

ALASKA STATE LEGISLATURE
JOINT COMMITTEE ON LEGISLATIVE BUDGET AND AUDIT

April 9, 2003

7:02 a.m.

MEMBERS PRESENT

Representative Ralph Samuels, Chair
Representative Mike Hawker
Representative Beth Kerttula

Senator Gene Therriault, Vice Chair
Senator Ben Stevens
Senator Con Bunde
Senator Gary Wilken
Senator Lyman Hoffman
Senator Lyda Green, alternate

MEMBERS ABSENT

Representative Vic Kohring
Representative Jim Whitaker
Representative Reggie Joule, alternate
Representative Bill Williams, alternate

COMMITTEE CALENDAR

APPROVAL OF MINUTES
OTHER COMMITTEE BUSINESS

WITNESS REGISTER

JOEL GILBERTSON, Commissioner
Department of Health & Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Provided information from the department regarding the DHSS/DMA Internal Control Over Medicaid Payments Audit.

JACK NIELSON, Executive Director
Medicaid Rate Advisory Commission
Division of Medical Assistance (DMA)
Department of Health & Social Services

POSITION STATEMENT: Responded to questions regarding the DHSS/DMA Internal Control Over Medicaid Payments Audit.

PAT DAVIDSON, Legislative Auditor

Division of Legislative Audit
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Provided information regarding the DHSS/DMA
Internal Control Over Medicaid Payments Audit.

ACTION NARRATIVE

TAPE 03-3, SIDE A

Number 0001

CHAIR RALPH SAMUELS called the Joint Committee on Legislative Budget and Audit meeting to order at 7:02 a.m. Members present at the call to order were Representatives Samuels and Hawker, and Senators Ben Stevens, Bunde, Wilken, Hoffman, and Green. Representative Kerttula and Senator Therriault arrived shortly thereafter.

APPROVAL OF MINUTES

Number 0048

REPRESENTATIVE HAWKER made a motion to approve the minutes of March 27, 2003.

CHAIR SAMUELS asked whether there were any objections. There being none, the minutes from the meeting of March 27, 2003, were approved as read.

OTHER COMMITTEE BUSINESS

Number 0123

CHAIR SAMUELS announced that at the last meeting [meeting of 3/27/03] the committee released the Department of Health & Social Services, Division of Medical Assistance, Internal Control Over Medicaid Payments audit report, dated January 31, 2003, to the public. Chair Samuels referred to his letter of April 2, 2003, which indicated that the committee was not happy with the tone and some specifics regarding the department's response to the audit, adding that he appreciated Commissioner Gilbertson's letter of April 4, 2003, which clarified and revisited some key points.

Number 0142

JOEL GILBERTSON, Commissioner, Department of Health & Social Services (DHSS), introduced John Gaisford, the new Director of the Division of Medical Assistance (DMA) and Jack Nielson, Executive Director of the Medicaid Rate Advisory Commission. He said the audit was extensive and consumed many months during the legislative interim and brought forth recommendations of value for improved management of the Medicaid program.

Number 0210

COMMISSIONER GILBERTSON stated that he probably had not devoted sufficient attention to the audit response that was submitted to the committee, which was why he had submitted an additional document [letter of April 4, 2003]. He said the business of health care is tremendously complicated, which likely explains the motivation for staff's lengthy response to the audit recommendations - a response that provided too much detailed information while failing to adequately address the fundamental issues that were raised in the audit. Those same employees have spent hundreds of hours during the past year in preparation for a new HIPAA [Health Insurance Portability and Accountability Act] system and for the procurement of a new claims processing system for the Medicaid program. The new system, when approved, will replace the 1970s architecture of the current computer system and promises technological advances for better health care management, as it includes an enhanced decision support system, increased web-based capabilities, and greater flexibility regarding program controls.

Number 0440

COMMISSIONER GILBERTSON said not only does he agree with the audit recommendations, but prior to the audit report, he had initiated activities to improve the Medicaid program. He said that the administration is currently implementing many improvements regarding the administration of an efficient Medicaid program that provides quality health care while safeguarding general fund dollars. He referred to the three legislative items introduced by the governor: 1) freezing the annual COLA [Cost of Living Allowance] for higher-income eligibility groups involved in Medicaid, 2) eliminating the options list so there will be more flexibility for cost containment within the department, and 3) eliminating the advisory rate commission and allowing for facility rates to be established by regulation.

Number 0523

COMMISSIONER GILBERTSON continued that reorganization is underway within the department to strengthen the programmatic and financial accountability of the Medicaid program. The new structure will include the Office of Program Review, to provide financial oversight and coordination between divisions, maximize federal fund contributions to the program, and reduce general fund expenditures. It will also assure that each division has active efforts promoting program integrity and accountability. There will be a department-wide fraud coordinator working with fraud enforcement in the Department of Law, and with fraud investigators within a number of programs such as Medicaid and public assistance.

Number 0611

COMMISSIONER GILBERTSON explained that the reorganization will streamline business practices and focus on enhancing customer service while working in coordination with faith-based organizations. The Office of Rate Review will be established to coordinate Department of Health & Social Services (DHSS) rate-setting functions. Within the Division of Health Care Services, which Director Gaisford will be overseeing, quality management in acute care settings will be addressed, involving provider audits, medical reviews, and establishing [external review systems]. There will also be enhanced capabilities to maximize third-party liability for financial recovery for health care services and the assurance of high-quality, cost-effective service delivery to individuals who receive services from the Medicaid program.

Number 0643

COMMISSIONER GILBERTSON stated that the department supports Senator Green's efforts to pass fraud-and-abuse enforcement legislation. This new legislation will direct the department to increase the number of external audits, to increase enforcement, and also to decrease erroneous payments. He said he also intends to issue a new contract for provider audits shortly, and will retain an experienced person within the Office of Program Review to oversee the quality assurance functions within each division - that person will be the department-wide fraud coordinator.

Number 0724

COMMISSIONER GILBERTSON said that much of the effort to improve accountability focuses on provider education and training regarding record keeping and billing. He referred to prior conversations with Representative Hawker about the level of Medicaid fraud nationwide, noting that the statistics may or may not apply to Alaska but that a better understanding is needed of what the rate of fraud is in the state. He said "we do know that we have a relatively small number of providers, and we know most of them personally."

Number 0757

COMMISSIONER GILBERTSON pointed out that facilities in Alaska are limited; there are 19 hospitals, 15 nursing homes, and many providers of the "mom and pop variety" - small pharmacies, solo practitioners, and clinics. The majority of providers are not attempting to defraud the state but are dealing with other problems such as staff turnover and an untrained billing staff. He emphasized that the department must do a better job of providing education to providers so that accurate claims are submitted the first time.

Number 0809

COMMISSIONER GILBERTSON suggested that many parts of Alaska have access problems due to too few providers, which is why the department will be working to build capacity. There were references in the audit report to General Accounting Office (GAO) reports on the high risk of Medicaid programs for fraud. On a number of occasions the report cites that high risk in Medicaid fraud includes the inappropriate use of funds in inter-governmental transfers such as ProShare and FairShare arrangements. These financing concepts have been used by the state for decades and are allowed by federal law and regulation. He said that Alaska will continue the waiver programs, and noted that according to the GAO report, waiver programs have increased federal liability because states have used Medicaid dollars to tackle difficult issues such as immigrant health care.

Number 0901

COMMISSIONER GILBERTSON said he understood the federal government's desire to control federal spending, since there are other priorities and a lot of competing interests for federal monies, and that it's equally clear that states want to maximize the amount of federal funds, especially during an economic downturn. He offered the perspective that the administration is

committed to looking at ways to continue to refinance as much as possible, saying that the governor's budget submittal includes \$19 million of general-fund savings through the refinancing of grants. He noted that there are activities that meet with compliance under the ProShare arrangement - an approved plan with the federal government, submitted through the Region 10 Office - and that those activities would continue.

Number 0947

COMMISSIONER GILBERTSON mentioned one caveat was that the state should not mix efforts to optimize federal funds with compromising on Medicaid program integrity. He said the department will ensure that health care funds are spent appropriately and that funds are dedicated toward providing care and not to providing undeserved riches to providers.

Number 1013

COMMISSIONER GILBERTSON then referred to the 13 recommendations outlined in the audit report. He read the following:

Recommendation No. 1: DMA's health and programs manager should review MMIS [Medical Management Information System] administrative controls and edits, and the related disposition policy, in order to better utilize the payment system's capacity to evaluate claims.

Commissioner Gilbertson responded that the department concurs and needs to review administrative controls and edits to ensure appropriateness, consistency, and the promotion of payment for only valid and medically necessary claims.

COMMISSIONER GILBERTSON read Recommendation No. 2:

Recommendation No. 2: DMA's provider and beneficiary services manager should develop and implement stronger Medicaid provider enrollment controls consistent with Federal regulations and to prevent enrollment of unqualified service providers.

Commissioner Gilbertson responded that the department concurs and must take steps to ensure that required disclosures of criminal convictions are made. The department endeavors to enact an agreement with [the Division of Occupational Licensing] to receive timely information from licensing board activities.

In addition appropriate processes will be reviewed in order to suspend inactive providers.

Number 1056

COMMISSIONER GILBERTSON read the next recommendation:

Recommendation No. 3: DMA's health program and policy manager should strengthen controls over transportation claims.

Commissioner Gilbertson reported that the department concurs and will review recommendations of the auditors.

COMMISSIONER GILBERTSON read Recommendation No. 4:

Recommendation No. 4: The Director of DMA should evaluate the costs and possible savings that may be involved in various administrative alternatives to managing non-emergency transportation costs.

Commissioner Gilbertson responded that the department again concurs and mentioned that included in the governor's budget submittal to the legislature were savings associated with moving towards a transportation brokerage service for non-emergency care. He stated that the department will act upon the recommendation and will initiate a transportation brokerage service for non-emergency services.

Number 1146

COMMISSIONER GILBERTSON addressed the next recommendation:

Recommendation No. 5: DMA's director should direct resources to assist the Program/Recipient Review (P/RR) section to develop a comprehensive case management system to better manage the operations of this important internal review function.

Commissioner Gilbertson said the department concurs and that the "decision support system" in the enhanced MMIS will provide the tools necessary for enhanced tracking and monitoring. He explained that the department is currently a "bystander" in a litigation effort between two competing providers, Electronic Data Systems Corporation (EDS) and First Health Services Corporation ("First Health"), and involves a dispute over the "Alaska Bidders Preference." He said that the new system is not

currently on line because litigation has delayed the department's ability to implement the new contract.

Number 1230

COMMISSIONER GILBERTSON referred to Recommendation No. 6:

Recommendation No. 6: The director of DMA should carry out a comprehensive risk assessment to estimate the level of improper Medicaid payments that may be associated with different types of services and providers.

Commissioner Gilbertson responded that the department concurs that a comprehensive risk assessment would provide insight into where audit and inspection efforts should be focused. He reiterated that the decision support system of the new MMIS system will provide the necessary tools for further cost-benefit assessment.

Number 1258

COMMISSIONER GILBERTSON referred to Recommendation No. 7:

Recommendation No. 7: DMA's director should provide for a full-time, ongoing service provider audit function.

Commissioner Gilbertson said the department concurs and is currently preparing another audit contract.

Number 1309

COMMISSIONER GILBERTSON read the next recommendation:

Recommendation No. 8: DMA's director should implement more aggressive monitoring of problem providers, particularly prepayment review of claims, and utilize administrative remedies to prevent abusive and unsupported billing practices.

Commissioner Gilbertson said the department concurs that the aggressive monitoring of problem providers can be an important tool in preventing abusive and unsupported billing practices. Claims should be paid only to qualified, enrolled providers for services rendered to eligible persons. All claims are subject

to numerous edits, and some services are preauthorized before being rendered.

Number 1339

COMMISSIONER GILBERTSON referred to Recommendation No. 9:

Recommendation No. 9: DMA's manager of the provider and recipient review unit should improve the confirmation of service provision process and utilize the process to monitor providers in a risk-based manner.

Commissioner Gilbertson reported concurrence, saying that 400 random letters are sent monthly to recipients, inquiring if the rendered service was actually received. The current MMIS system is of 1970s technology and is incapable of incorporating recommendations such as focusing on specific provider types, geographic location areas, or specific providers, without costly reprogramming. He said the department has recognized this need and is looking forward to the implementation of the new system.

Number 1422

COMMISSIONER GILBERTSON then addressed Recommendation No. 10:

Recommendation No. 10: DMA Medicaid policy administrator and DMHDD's [Department of Mental Health & Developmental Disabilities] program administrator should address home and community-based (HCB) agency payment rate issues to ensure costs paid are reasonable and contained.

Commissioner Gilbertson reported concurrence and stated that upon completion of a cost-study, this recommendation would be pursued further.

Number 1436

COMMISSIONER GILBERTSON read the next recommendation:

Recommendation No. 11: DMHDD program managers should adopt regulations requiring the business relationship between the care coordinators and home care community service agency providers are maintained at arm's length.

Commissioner Gilbertson said the department recognizes the potential conflict of interest and that the Division of Mental Health & Developmental Disabilities (DMHDD) has sought and obtained funding for incremental improvements including working with the Developmental Disabilities (DD) Systems Reform Initiative, providing additional care coordination training, and working with the Real Choice Systems Change grant, all of which will alter the present system structure. He said consideration is being given to moving the assessment function and plan of care development to an administrative capacity, adding that he thought this would assist in reducing the number of erroneous payments.

Number 1523

COMMISSIONER GILBERTSON addressed the next recommendation:

Recommendation No. 12: The legislature should consider adopting specific criminal statutes related to Medicaid fraud to enhance the Medicaid Fraud Control Unit's effectiveness.

Commissioner Gilbertson stated that the department is reviewing legislative proposals; the department and the administration are supportive of Senator Green's efforts to provide criminal sanctions regarding Medicaid fraud.

Number 1542

COMMISSIONER GILBERTSON read the final recommendation:

Recommendation No. 13: The legislature should include program integrity "mission and measures" statement and performance objectives for DMA.

Commissioner Gilbertson said the department concurs completely and is looking forward to working with the legislature to develop missions and measures for the department.

Number 1606

CHAIR SAMUELS questioned the timeline for the internal audit function.

Number 1641

JACK NIELSON, Executive Director, Medicaid Rate Advisory Commission, Division of Medical Assistance (DMA), responded that a request for proposals (RFP) is currently being worked on and a contract will likely be in place by August or September if "things go well" and qualified auditors are located.

Number 1715

CHAIR SAMUELS then asked what the timeline was regarding the new software system.

Number 1730

COMMISSIONER GILBERTSON replied that regretfully, he could not answer that question. He explained that the department had gone through a clean procurement for a contract that was awarded to First Health. However, EDS, also a large Medicaid fiscal agent, had a dispute over the Alaska Bidders Preference - a preference given to Alaska-based corporations - and the choice to litigate has delayed finalization of the contract because the department is currently a bystander in litigation between EDS and First Health. He said that the department is stuck with the court's schedule regarding the decision as to whether the preference is constitutional or unconstitutional.

Number 1824

COMMISSIONER GILBERTSON further explained that initially the contract was awarded to First Health and was certified as a clean procurement by the Department of Administration. The department went through the normal process - negotiating to actually hammer out the contract. He said he thought the contract was even submitted to the federal government for review but then the department received a court order to not enter into the final agreement; essentially, the department is involved in litigation between two parties, each believing that it should rightfully have the contract.

MR. NIELSON noted that currently the superior court has the disputed contract under advisement.

Number 1906

SENATOR HOFFMAN referred to the department's concurrence with the auditor's recommendations and findings; he asked if the timeframes for implementation, inclusive of both starting dates and completion deadlines, could be provided in writing.

Number 1952

COMMISSIONER GILBERTSON suggested that the timelines would be different for the differing recommendations. He stated that the review [of timelines] would be submitted to Senator Hoffman's office as well as to the committee.

Number 2003

SENATOR BUNDE suggested that emblematic of the initial response and the philosophical bent behind it was the term "retroactive prior approval" and asked, "Could you delve into that a little bit."

CHAIR SAMUELS emphasized Senator Bunde's comment, saying, "That phrase is why we are all here, to be perfectly honest. ... When that phrase came up, it was time to have a chat."

Number 2108

COMMISSIONER GILBERTSON said he did not really have a good answer and responded, "I don't think you'll hear that term again from us." He said the department reviews payments when claims are submitted, and on the front end, edits are made to verify that there are clean claims. In addition, post-payment reviews are done on a number of claims.

Number 2132

SENATOR HAWKER referred to previous conversations that he had with Commissioner Gilbertson, saying he was convinced that the commissioner was committed to doing what had to be done to fix problems that had been inherited. He asked if the commissioner had the resources available to do the work needed to fix those problems and asked if there were any systemic problems that would impede departmental efforts to move forward.

Number 2222

SENATOR HAWKER then acknowledged that the department is huge, noting that it's the largest department in the State of Alaska

and is extraordinarily complex, as evidenced by the number of acronyms that were referenced in the report. He asked if there were inside resources available or if additional outside funding would be necessary to really address the problems that exist.

Number 2305

COMMISSIONER GILBERTSON responded that the department doesn't have resource problems in terms of dollar amounts, but technologically doesn't have the resources to address every problem in the audit report, explaining that without the new system, it's difficult to enact a number of the recommendations. He said the administration's position is to take the path leading to having a contract in place in the quickest period of time and that the Department of Law is working to represent the state's interest.

Number 2413

COMMISSIONER GILBERTSON continued that much of the work the department plans on doing will be funded through savings associated with departmental activities. He mentioned projected savings in the governor's budget from having a transportation brokerage service and from having greater fraud-and-abuse enforcement. He noted that savings in the governor's budget submittal reflect a decrease in projected total savings to the state because the submittal includes the costs associated with enhanced fraud-and-abuse enforcement.

Number 2516

COMMISSIONER GILBERTSON added that obviously, additional resources are always appreciated, but said that within the governor's budget submittal, he thought the necessary funds would be available to move forward on the majority of the recommendations contained within the audit finding. He informed the committee that an Office of Program Review and an Office of Rate Review will both be established within the department. In addition, there will be a department-wide fraud-and-abuse coordinator and a talented team of individuals to work on re financing efforts to generate the necessary resources to carry out other activities. Commissioner Gilbertson added that one caveat that was that the new computer system needed to be put in place.

Number 2622

SENATOR GREEN questioned if, in the committee process, there was a mechanism by which the letter submitted from the commissioner could be incorporated as part of the audit - either to replace the original response, or to make it an addenda item so as to reflect the department's intention and to include the commissioner's comments.

CHAIR SAMUELS said that the commissioner's response wouldn't replace but could certainly be added to the audit as an addendum.

Number 2646

SENATOR GREEN moved that the committee [adopt the additional response by Commissioner Gilbertson in a letter dated April 4, 2003, as part of the audit materials pertaining to Audit Control Number 06-30018-03].

CHAIR SAMUELS asked if there were any objections. There being none, it was so ordered.

Number 2706

CHAIR SAMUELS referred to Commissioner Gilbertson's letter of April 4, 2003, noting that the response to Recommendation No. 3, read in part, "In particular, items 2 through 5 could be important tools in strengthening...." He referred the committee to page 45 of the actual audit report and suggested that item 1 "verification of services" was perhaps the most important of the recommended items. He questioned why item 1 was not specified in the commissioner's response and also asked when a plan to reduce transportation costs would be devised.

Number 2802

COMMISSIONER GILBERTSON replied that it may have been due to poor drafting in terms of language, but the separation [between item 1 and items 2 through 5] was due to a time difference - it is easier to implement items 2 through 5 than it is to implement item 1. He said the department agrees with and will move forward on items 1 through 5, and predicted that the department would move forward on the transportation brokerage service very quickly, as it is already included in the governor's budget for FY 2004. He said the service is primarily for non-emergency transport of Medicaid patients and is an easy savings.

COMMISSIONER GILBERTSON responded to Chair Samuels' question regarding timelines and said that the department is projecting implementation within the next fiscal year, with plans to realize savings in the governor's budget. He added that the department is moving internally on the transportation initiatives, and was doing so even before the audit recommendations had been released. Commissioner Gilbertson noted that regarding item 1, the department supports the recommendation, but acknowledges that it will take more time to integrate that into the system.

Number 2952

SENATOR BUNDE commented on attending a briefing by U.S. Senator Ted Stevens several years ago regarding the use of telemedicine, and said that he would like to have an update on that topic. He then stated that coincidentally, he had just received an e-mail from a constituent who worked at a medical facility, indicating that there is an incredible problem with Medicaid recipients' meeting their appointments. At that particular office, Medicaid appointments are just not made anymore because beneficiaries are allowed to show up on a walk-in basis due to their habitually making appointments and not showing up, thereby causing an expense to the office. Senator Bunde noted that people are on Medicaid because they don't have money, and he asked whether the department would "charge them for the transportation" if people did not show up for appointments. He suggested that perhaps the PFD [Permanent Fund Dividend] could be a source, saying that "you can't stop providing medical service."

Number 3114

COMMISSIONER GILBERTSON responded to the first question regarding telemedicine and said that obviously U.S. Senator Ted Stevens was instrumental in moving forward on the AFHCAN [Alaska Federal Health Care Access Network] system, which is moving aggressively to establish the telemedicine structure throughout the state. He said the department has moved forward on reimbursement for telemedicine services and he believes those regulations are finished, as the department is currently reimbursing for telemedicine services.

Number 3148

COMMISSIONER GILBERTSON continued that obviously savings are involved with not having to transport people for medical

conditions to Anchorage, in particular, from rural communities. He said that a lot of telemedicine services involve federal beneficiaries, individuals technically within the old Indian Health Care System, U.S. Department of Defense (DOD) beneficiaries, and [U.S. Department of Veterans Affairs] beneficiaries, adding that a number of Medicaid beneficiaries, 40 percent, are Alaska Natives, many of whom live in rural communities. He stated that there are ways in which telemedicine services can be better utilized, and doing so involves working with U.S. Senator Ted Stevens to build up capacity in the state.

Number 3326

MR. NIELSON responded that there are questions about the department's ability to "kick someone out" of the Medicaid program. He said there are new regulations in effect, and as of March 26th, some authority is being given to look at the "recipient fraud side" of the equation. He commented that it's not as much real authority as is needed, but at least individual cases can be looked at and potential solutions on individual cases can be worked towards. Regarding the problem of missed appointments, he announced that there is a focus on educating recipients as to the importance of showing up to appointments; the department is working with the Division of Public Assistance to put together and to distribute pamphlets that emphasize the importance of showing up for appointments and meeting obligations.

Number 3418

SENATOR BUNDE reiterated that there is nothing that can be done because it is symptomatic of the "free lunch syndrome" in which people don't usually value or have ownership when they get "something for free."

Number 3438

COMMISSIONER GILBERTSON said that the department concurs with Senator Bunde and experiences access problems in a number of different areas, dental care in particular. One of the comments frequently heard from providers is their reluctance to accept Medicaid patients, not because of the rate that is paid but because of clients' not showing up for appointments. He reiterated the department's desire to work on this problem, noting that providers lose the ability to have paying customers because of allowing time for Medicaid clients who then don't

show up. Additionally, he pointed out that in Senator Green's bill, the department will have greater authority to look towards sanctioning beneficiary behavior regarding fraud.

Number 3550

REPRESENTATIVE HAWKER referred to the issue of transportation and shared an anecdote that had been shared with him. One evening, shortly after he was elected to office, he met with highly compensated medical professionals who worked as medevac contractors, who told him that an entire medevac team had been mobilized to bring a child and the child's family to Anchorage because of a "duck bite," which he explained was similar to a pinch on the arm. Representative Hawker asked if there was any kind of gate keeping that could be done to avoid mobilizing an entire medevac team to bring a duck bite [victim] back to Anchorage.

Number 3656

COMMISSIONER GILBERTSON replied that a key component to addressing decreases in the large amount of expenditures in transportation involves building up capacity [in rural Alaska] to allow for a greater level of evaluation. He reported that the department has been working with the federal government to have what are called "frontier extended-stay clinics" and is building up resource capacity to provide for a higher level of care in the rural areas to reduce the need to medevac individuals to Anchorage, where the transportation costs tend to exceed the actual cost of providing the care itself. In trying to handle care locally, the department has been working cooperatively with the Yukon Kuskokwim Health Corporation and other Native corporations to build up capacity.

COMMISSIONER GILBERTSON pointed out that because of Alaska's size, sometimes providers will be far from where the individual reports a situation of harm or injury, resulting in the need to send out additional resources. He said the department wants to have a system in place in which quality resources are available to rural and remote regions, but there will, in fact, be cases in which someone is transported unnecessarily because of the difficulty in differentiation on the front end, even with the help of technology and telemedicine.

Number 3909

REPRESENTATIVE HAWKER said that he was hearing that there was not an ability to do triage in the rural areas prior to mobilizing very expensive resources.

Number 3923

COMMISSIONER GILBERTSON replied that he didn't think this to be correct. He said the evaluation ability exists in a number of regions but not in every 560,000 square miles of Alaska. He said the department is moving towards having sub-regional clinics and working towards having hub facilities and community health aid program, expanding the access for primary care services, and working through the Denali Commission to build primary care centers throughout the rural regions - all of which have improved the amount of primary care services that are locally available. The department currently works to create new designations such as frontier extended-stay primary-care clinics, which will allow facilities to be compensated for providing overnight services rather than having to use medevac services. He again acknowledged that with Alaska's size, there will be areas where clinics won't be in place, saying that the department will try to build up the rural health care infrastructure and that by working with tribal health partners, the federal government will bear some responsibility for costs associated with care for Alaskan Native Medicaid beneficiaries.

Number 4030

SENATOR BUNDE asked who authorizes the use of medevac services.

Number 4048

MR. NIELSON explained Medicaid transportation services, saying that for pre-authorization of non-emergency travel, someone from the doctor's office contacts First Health and describes the situation to a person at the pre-authorization desk, and if it is determined that there is a medical necessity, the trip is pre-authorized. Regarding the authorization of emergency travel, medical professionals basically make that decision.

Number 4203

COMMISSIONER GILBERTSON said that in the health care system, there is a host of uncompensated care and a variety of third-party insurance payers, adding that there are individuals who are eligible who aren't yet signed up for the Medicaid program and that a wide variety of individuals who live in the rural

areas are not Medicaid beneficiaries. He said that the level of evaluation tends to be what is available, and within the Medicaid program attempts are made to preauthorize as much as possible, regarding emergency and non-emergency transportation services. He said the department is not in the position to have at least a midlevel health practitioner available whenever an individual is hurt, injured, or sick.

Number 4317

CHAIR SAMUELS referred to the restructuring efforts and inquired if the staff in the Office of Program Review would be reporting directly to the commissioner.

Number 4330

COMMISSIONER GILBERTSON said that he believed the Office of Program Review was budgeted for nine positions, consisting of the transfer of existing positions to be located off of the commissioner's office and who would be reporting to the commissioner [to himself]. He outlined that the Office of Program Review will include an individual to work on department-wide fraud, will serve as liaison with the Department of Law, and will also work with the fiscal agent, currently First Health, on fraud-and-abuse enforcement activities. The Office of Program Review will have an individual working on general program integrity outside of fraud-and-abuse enforcement, including work related to good customer service and faith-based [organizations]. He said that staff will work to refinance efforts of Medicaid operations and will work to refinance grants and find additional services eligible for federal program matching funds. The department will also have individuals working on state plan amendments.

Number 4436

COMMISSIONER GILBERSTON continued that there will be a variety of tasks but staff will be exclusively assigned to work on fraud and abuse. Department-wide coordination and interaction will occur with prosecutors at the Department of Law and also with the fiscal agent, who, he added, is actually a great gatekeeper in trying to prevent fraudulent activity from occurring in the program. He said this effort extends beyond the Medicaid program, since there are other programs administered by the department, such as the Welfare to Work program, that also have fraudulent activities hampering the department's ability to guarantee the highest level of program integrity.

Number 4524

REPRESENTATIVE HAWKER referred to prescription drug costs, saying that he was somewhat familiar with the commissioner's budget and recognized that significant efforts have been incorporated in the budget to control prescription drug costs. He referred to a specific item in the audit report on page 34 that discusses pharmacy-dispensing fees. He noted that those practices were outside of policy and resulted in an overpayment of \$150,000. He read the following from page 34:

Previously, providers were required to bill no more than once a month for dispensing fees. Pharmacy providers would now be allowed to bill Medicaid for dispensing fees up to four times per month for a prescription for 30 days of medication. As a result of DMA's retroactive endorsement of these billing practices, MFCU [Medicaid Fraud Control Unit] terminated their investigations.

TAPE 03-3, SIDE B

Number 4624

REPRESENTATIVE HAWKER asked who retroactively endorsed this policy and wondered if, under bargaining agreements, people in the department who had been conducting operations as documented in this audit report would be held responsible for their actions.

Number 4554

COMMISSIONER GILBERTSON said that he did not have the capacity to answer the specifics of "who and when" right now. He stated that the division operates under the guidance of an executive branch that makes programmatic decisions and he believes the division's personnel carry out those decisions. He said he would look further into this, but pointed out that a policy decision is made when dealing with the Medicaid program and with cost containment. He stated that the Murkowski Administration is leaning more towards being stringent on making policy decisions. Commissioner Gilbertson said that it's not necessarily fair to assume that division staff are responsible for making policy and programmatic decisions. He emphasized that it was not his intention to blame the previous

administration, but said that some policy decisions had been made and that some of those decisions would be changing.

Number 4410

MR. NIELSON mentioned that regarding the pharmaceutical dispensing fees of 30 days versus 7 days, the department had been in correspondence with a nursing home administrator who felt that the department should work to dispense drugs more frequently because of many situations in the nursing home wherein, through the Medicaid program, a 30-day drug supply was paid for, but early in the month, if the patient passed away or if the drug changed, there was a loss. This point of view was that the state was wasting money on the drugs when they were prescribed for a longer period of time. Mr. Nielson said that sort of input was being weighed in the policy analysis area.

Number 4240

COMMISSIONER GILBERTSON said this area is being reviewed, and he could not commit right now as to exactly how the department will move forward on this. He noted that there are savings associated with moving towards a larger window for the dispensing of a drug in terms of using a 30-day dispensing period for one dispensing fee and that there may be some areas where the department can modify the policy. He said he didn't know if the flexibility to make modifications for certain treatment or provider settings existed. Commissioner Gilbertson commented that the audit was correct regarding the policy decision to move towards shorter dispensing windows and therefore increasing the number of dispensing fees that can be awarded during a 30-day period, and he reiterated that this was a policy decision made by the previous administration.

Number 4107

COMMISSIONER GILBERTSON reported that the department is working towards cost containment within the pharmacy programs in the following ways: looking towards adopting a preferred drug list, looking for savings associated with drugs that are deemed more cost-efficient within a particular drug class, looking towards expanding preauthorization for some drugs that have a high rate of abuse and also looking at ways to reduce pharmacists' dispensing and compounding fees. He reported movement from an average wholesale price (AWP) of minus-5 percent to an AWP of minus-10 percent. Commissioner Gilbertson said that the

department will be looking at the windows during which drugs are dispensed.

Number 4046

REPRESENTATIVE HAWKER said that he believes the commissioner's response was defending the department's practice regarding folks who did not use the month's supply of drugs and said he believed the audit division's did not support that claim.

Number 4026

COMMISSIONER GILBERTSON responded that in the auditors' response, there was agreement regarding costs associated with decreasing the dispensing window and increasing the number of dispensing fees that could be awarded within a particular time period; the overall cost outweighs the savings. He said that perhaps the department could work with certain provider-types, possibly in nursing homes, to find a way to differentiate and clarify the policy in order to decrease the amount of waste that exists in the system.

Number 3926

SENATOR HOFFMAN remarked that doctors prescribe medicine for arthritis, for example, for a certain length of time and that the prescription may then change.

Number 3841

COMMISSIONER GILBERTSON said that he agreed and that for acute care facilities, including nursing homes, there are individuals whose drug regimen changes routinely.

SENATOR HOFFMAN suggested that in such cases, a 30-day supply shouldn't be prescribed.

COMMISSIONER GILBERTSON agreed and suggested moving toward differentiation in dispensing policies, dependent on the actual provider setting.

Number 3800

SENATOR THERRIault commented that when he looked through the original departmental response of 32 pages, what struck him was the sense of "protecting the palace walls" as a response to almost every suggestion. He said he was disappointed to see

Janet [Clarke's] signature for Bob Labbe. He said it was "Janet or Bob and probably other people in the department" who wrote portions and then pieced it together, because certain parts had more "attitude" than others. He asked, "Have you tracked down who was involved in this original response?"

Number 3708

SENATOR THERRIAULT continued that he was glad that Senator Green asked that the letter [of April 4, 2003] be included [in the departmental response] but said he thought that the original letter should also remain. He emphasized that a message that came through loudly in the department's response was, "Who are you to question my program." Senator Therriault said he sensed that this was not the commissioner's attitude, but that somebody else had written the response.

Number 3623

COMMISSIONER GILBERTSON said his response was not to be construed as an excuse for the report, but explained that the reason for the signatures was that he was out of town for two weeks and was unavailable for the signature. He said he believed that Deputy Commissioner Labbe was also on travel when the report was prepared and ready for signature during the specified window for departmental response.

Number 3538

COMMISSIONER GILBERTSON said that he had made a poor decision in having the division provide a large amount of the response, stating that the response should have been handled by the Division of Administrative Services. Commissioner Gilbertson confirmed that the response was handled by individuals who had been going through a 12-month, back-and-forth process with auditors. He said that although the process was beneficial and educational, it should not have continued into the actual response letter that was drafted and submitted to the committee. Nonetheless, that's what occurred, and as commissioner, he said he had made an erroneous decision and that it was his responsibility.

Number 3419

CHAIR SAMUELS thanked the commissioner and said that the committee would add the letter of April 4, 2003, as an addendum to the report. He said the committee would be interested in the

timelines on all of the [13] recommendations as well as answers to the pharmaceutical concerns. He asked, "What's the implementation schedule of the entire recommendation of the audit."

Number 3355

COMMISSIONER GILBERTSON said he shared the same interest in making sure that the department address the recommendations in the shortest amount of time possible. He said that after an analysis was done on implementation, a response to the committee would be drafted. He reiterated that the Murkowski Administration is wholly committed to moving forward and increasing program integrity within the Medicaid program and other cash-assistance programs within the department and that the department would be moving forward at an expedited pace. He added that legislative enforcement elements such as Senator Green's legislation were necessary to accomplish the level of program integrity that is expected from the program.

Number 3308

PAT DAVIDSON, Legislative Auditor, Division of Legislative Audit, Alaska State Legislature, stated that because the audit involved a federal program, the findings and recommendations would be followed up annually as part of the statewide single audit. She reported that the department will be asked to respond to the findings, probably at the end of May, and then, until it is resolved, the committee will be afforded an annual update. She said this would provide the department the ability to address the timelines and communicate with the committee about the successes achieved in implementing the audit recommendations.

ADJOURNMENT

There being no further business before the committee, Chair Samuels adjourned the Joint Committee on Legislative Budget and Audit meeting at 8:10 a.m.