

**ALASKA STATE LEGISLATURE**  
**HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE**

April 7, 2015

3:06 p.m.

**MEMBERS PRESENT**

Representative Paul Seaton, Chair  
Representative Neal Foster  
Representative Louise Stutes  
Representative David Talerico  
Representative Geran Tarr

**MEMBERS ABSENT**

Representative Liz Vazquez, Vice Chair  
Representative Adam Wool

**COMMITTEE CALENDAR**

HOUSE CONCURRENT RESOLUTION NO. 9  
Proclaiming April 19, 2015, as Congenital Diaphragmatic Hernia  
Action Day.

- MOVED HCR 9 OUT OF COMMITTEE

HOUSE BILL NO. 161

"An Act relating to the purchase of durable medical equipment  
under Medicaid; and providing for an effective date."

- MOVED CSHB 161(HSS) OUT OF COMMITTEE

**PREVIOUS COMMITTEE ACTION**

BILL: HCR 9

SHORT TITLE: CONGENITAL DIAPHRAGM. HERNIA ACTION DAY

SPONSOR(S): REPRESENTATIVE(S) MILLETT

03/16/15	(H)	READ THE FIRST TIME - REFERRALS
03/16/15	(H)	HSS
04/07/15	(H)	HSS AT 3:00 PM CAPITOL 106

BILL: HB 161

SHORT TITLE: MEDICAID: USED DURABLE MEDICAL EQUIPMENT

SPONSOR(S): REPRESENTATIVE(S) GATTIS

03/23/15	(H)	READ THE FIRST TIME - REFERRALS
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03/23/15 (H) HSS  
04/07/15 (H) HSS AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

REPRESENTATIVE CHARISSE MILLETT  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HCR 9 as prime sponsor.

GRACE ABBOTT, Staff  
Representative Charisse Millett  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions during the presentation of HCR 9, on behalf of prime sponsor, Representative Millett.

JARED PARRISH, Senior Scientist  
Alaska Birth Defects Registry  
Women, Children & Family Health  
Division of Public Health  
Department of Health and Social Services  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the discussion of HCR 9.

DAWN WILLIAMSON, President  
Cherubs  
Wake Forest, North Carolina

**POSITION STATEMENT:** Testified in support of HCR 9.

TODD MEARS  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HCR 9.

REPRESENTATIVE LYNN GATTIS  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 161 as prime sponsor.

ANDREW FORD, Staff  
Representative Lynn Gattis  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Answered questions as staff for prime sponsor, Representative Gattis on HB 161.

JOHN CANNON, President

Key Coalition of Alaska  
Wasilla, Alaska

**POSITION STATEMENT:** Testified in support of HB 161.

PATRICK REINHART, Executive Director  
Governor's Council on Disabilities and Special Education  
Division of Senior and Disabilities Services  
Department of Health and Social Services  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 161.

LISA NOLAND, Chief Marketing Officer  
Arc of Anchorage  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 161.

JIM BECK, Executive Director  
Access Alaska  
Anchorage, Alaska

**POSITION STATEMENT:** Testified in support of HB 161.

CHAD HOPE, Pharmacy Program Manager  
Medical Assistance Administration  
Division of Health Care Services  
Department of Health and Social Services  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during the discussion on HB 161.

#### **ACTION NARRATIVE**

[3:06:01 PM](#)

**CHAIR PAUL SEATON** called the House Health and Social Services Standing Committee meeting to order at 3:06 p.m. Representatives Seaton, Talerico, Stutes, and Foster were present at the call to order. Representative Tarr arrived as the meeting was in progress.

#### **HCR 9-CONGENITAL DIAPHRAGM. HERNIA ACTION DAY**

[3:06:30 PM](#)

CHAIR SEATON announced that the first order of business would be HOUSE CONCURRENT RESOLUTION NO. 9, Proclaiming April 19, 2015, as Congenital Diaphragmatic Hernia Action Day.

[3:06:45 PM](#)

REPRESENTATIVE CHARISSE MILLETT, Alaska State Legislature, explained that HCR 9 declared April 19, 2015, as the Congenital Diaphragmatic Hernia (CDH) day of action. She relayed that CDH occurred when a fetal diaphragm, the muscle dividing the chest and the abdominal cavity, did not close completely. It was not known what caused CDH or how to completely cure it, although 1 in 2,500 babies are diagnosed with CDH every year, with survival of only 50 percent of these babies. She noted that, although at least four families had babies diagnosed with CDH every day, it did not get very much attention. She expressed her desire that the proposed resolution would show families that they were not alone in this struggle, and would raise awareness about the devastating disease. She reported that 14 other states and 9 cities had also declared that April 19, 2015, would be acknowledged as CDH Day of Action.

REPRESENTATIVE STUTES asked how many babies in the State of Alaska were born with CDH.

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GRACE ABBOTT, Staff, Representative Charisse Millett, Alaska State Legislature, said that there was a representative from the Division of Public Health who would elaborate on the effect. She pointed out that, as disclosure of the disease was voluntary, the statistics were not comprehensive.

REPRESENTATIVE STUTES asked whether the disease was visually apparent.

REPRESENTATIVE MILLETT replied that it occurred in utero and could only be detected through testing as it was the inside of the diaphragm which did not fully develop; however, visually, the child looked normal.

[3:11:00 PM](#)

CHAIR SEATON opened public testimony.

REPRESENTATIVE STUTES asked how many children in Alaska annually were born with CDH.

JARED PARRISH, Senior Scientist, Alaska Birth Defects Registry, Women, Children & Family Health, Division of Public Health, Department of Health and Social Services, in response to Representative Stutes, said that the data over the past eight

years showed there were about 6.4 cases each year in Alaska, which was about 1 in 2,200 live births, compared to the national average of about 1 in 2,500 live births.

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DAWN WILLIAMSON, President, Cherubs, said that Cherubs was the world's largest charity for families affected by CDH. She stated that the charity served more than 5,000 families in more than 60 countries. She explained that it was very severe, with only a 50 percent survival rate for the 1,600 annual births in the United States. She said that, although it was as common as cystic fibrosis and spinal bifida, most people had never heard of CDH which was the reason for the crusade for greater awareness to support more action and research funding. She explained that CDH occurred when there was a hole in the baby's diaphragm and organs could herniate upward into the chest cavity, inhibiting lung growth. She declared that this birth defect was very severe, and there was not any known cause. She reported that CDH only received a fraction of the research funding compared to other causes with similar rates of occurrence. She expressed appreciation for this acknowledgement by the legislature.

CHAIR SEATON asked whether the majority of the deaths occurred after diagnosis, or because there was not a diagnosis.

MS. WILLIAMSON estimated that about 85 percent of the children were diagnosed in utero with routine ultra sound, while the remainder were diagnosed at birth when the cord was cut, and the baby could not breathe. She declared that most of the deaths occurred within the first six months, as surgery was necessary soon after birth. She declared that there were only a few cases of children not diagnosed in the first few months. Until the 1990s very few children with CDH survived, the U.S. survival rate was 1 percent, because the medical technology to take care of these children at birth was not available.

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TODD MEARS declared his support of the resolution and shared that his daughter had passed away from CDH. He stated that they first learned of CDH after an ultrasound at the 20-week mark of pregnancy. Although they had been told that the outcome was not promising, they chose to go ahead with the pregnancy. He shared that the ensuing hospital visits were all in Seattle, as Anchorage did not have the necessary facilities, and that his

daughter only lived for 73:15:56 hours. He revealed that this was very special as it had affected his family and friends.

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CHAIR SEATON closed public testimony after ascertaining no one further wished to testify.

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REPRESENTATIVE FOSTER moved to report HCR 9, Version 29-LS0713\A, out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, HCR 9 was moved from the House Health and Social Services Standing Committee.

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The committee took a brief at-ease.

**HB 161-MEDICAID: USED DURABLE MEDICAL EQUIPMENT**

[3:20:58 PM](#)

CHAIR SEATON announced that the final order of business would be HOUSE BILL NO. 161, "An Act relating to the purchase of durable medical equipment under Medicaid; and providing for an effective date."

[3:21:08 PM](#)

REPRESENTATIVE LYNN GATTIS, Alaska State Legislature, read from the sponsor statement:

House Bill 161 is a cost saving bill for the state's medical assistance programs. Currently the Department of Health and Social Services only purchases new Durable Medical Equipment, even though used Durable Medical equipment is available and is able to withstand repeated use.

House Bill 161 would require that, "When the department authorizes the purchase of durable medical equipment, the department shall require a recipient of medical assistance services to purchase used or refurbished durable medical equipment if used or refurbished durable medical equipment is available, is

less expensive than new durable medical equipment of the same type, is able to withstand at least three years of use and meets the needs of the recipient."

REPRESENTATIVE GATTIS declared that the proposed bill was "simply a cost savings bill," as when the state could use cheaper, used equipment, it would. She stated that "it's unfortunate, in my opinion, that we even have to have a bill to do what I think is common sense."

REPRESENTATIVE STUTES asked whether there was a facility that did the refurbishing and cleaning of these used items to prepare them for re-use.

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ANDREW FORD, Staff, Representative Lynn Gattis, Alaska State Legislature, replied that he did not have a list of providers for refurbished or used durable medical equipment, but there were a number of testifiers available.

REPRESENTATIVE STUTES asked whether there was a specialized company to refurbish and certify this equipment.

REPRESENTATIVE TARR noted that there were support materials from the Key Coalition of Alaska [included within members' packets]. She reflected on the suggestions for used equipment during an earlier presentation by the Key Coalition, and she asked whether the proposed bill was different from those suggestions.

REPRESENTATIVE GATTIS replied that the proposed bill was introduced because of the Key Coalition, as it had been one of their top priorities.

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CHAIR SEATON opened public testimony.

[3:25:04 PM](#)

JOHN CANNON, President, Key Coalition of Alaska, declared that the proposed bill addressed one of the top priorities for the Key Coalition. He said that apparently the state prohibited the use of Medicaid funds for the purchase of used and refurbished durable medical equipment (DME), even though the federal government did allow these purchases. He reported that many other states allowed it, including Kansas, Delaware, Idaho,

Oklahoma, and Vermont, which had resulted in cost savings. He pointed out that the Kansas program reported a \$3.15 return for every \$1 spent on this reused program. In 2012, the Kansas equipment exchange program had 1,200 requests and re-assigned 806 items, with a value of nearly \$1 million. In the four months of 2013, the Kansas program had 397 equipment requests, 228 donations valued at \$283,000, and reassigned 220 items. He declared that the durable medical equipment reuse program made a lot of sense for cost and users. He offered his belief that it was wise to keep the language of the proposed bill simple and straightforward in order to allow DHSS to set up the DME reuse program. He reported that, currently in Alaska, the ownership of the equipment went to the client, and consequently, when the client no longer needed the equipment, it was disposed of in a variety of ways. He suggested that this policy of ownership be re-considered by DHSS. He pointed out that Kansas had the most established re-use program, noting that Kansas had suggested to be cautious of the impact on DME providers, as it was necessary to maintain a healthy partnership with these vendors. He shared that other states had recognized that there was plenty of business, and that through collaboration, everyone would win. He stated that this program would not need to put any of the current DME providers at risk. He urged passing of the proposed bill, adding that Access Alaska was currently refurbishing DME.

REPRESENTATIVE TARR questioned whether, although there appeared to be about 50 different businesses involved with DME, there were enough businesses in smaller communities for participation.

MR. CANNON said that, judging from the experience of other states, no DME providers had been put out of business through a similar program.

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PATRICK REINHART, Executive Director, Governor's Council on Disabilities and Special Education, Division of Senior and Disabilities Services, Department of Health and Social Services, testified in support of proposed HB 161 regarding the reuse and recycling of durable medical equipment, and allowing this under Medicaid. He declared that the Governor's Council had brought this concept to the legislature earlier this year, as had the Key Coalition of Alaska. He spoke about his experience with the Wisconsin mobility store, a program run by an independent living center similar to Access Alaska. He said that this store had a vast amount of used equipment and that, as almost everyone who worked there had a disability, it had created opportunities for

employment. He reported that the wheelchairs in the store were about one-third the original price, even though nothing looked used. He said that damaged equipment was not offered. He reported that Wisconsin used the correctional industries for a lot of the cleaning and repair of the equipment, and that Kansas and Oklahoma had similar programs. These programs would be somewhat adaptable to Alaska, although Alaska would have bigger challenges with shipping and collecting. He stated that it made a lot of sense for Alaska in urban areas. He acknowledged that the details would need to be worked out, as there was the potential for unintended consequences if it was denying appropriate DME. He declared that the concept was for when it was appropriate and when equipment was useable by someone who needed the equipment. He stated that there was potential for schools, Medicaid, and other state programs, and that local entities would also utilize the program. He directed attention to page 1, line 6, and expressed his concern, suggesting that a change from "shall" to "may" was necessary. He pointed out that a companion bill in the Senate used "may" as there were some instances where a used piece of equipment was not the right thing at the right time, and an option was important.

REPRESENTATIVE GATTIS, in response to Representative Foster, said that the original intent of the proposed bill was for purchases anytime used equipment was available at a lower price; however, she expressed an understanding for the substitution of "may," as it was often necessary to include the additional costs for shipping long distances. She declared her support for this change.

CHAIR SEATON relayed that this would be considered when amendments were discussed.

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LISA NOLAND, Chief Marketing Officer, Arc of Anchorage, expressed support for HB 161. She said that there were typical issues of need for DME, and in the remote areas of Alaska, it took a lot of time just to acquire the appropriate equipment. She said that many rural communities relied on loaner closets, although often this equipment had not been maintained properly. She pointed out that often there was not the ability by a user to pay cash. She expressed support for proposed HB 161, as it made common sense.

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JIM BECK, Executive Director, Access Alaska, said that Access Alaska had the most mature experience with this type of program. He reported that Access Alaska accepted donated equipment, sanitized it, and then loaned it out. In Fiscal Year 2014, they loaned out 2,399 pieces of DME, valued at more than \$500,000, which resulted in savings to private insurance, Medicare, and Medicaid. He reported that grant funding from the Rasmussen and the Murdoch charitable foundations had allowed Access Alaska to buy a Hub Scrub, similar to a commercial dish washer for cleaning wheelchairs and durable medical equipment. He declared that proposed HB 161 was "generally a pretty good idea," although he expressed some concern with the regulatory process. He asked to be involved with the regulatory process, as "the devil is in the details" and they did not "want to wander into the land of unintended consequences with this sort of legislation." He pointed out that it would depend on the regulatory framework for whether Access Alaska became a Medicaid provider. He reiterated that currently Access Alaska was a loan program which offered a lot of good for the local communities, and he expressed his desire to continue this program.

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CHAIR SEATON asked if the proposed bill would give authority to Department of Health and Social Services to write regulations.

CHAD HOPE, Pharmacy Program Manager, Medical Assistance Administration, Division of Health Care Services, Department of Health and Social Services, explained that regulations would have to be written by DHSS establishing a coverage and fee structure for used equipment. He shared that DHSS had been approached in the last year by Mr. Reinhart, and they had begun work on the process. He stated that regulations for the used equipment rate would be required, regardless of whether the proposed bill was passed.

CHAIR SEATON asked whether the statute needed to include the authority to write regulations, or whether it would preclude any changes from regulations to modify the program. He asked for confirmation that DHSS had the authority to write regulations to implement the statute as it was passed.

MR. HOPE expressed his agreement; however, he clarified that the approach by DHSS for regulations had been to allow for the purchase of used equipment but not to mandate it. He offered his belief that a mandate could be a challenge, but if that was

amended, then there should not be any issue with the regulations.

CHAIR SEATON stated that his intent was for clarification that the statute allowed for the goal.

REPRESENTATIVE TARR referenced the Access Alaska apparatus for sanitizing the DME, the industry standard, and she asked if there were any concerns for enforcement of cleanliness by additional providers.

MR. HOPE expressed his agreement that those were details that would need to be worked out. He reported that the primary focus until now had been to allow that used equipment be billed to the department. He said that it was still an unknown for whether Medicaid would write these details into the regulation or whether it would be included with the provider's business practices and policies.

CHAIR SEATON referenced the ownership of DME, as there was a system whereby the client would own the equipment. He asked if there would be a right of return included in the regulations, as there was nothing in the proposed bill regarding who would own the equipment.

MR. HOPE explained that currently the department purchased new equipment and the ownership transferred to the recipient. He said that the department had allowed for rental of various DME, in which case ownership would remain with the provider, unless it was rented to own. He noted that there had been discussion of used equipment when the department investigated the transition from a purchase model to a capped rental model for reimbursement. He declared that this was a complicated topic, as it would allow for the rental of equipment rather than an outright purchase, but would then create a market for used equipment. He said that the department would build in a reimbursement model to allow providers to bill for used equipment. He allowed that all of this was part of a larger discussion for ways to reform the overall program.

CHAIR SEATON offered his belief that the statute would not preclude these models.

REPRESENTATIVE GATTIS commented that the proposed bill had been kept relatively simple to allow these opportunities.

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CHAIR SEATON closed public testimony after ascertaining that no one further wished to testify.

REPRESENTATIVE STUTES offered her belief that this appeared to be a win-win bill.

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REPRESENTATIVE FOSTER moved to adopt a conceptual amendment, on page 1, line 6, to change the word "shall" to "may."

CHAIR SEATON stated that this would be labeled Conceptual Amendment 1, and he objected for discussion.

REPRESENTATIVE GATTIS, in response to Chair Seaton, said that Conceptual Amendment 1 was acceptable, as it aligned with the senate version of the bill.

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CHAIR SEATON removed his objection. There being no further objection, Conceptual Amendment 1 was adopted.

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CHAIR SEATON moved to adopt Amendment 2, labeled 29-LS0636\W.1, Glover, 4/6/15, which read:

Page 1, line 10, following "expensive":  
Insert ", including shipping,"

Page 1, line 13, following "(4)":  
Insert "equally"

[3:54:09 PM](#)

REPRESENTATIVE TARR objected for discussion.

CHAIR SEATON explained that the proposed amendment would ensure that shipping was included in the expense, as a piece of used equipment could have a less expensive list price, but with shipping it could be more expensive than a new piece of equipment. He pointed out that there was a question for whether a piece of durable equipment specifically, or equally, meets the needs of an individual, offering examples of different types of wheelchairs.

REPRESENTATIVE TARR asked whether all four of the standards had to be met, and questioned whether there was any circumstance when you would not want any limitation. She offered her belief that being equally able to meet the needs of the recipient prevented purchase of any less expensive piece that was not as useful to the individual.

MR. HOPE explained that shipping costs would be factored in, as it was an issue that was being reviewed holistically. He reported that the current shipping regulations were very narrow, and DHSS was exploring ways to refine these. He allowed that any used equipment, inclusive of shipping, would need to be cheaper than a new item, each of which would meet the needs of the recipient.

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CHAIR SEATON directed attention to the proposed Amendment 2, page 1, line 13, which inserted "equally" in front of meets, and asked whether he was comfortable with that.

MR. HOPE said that he did not foresee any challenges to this.

REPRESENTATIVE GATTIS, in response to Chair Seaton, stated that proposed Amendment 2 made this a better bill.

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REPRESENTATIVE TARR removed her objection. There being no further objection, Amendment 2, labeled 29-LS0636\W.1, Glover, 4/6/15, was adopted.

[3:58:58 PM](#)

REPRESENTATIVE FOSTER moved to report HB 161, Version 29-LS0636\W, as amended, out of committee with individual recommendations and the accompanying zero fiscal notes. There being no objection, CSHB 161(HSS) was moved from the House Health and Social Services Standing Committee.

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**ADJOURNMENT**

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 3:59 p.m.