  - assess the competitiveness of the technology sectors in this State and the impact of research and development activities in the State on economic development activity in this State. The goals and objectives described in the State's innovation economy action plan, as described in Title 10, chapter 107-D, shall be incorporated into the analysis of the success of the State's investments in research and development;
  - assess the effect of economic development activities on the competitiveness of industry sectors in this State.
2. Include recommendations on:
  - existing state-supported economic development programs and activities to affect economic development in this State; and
  - existing state-supported research and development programs and activities to affect technology-based economic development in this State.

Review current objectives established in statute for Tax Expenditure evaluations which are listed below. Which, if any, of these objectives would legislators like to see pursued in evaluations of individual economic development programs that are not tax expenditures? Which, if any, of these objectives are of interest/relevance in a broader evaluation of the portfolio of economic development and R&D programs as a whole?

- (a) The fiscal impact of the tax expenditure, including past and estimated future impacts;
- (b) The extent to which the design of the tax expenditure is effective in accomplishing the tax expenditure's purposes, intent or goals and consistent with best practices;



- (c) The extent to which the tax expenditure is achieving its purposes, intent or goals, taking into consideration the economic context, market conditions and indirect benefits;
- (d) The extent to which those actually benefiting from the tax expenditure are the intended beneficiaries;
- (e) The extent to which it is likely that the desired behavior might have occurred without the tax expenditure, taking into consideration similar tax expenditures offered by other states;
- (f) The extent to which the State's administration of the tax expenditure, including enforcement efforts, is efficient and effective;
- (g) The extent to which there are other state or federal tax expenditures, direct expenditures or other programs that have similar purposes, intent or goals as the tax expenditure, and the extent to which such similar initiatives are coordinated, complementary or duplicative;
- (h) The extent to which the tax expenditure is a cost-effective use of resources compared to other options for using the same resources or addressing the same purposes, intent or goals; and
- (i) Any opportunities to improve the effectiveness of the tax expenditure in meeting its purposes, intent or goals.

Review the most recent report produced from DECD's statutorily required independent evaluations of economic development and R&D programs listed below. What types of information, analyses or recommendations contained in this report are of interest and value to legislators?

**January 2016 - Comprehensive Evaluation of Maine's Research & Development and Economic Development Incentive and Investment Programs.** Members of GOC, LCRED and Taxation that attended the March 11, 2016 GOC meeting and report presentation by Investment Consulting Associates received a printed copy of this report which combined the economic development and R&D reviews. The link to this report on DECD's website is <http://www.maine.gov/decd/reports-pubs/docs/January%202016%20Comprehensive%20Evaluation%20of%20Maines%20Incentive%20and%20Investment.pdf>

Should the programs, or entire portfolio of programs, be evaluated against an established and consistent State strategy, goals, objectives, benchmarks and/or performance indicators? If so, what are these and/or what entity should be responsible for establishing them?

In previous testimony at GOC meetings, members of the GOC, as well as attending members of the LCRED and Taxation Committees, were made aware that statutory authority and responsibility to develop a long-range plan and strategy for the State's economy currently lies with the Maine Economic Growth Council. However, although the Council has been producing the Measures of Growth in Focus reports for many years now, the Council's efforts have not reached as far as developing and recommending the long-range plan as envisioned by statute. The Council's purpose, duties and specifics of what the long-range plan is to include are described in Title 10 §§929-A, 929-B and 929-C.