



## The Alaska Association on Developmental Disabilities

P.O.Box 241742  
Anchorage, Alaska 99524-1742

*To facilitate a united provider voice for best practices, advocacy, partnerships and networking.*

March 18, 2016

House Finance Committee and House Representatives  
State Capitol  
Juneau, AK 99801

### **SB74 REQUESTED AMENDMENTS**

Dear State House Representatives,

The Alaska Association on Developmental Disabilities (AADD) is the voice of over 30 providers offering developmental disability services through the Home and Community Based waiver system statewide. The members of the association offer services to individuals of all ages, and generally supports of the Medicaid Reform measures designed to improve quality and sustainability of these services.

As medical assistance providers, AADD requests the following amendments to the current version of SB74 regarding the Medicaid False Claims Act:

#### **1. Self-reporting protections for providers.**

##### **Sec 3. AS 09.58.010 (b) (p7) to read:**

A beneficiary of an intentional or inadvertent submission of a false or fraudulent claim under the medical assistance program who later discovers the claim is false or fraudulent shall disclose the false or fraudulent claim to the state not later than 60 days after discovering the false claim. **The department of health and social services may not assess interest or penalties on an overpayment self-identified and repaid by a medical assistance provider under this section.**

**2. More precise definition of “agent” as used in Sec. 09.58.010(e).**

**Page 14, Sec. 10, Sec. 09.58.100 Definitions**

Add the following definition of “agent”

**“agent with apparent authority” does not include someone acting in violation of the policies or instruction of the principal provider without that provider’s knowledge.**

**3. Protections from liability from actions of rogue employees.**

**Page 8, Sec. 10, Sec. 09.58.010(e) to read:**

**Sec. 09.58.010 False claims for medical assistance; civil penalty.**

(e) A corporation, partnership, or other individual is liable under this chapter for acts of its agents if the agent acted with apparent authority, regardless of whether the agent acted, in whole or in part, to benefit the principal and regardless of whether the principal adopted or ratified the agent’s claims, representations, statement, or other action or conduct, **unless the evidence shows that the agent or apparent agent acted with intent to deceive the principal.**

**4. Conceptual amendment for increased auditor qualifications.**

Public testimony at Senate hearings suggested that Medicaid provider auditors be required to have some knowledge of the State and Federal Medicaid law necessary to conduct accurate audits.

**5. Request for clarification of the meaning of Sec. 09.10.075 re statute of limitations.**

Page 6, Sec. 8

**Sec. 09.10.075. Actions related to claims based on medical assistance**

**payment fraud.** Except as provided in AS 09.58.070, a person may not bring an action under AS 09.58.010 - 09.58.060, unless the action is commenced by the earlier of (1) six years after the act or omission was committed, or (2) three years after the date when facts material to the action were known, or reasonably should have been known, by the attorney general or the Department of Health and Social Services, but in no event more than 10 years after the date the violation under AS 09.58.010 occurred.

Question: Does this mean the both the state and private parties have at most six years to act or that the private parties have six years and the state has at most ten years?

Sincerely,



Michael Bailey  
AADD Vice President