

# SENATE SPECIAL COMMITTEE ON THE OREGON HEALTH PLAN

June 2, 2003  
3:00 P.M.

Hearing Room C  
Tapes 21-23

**MEMBERS PRESENT:**     **Sen. Peter Courtney, Co-Chair**  
                                  **Sen. Jackie Winters, Co-Chair**  
                                  **Sen. Kate Brown**  
                                  **Sen. Margaret Carter**  
                                  **Sen. Bill Fisher**  
                                  **Sen. Lenn Hannon**  
                                  **Sen. John Minnis**  
                                  **Sen. Bill Morrisette**

**Rep. Jeff Kruse**  
**Rep. Alan Bates**

**STAFF PRESENT:**       **Marjorie Taylor, Committee Administrator**  
                                  **Heather Gravelle, Committee Assistant**

**MEASURE/ISSUES HEARD: SB 540 – Work Session**  
                                  **HB 3624 A – Public Hearing**

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These minutes are in compliance with Senate and House Rules. Only text enclosed in quotation marks reports a speaker's exact words. For complete contents, please refer to the tapes.

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<b>TAPE/#</b>	<b>Speaker</b>	<b>Comments</b>
<b>TAPE 21, A</b>		
005	Co-Chair Courtney	Calls the meeting to order at 3:00 PM: Opens a work session on SB 540.
<b><u>SB 540 – WORK SESSION</u></b>		
010	Holly Robinson	Legislative Counsel. Discusses the -6 amendments to SB 540. Explains various services and those who will receive services. Claims Legislative Assembly responsible for approving and funding services. Presents -6 amendments dated 6/2/03 and written material <b>(EXHIBITS A, B)</b> .
050	Robinson	Addresses health services various categories of individuals will receive. Discusses benefit packages. States how it is structured currently. Notes Legislative Assembly will decide which individuals will receive services and if benefits are to be changed they must be done by benefit package with group of benefits that must be presented as a package or group and cannot be broken up into sub sets.
095	Robinson	Discusses when bill will become operative. Explains transition piece so if Legislative Assembly is not sine die by July 1 there is a way of transitioning people from old biennium into new biennium.
100	Co-Chair Courtney	States the bill has a ways and means referral.
110	Sen. Minnis	Refers to section 3, page 2, line 9. Asks for clarification on language that appears to bind future legislators.
115	Robinson	Explains the rational of the verbiage. Claims would like it to be parallel and be clear the process is the same as section 1 where the pieces are going together with approval of Legislative Assembly.

135	Sen. Minnis	Asks the meaning of subject to funds available.
140	Robinson	States it means every time the phrase appears in statutes that the Legislative Assembly has been directed by law to do certain things to the degree agency has been allocated money to do it.
	Sen. Minnis	Asks if it is inherent that is the level of funding that the legislature may or may not approve.
	Robinson	Responds correct.
150	Sen. Minnis	Refers to page 3 section 5. Asks for clarification of Family Health Insurance Assistance program (FHIAP).
155	Robinson	States when 2519 was passed a piece of it was approved by the feds that public subsidies could be used to purchase through FHIAP health insurance for OHP standard clients. Comments not contingent on waiver being approved and so it was left in. Claims in all provisions in 2519 it is not obsolete anymore because the rest of it was primarily an application process.
165	Sen. Morrisette	Asks about the employed persons with disabilities.
170	Robinson	Responds they would be on line 12, page 2.
175	Sen. Fisher	Asks if funds are not available are there any recommendations or mandatory ways to scale back involved in this bill with the amendment showing how it would be done.
185	Robinson	Responds yes. Claims you can look at it as whether fund everything and back up or fund at the beginning and add. Comments legislature has to fund a certain level of minimal services but they can choose which population they will serve. Notes a benefit package has to be provided and a population that has to receive that benefit package. Adds once that happens that is the floor. Point out if no additional benefits added on in a rebalancing process those services will have to be continued and if it goes beyond the benefit package, services can be subtracted. Concludes there is a floor where the assembly cannot go beyond and assembly will decide and once the decision is made it cannot be retracted.
215	Sen. Fisher	Asks what subject to funds available mean. Comments if we start something and cannot continue it adjustments must be made. Discusses adjustments: <ul style="list-style-type: none"> <li>• Less people served</li> <li>• Less services provided to same amount of people</li> <li>• Cut in provider pay</li> </ul>
225	Robinson	Claims if we fund this that ends the subject of available funding. Responds that is a correct assessment. Comments if the assembly funds only the basic package that is correct and that level of funding to individuals would have to be maintained in the way it was written through the biennium.
235	Sen. Fisher	Asks if it is correct that if there were other things funded than the basic benefit package that is only way to reduce if that became necessary without special session or new law.
245	Robinson	Responds that is correct in the way that is drafted currently. `
250	Rep. Bates	Asks for clarification on decision needing to be made July 1 of biennium through the rest of the biennium.
256	Rep. Bates	Asks if the legislature is given the opportunity in making that decision to follow section 3 in making that decision.
258	Robinson	Responds that is correct.

260 Rep. Bates Claims they can adjust the package through the biennium. Discusses what they can do. Asks if it is true that they cannot decide on the other packages without following guidelines in section 1.

265 Robinson Responds I do not think so if understand the question. Refers to the presentation. Explains the way it is drafted certain services will have to be continued to be provided as a block. Notes additional services are add-ons and subtractions.

285 Sen. Minnis **MOTION: Moves to ADOPT SB 540 -6 amendments dated 6/2/03.**

290 **VOTE: 10-0**

Co-Chair Courtney **Hearing no objection, declares the motion CARRIED.**

340 Sen. Minnis **MOTION: Moves SB 540 as AMENDED and referred to the committee on Ways and Means without recommendation.**

350 **VOTE: 10-0**

Co-Chair Courtney **AYE: In a roll call vote, all members present vote Aye. The motion CARRIES.**

360 Co-Chair Courtney Closes the work session on SB 540 and opens a public hearing on HB 3624 A.

**HB 3624 A – PUBLIC HEARING**

365 Co-Chair Winters Expresses appreciation that Representative Westlund is here today.

385 Rep. Ben Westlund District 53. States how great it is to see everyone after a long couple of weeks. Expresses thanks to be a part of the process and to be back continuing to participate in something important to everyone.

395 Rep. Westlund Testifies in support of HB 3624 A. States history and provides an overview of those who worked on the bill and names the organizations that were also part of the process. States it has been an inclusive process. Names individuals who provided assistance.

**TAPE 22, A**

005 Rep. Westlund Comments goal was to develop a more efficient delivery system to better serve Oregon Health Plan (OHP) patients. States it has nothing to do with revenue or determining population. Says system keeps improving. Explains costs in the old structure the OHP did more than most with much less and was a good system. Notes prior to HB 3624 A it wasn't doing too bad which is contrary to what most think.

045 Rep. Westlund States how the plan began and how much money they had and the population targeted. Realizes the only population that could be covered was the federal mandatory Medicaid minimum populations.

055 Rep. Westlund Claims still short by \$30 40 million providing benefits. Notes tried to make the benefits package look more like a commercial package. Comments there are a list where they were all violated equally. Believes the hospital association and Senator Brown were also included in the discussions.

080 Rep. Bates Mentions the six month timeframe of working on the bill was a long and torturous journey. Notes involvement in health care in Oregon for last ten to fifteen years, specifically OHP for ten years. Feels last five to six years significant changes in the plan have been needed to make it more efficient which this bill does.

095 Rep. Bates Reviews Saturday's discussion of pharmaceutical benefits and provider care organizations (PCO) situation across the state. Discusses ways to purchase prescriptions. Comments looking for best prices. Notes decided in bill to use fully capitated health plans to help manage

		costs of fee for service patients for health care. Explains what happens when no longer fully capitated. Claims do not want to lose money and want to keep costs down. Some may have had concerns with the verbiage, but reassures the members there is oversight for plans and how money is spent.
125	Rep. Bates	States what will happen without a possible fully capitated plan in the Portland metro area. Comments how Kaiser is involved in the plan and willing to go to a PCO if need to. Notes why HMO is not necessarily a bad idea. Explains the need for guided care which the plans provide.
155	Sen. Brown	Refers to section 3 which lists exemptions. Asks what criteria were used in establishing the exemptions under the bill.
160	Rep. Westlund	States good question. Feels helpful to get the background for her. Explains why Oregon is very fortunate. Discusses Oregon's multiple fully capitated health plans meaning this care is provided by a local/regional providers. Notes Oregon deserves credit for keeping high number of fully capitated health plans changing the flavor of managed care. Describes why at first no exceptions process in the bill. Discusses exceptions list.
195	Rep. Bates	Refers to section 3 stating people do not have to be in managed care: <ul style="list-style-type: none"> <li>• Some groups by federal law cannot be forced such as tribe members</li> <li>• States people who are in a county or area where plans are full</li> <li>• Some individual cases</li> </ul> Provides an example of a pregnant woman. Claims few cases that are in the managed care plan may affect future of the plan. States why they chose what they did and how they made the decision.
205	Sen. Brown	Refers to section 11. Asks about anti-psychotic drugs and how decision was made.
225	Rep. Bates	Discusses 711 drugs which 70% of those are written from primary care physicians. States there is a clear distinction between those and anti-psychotic drugs that should be managed by those who are knowledgeable and trained in that area. Believes should be exempted out at any attempt to management but commonly managed by commercial plans. Feels it is the best way to approach a significant portion of drugs written in the state and not impact mental health of seriously and chronically mentally ill.
265	Rep. Westlund	Comments on still trying to carve out other types of drugs. Discusses pharmaceutical class. Notes the last thing trying to do is restrict access to any pharmaceutical severe and chronically mental ill patients may have need of.
275	Rep. Bates	Comments may find an individual patient taking tranquilizers or anti-depressants that are psychotic which may not be managed drugs. Discusses difference in patients with depression compared to a psychotic.
285	Sen. Brown	Asks for the purpose of including section 12 in the bill.
290	Rep. Westlund	Responds there was a lot of discussion. Claims the simplest answer is hospitals were declining to see fully capitated patients and would not serve them. Feels they should be required to see clients with fully capitated health plans. Says working on concepts on how the hospitals would be reimbursed. Explains how the process currently works. Discusses Tri-County area problem where fully capitated health plans enter into negotiations with hospitals with no incentive to negotiate where the fee schedule would go back to fee for service level

		reimbursement. Notes trying to determine an appropriate reimbursement rate. Believes part of the hospital social contract to take OHP patients.
330	Rep. Bates	Discusses fully capitated plans in certain areas. Explains elected admissions to the hospital. Provides example in Tri-County area.
360	Rep. Bates	Explains the hospitals felt they were not being properly reimbursed and plans felt they should take the patients. Claims want to make sure patients on elected basis would be seen and treated. Adds they struggled with it for weeks and did not come up with the best language and this is part of the bill most have concerns over. States expectations are to work and offer an amendment to the section which may rate this on benchmark to Medicare rates with better language.
375	Sen. Minnis	Refers to prescription drug provisions on specifically section 15. Asks if any provisions to change SB 819 from 2001 session specifically with respect ton preauthorization.
385	Rep. Westlund	Responds no.
390	Sen. Minnis	Feels that is clear and is prepared to make amendments to make that clear. Claims if not said clearly the department will take off on a tangent.
395	Rep. Bates	Responds section 15 is probably not section concerned with. Discusses the history of SB 819 and what is designed to do. States impact may be more people in managed care and less in fee for service and when in managed care those benefits will be matched on an individual basis. Claims HB 3624 A will not affect SB 819 with fee for service. Understands your concern and willing to work on bill further if needed.

**TAPE 21, B**

005	Sen. Minnis	Responds has purpose to clear up conflict with an amendment. Refers to section 6. Asks for clarification as to what is being accomplished by this section in reference to accepting financial contributions and seeking federal matching funds.
010	Rep. Bates	Responds to set up a PCO takes significant changes in software. Claims Kaiser has stepped forward saying they would pay for that new system and it would be donated to the State of Oregon and used for other PCO's if they choose.
030	Sen. Minnis	Comments it should be clear that what is being accomplished here is the development of the program that would help facilitate the PCO environment intending to create.
035	Rep. Bates	Responds that is correct.
036	Rep. Westlund	States the bill establishes high bars for creating new PCO's. Explains the section 6 allows the establishment of PCO's applying mostly to the metro area where half of fee for service patients exist where existing fully capitated health plans do not have the capacity to take on approximately 13,000 patients. Claims Kaiser said they will pay for it.
045	Sen. Minnis	Asks if it is the intent that all the discussions with DHS regarding development of programs will be public information.
050	Rep. Bates	Responds that was never a specific discussion. Feels the development of the program will be open but states there may be information Kaiser has that they do not want to share with competitors. Claims the development of the program and how program was applied would be open.
060	Sen. Minnis	Claims that issue not addressed and worked out should be researched.

		States there has been a history of the meetings and development within Department of Human Service (DHS) that has not been in line with open meetings law. Stresses ensuring if the intent is to develop a computer program that would facilitate development of a PCO then need to make sure it is public to avoid a bad position.
065	Rep. Westlund	Comments very happy to work with any members of the committee to develop appropriate language regarding issues. Claims proud of the bill and hope to make it better.
070	Rep. Bates	Claims some of the amendments will improve section 12 in particular. Feels the suggestion may work.
075	Sen. Fisher	Refers to section 13. Asks about fully capitated health plans.
080	Rep. Westlund	Responds the language is permissive. Claims trying to encourage the fully capitated health plans to use a single pharmacy benefits manager but did not want to mandate it. Says certain stages they are in but did not want to set up contract disputes. Notes they only use three and within a short time half of them most likely will be utilizing one and shortly after the benefits will become more apparent to other six or seven that use the other two and they would then come to a single pharmacy benefit manager model.
085	Sen. Fisher	Asks if it can be put into the contract.
100	Rep. Bates	Explains primary pharmacy benefit manager would have to prove they can get the medication cheaper than other ways of doing it. Claims leaving it like this makes it competitive. Adds some plans have opted out option. Notes leaving saying may instead of shall in the bill is the way to go giving more competition.
115	Sen. Morrisette	Asks if there is any assurance Pharmacy Benefit Manager (PBM) currently working with is giving the state of Oregon the best deal possible.
119	Rep. Bates	Responds there has been a discussion going on for almost a year. Discusses audits.
150	Sen. Morrisette	Asks if possible to amend the bill to put language in to say there will be a periodic audit.
155	Rep. Bates	Responds there is no reason why it could not be done and it might be something to consider now.
165	Sen. Minnis	Comments certain generic drugs may cost more than the name brand. Asks if there is anything in the bill that will look at the lowest cost option not withstanding whether drug is generic or name brand.
170	Rep. Bates	Responds the bill is written so there are private, commercial plans making the decision on each drug. States the question would be answered by the fully capitated health plan. Comments they want to make a plan look like commercial market as it is most efficient way of running the plan. Feels an efficient job can be done in managing health care benefits in cost point of view but also what is best for the patient.
180	Co-Chair Winters	Asks about 85% of the population. Comments on moving to managed care realizing the savings. States recently the analysis may not be as accurate as believed a few months ago when additional population added which may require more cost to managed care that it may not be cheaper going from fee to service to managed care.
185	Rep. Bates	Discusses information from a previous meeting where that was discussed. States basic principal of managed care of the population still stands despite what was discussed.
195	Rep. Westlund	Feels the calculation that is being left out of that interesting assertion is

when they end up in emergency room because cannot get access to providers there is expensive care reimbursed at a low rate. Asks what happens to un-reimbursed costs shifted to private and commercial markets driving private health insurance cost higher.

225 Co-Chair Winters Asks if a large percentage of the fee for service is in the mental health category.

230 Rep. Bates Responds yes but does not have not exact figures. Claims the population is different than commercial individuals. States there is a high percentage of mental illness and chemical and alcohol abuse.

245 Co-Chair Winters States mental health was carved out of SB 819 because of the needs of that population. Asks if costs get put over to managed care if it remains carved out in HB 3624 A. . .

250 Rep. Bates Responds the anti-psychotic drugs are still carved out. Notes looking to trying to manage the large portions of drugs prescribed by primary care physicians. Claims someone with anxiety and mild depression is not in that group. States the mentally ill prevented from taking part in a regular job that cannot get private health insurance because of it are not to be managed.

260 Co-Chair Winters States the other factor is the multiple uses of drugs and making sure one isn't counteracting the other which is why that particular population was carved out.

265 Rep. Bates Responds that was a very big part of the discussion in the bill. Claims the problem is people taking multiple medication especially mental health field that may hurt the patient. States management is helpful but mostly these people need to be on powerful drugs of four to five types and be able to manage themselves in society.

270 Co-Chair Winters Asks if person enrolled in managed care do they get assigned to a doctor right away.

275 Rep. Bates Responds yes.

285 Co-Chair Winters Asks if the length of time for them to be enrolled is part of what the agency will prescribe or should it be prescribed in statute.

290 Rep. Bates Responds days were spent on that decision. Claims the bill reads as best as decision could be made.

300 Rep. Westlund Claims additional capacity for primary care physicians is 80,000-110,000 additional enrollees.

315 Co-Chair Winters Expresses concerns with time. Claims objective is to avoid as much as possible emergency care so when one has a physician they are more apt to go to them rather than end up in emergency care.

325 Rep. Westlund Agrees with the concern. States the services provided.

350 Sen. Minnis Discusses the anti-depressants issue. Claims some tend to deteriorate over time. Asks how drugs subject to the plan are going to be dealt with in respect to physician's decision to choose another drug.

375 Rep. Bates Responds aim was to make it look like a commercial plan overall. Discusses restrictions. Claims the majority of the 711 drugs are prescribed by regular doctors.

**TAPE 22, B**

005 Rep. Bates Comments medications should not be restricted by any plan in specific cases.

010 Sen. Minnis Comments whether or not someone has access to a doctor in a reasonable amount of time and the physician does not have a barrier.

020 Rep. Bates Comments this bill says you have to have reasonable access to take on a capitated patient.

025	Sen. Minnis	Concerned many of these people are not very sophisticated which does not mean they are not going to fight for the correct medication.
030	Rep. Bates	Feels more may be done to save money instead of good patient care. States the opposite of that will happen due to past experience. States they are carefully guided through their health with very good results from managed care. Claims worst cases are fee for service with no where to go. Understands the concerns but a lot out there preventing concerns.
040	Sen. Morrisette	Asks what kind of flexibility does a patient have in choosing their own doctor.
045	Rep. Westlund	Responds a person is usually assigned to a physician through a pool. Claims fair to say most physicians outside of the Tri-county areas are members of local fully capitated health plan.
055	Sen. Brown	Expresses concerns that clients under this system are not aware of their appeal rights within managed care organization still exist. Asks if assuming there was no intent to deny infringe upon current patients rights is there any objection placing that into the language of the bill.
065	Rep. Westlund	Responds the bill is silent and it is federal law. Claims appeals occur a lot and it is common to have hearings and plans decisions reversed. States not a new program. Understands concerns and happy to work on amendments to make it clear to people it does not violate federal law.
075	Sen. Fisher	Discusses PBM. Claims never found that he could have one of the fringe facilities bargaining on its own. Says with the state with its leverage and resources with 20,000 or 30,000 people involved, perhaps we should do some impinging upon the state and let those people bargain for us. Feels it is hard to see how we couldn't benefit better by as contracts fall off, getting on board doing it in a must way rather than a may.
085	Rep. Bates	Responds the net result will be what you talked about. States he has a hard time believing a central PBM will not offer to the plans a better price than can get individually. Claims it is permissive at this time. Says they don't trust the state. Provides example.
120	Sen. Fisher	Wonders where the provision is. Feels we should be pulling together.
135	Rep. Westlund	Agrees with relation to the fully capitated health plan. Feels we need prudence at this point with regard to forcing a single PBM which would lead us to headache.
155	Rep. Bates	States these people will be capitated. Feels uncomfortable turning over this big of a program to one PBM without a lot of input from the plans that have extensive experience buying through PBM's at the best prices. Expresses uneasiness forcing one single PBM at this point.
165	Sen. Fisher	Asks if there is a way to demand or insist that the state makes the best possible purchase.
175	Rep. Bates	Responds a careful audit needs to be completed by private commercial company.
205	Rep. Westlund	Comments a lot has been put into the bill. Adds there are a lot of individuals that have put a lot of heart and soul into this. Expresses thanks stating all the various stakeholder groups were there everyday on time.
210	Rep. Bates	States the more eyes on this the better the bill will be. Expresses thanks for the hard work.
385	Jim Edge	Acting Assistant Administrator, Office of Medical Assistants Programs. Testifies in regards to HB 3624. Summarizes key points of the bill. Expresses concerns with various sections. Submits written

395 Jim Neely testimony (**EXHIBIT C**).  
Deputy Director, Department of Human Services. Mentions an audit conducted of the Oregon Health Plan eligibility process determining a need for additional administrative controls. Explains issues in submitted testimony. Claims a good guide for employment history. Claims Secretary of State's office suggested in re-application. States there is some electronic data available. Refers to page 2. Says since February 1 the new policy suggests three previous months will be used so no longer an estimation error. Adds second thing is recommendation considering analyzing and reviewing the high risk cases with high or low incomes. Notes beginning April of 2003 a team was put together looking at cases where it is suspected either someone reporting low income or other areas where reported areas are suspect and revisit wage information after a few months. Submits written material (**EXHIBIT D**).

**TAPE 23, A**

005 Neely Discusses issues revolving social security numbers. Claims using automated data match to ensure the correct people are being assessed. States modifying the application to state they can voluntarily give the social security number. Adds also obtain the social security number other ways such as through pay stubs. Feels better at making sure every avenue for automated data match exists. Refers to page 4.

035 Neely Claims not anticipating a policy change at this point. Adds case management track system has been modified. Refers to page 5 on improper premium waivers. Comments as of February this year, no longer waive premiums. Adds premiums are not paid they are not only off following month but off for a six month period.

055 Co-Chair Winters Asks what the figure is.

060 Neely Responds in May 2003, about 14,600 lost coverage for not paying their February and March premiums. Adds over 4,000 will lose coverage in June and 3,000- 5,000 in July will also lose coverage.

065 Sen. Morrisette Asks if birth certificates are part of the check in terms of who is legal and who is not legal.

070 Neely Responds they were in the quality control review. Claims there were no individuals who claimed to be citizens who were not citizens. Adds it is not part of the routine determination.

085 Co-Chair Courtney Closes the public hearing on HB 3624 A and adjourns the committee meeting at 5:00 PM.

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**EXHIBIT SUMMARY**

**A – SB 540, -6 amendments dated 6/2/03, Holly Robinson, 5 pp**

**B – SB 540, written material, Holly Robinson, 1p**

**C – HB 3624 A, written testimony, Jim Edge, 4 pp**

**D – HB 3624 A, written material, Jim Neely, 5 pp**