

HOUSE FINANCE COMMITTEE
March 31, 2003
3:25 P.M.

TAPE HFC 03 - 41, Side A

CALL TO ORDER

Co-Chair Williams called the House Finance Committee meeting to order at 3:25 P.M.

MEMBERS PRESENT

Representative John Harris, Co-Chair
Representative Bill Williams, Co-Chair
Representative Eric Croft
Representative Mike Hawker
Representative Reggie Joule
Representative Carl Moses
Representative Bill Stoltze
Representative Jim Whitaker

MEMBERS ABSENT

Representative Kevin Meyer, Vice-Chair
Representative Mike Chenault
Representative Richard Foster

ALSO PRESENT

Joel Gilbertson, Commissioner, Department of Health & Social Services; Bob Labbe, Deputy Director, Department of Health and Social Services

PRESENT VIA TELECONFERENCE

None

SUMMARY

HB 152 An Act relating to payment rates under the Medicaid program for health facilities and to budgeting, accounting, and reporting requirements for those facilities; abolishing the Medicaid Rate Advisory Commission; and providing for an effective date.

HB 152 was reported out of Committee with a "do pass" recommendation and with fiscal note #1 by the Department of Health and Social Services.

HB 153 An Act repealing the statute that sets priorities for the Department of Health and Social Services to apply to administration of the medical

assistance program when there are insufficient funds allocated in the state budget for that program; authorizing the department to make cost containment decisions that may include decisions about eligibility of persons and availability of services under the medical assistance program; and providing for an effective date.

HB 153 was reported out of Committee with a "do pass" recommendation and with a zero fiscal note #1 by the Department of Health and Social Services.

#HB152

HOUSE BILL NO. 152

An Act relating to payment rates under the Medicaid program for health facilities and to budgeting, accounting, and reporting requirements for those facilities; abolishing the Medicaid Rate Advisory Commission; and providing for an effective date.

JOEL GILBERTSON, COMMISSIONER, DEPARTMENT OF HEALTH & SOCIAL SERVICES, introduced HB 152. He explained that under the authority of Article III, Section 18, of the Alaska Constitution, HB 152 was being transmitted to provide greater flexibility to the Department of Health & Social Services to set Medicaid payment rates for Alaska's hospitals, nursing homes and other health care facilities.

The proposed bill would eliminate the Medicaid Rate Advisory Commission and place the responsibility for calculating and setting Medicaid payment rates for health care facilities under the general authority of the Department of Health and Social Services.

Commissioner Gilbertson added, historically, the Medicaid facility rate setting process has been extremely cumbersome and costly for both the State and the health care facilities. The current rate-setting process is both a barrier to effective cost containment as well as problematic for assuring adequate reimbursement for Alaska's diverse mix of health care facilities.

Passage of the legislation would allow the Department to develop in regulation a more flexible, cost-effective rate setting process that would allow the Department to take into account the appropriations made by the Legislature for the Medicaid program when establishing rates.

Commissioner Gilbertson offered to answer questions of the Committee.

Representative Croft asked what "fair and reasonable" rates would be replaced with.

BOB LABBE, DEPUTY DIRECTOR, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, responded that it would be facility specific, fair rates for reasonable costs. The Department is interested in looking at grouping facilities of a certain type or size as an option rather than facility specific. He observed that when the change was complete, the Department would aim to provide a fair rate while reimbursing reasonable costs. Facility specific does not provide cost management incentives.

Representative Croft recommended that there should be overriding standards indicated somewhere. Mr. Labbe explained that the replacement standard would comply with what the federal government now provides, rates that are adequate and with reasonable service. There are federal requirements, which the State will have to follow. The Department is proposing not to do any more than the feds require.

Commissioner Gilbertson referenced the fiscal note, noting the savings. He explained that the bill eliminates the need for expenditures that support commission members' travel, per diem and other related support costs.

Representative Croft inquired who currently sits on that Commission. Mr. Labbe replied that there are five members on the Commission:

- A physician,
- A certified public accountant (CPA),
- A public member,
- A Department of Health & Social Services representative, and
- A facility administrator.

Co-Chair Harris referenced the letter contained in the member's packets from the Governor, who recommends eliminating the Medicaid Rate Advisory Commission. That agency has the responsibility of establishing Medicaid rates. He thought such action would provide the Department more flexibility for determining the Medicaid payment amounts, thus, saving money.

Commissioner Gilbertson advised that Commission currently serves only in an advisory capacity and that rate setting authority currently rests with the Department. He pointed out that associated with that legislation is an appeal of the Bouren amendment. By repealing that language, there would be additional discretion within the Department to

develop multiple methodologies, which is where the savings emerges. Having one methodology for all the facilities would not necessarily reflect the relative efficiency of the various facilities. This action would reduce any excess payments being made to any facility.

Co-Chair Harris asked how long had the Bouren Amendment been in place. Mr. Labbe replied it was placed in federal law in 1982 and repealed in 1997. The Bouren Amendment was initially intended to provide flexibility to the states in establishing rates. Because of extensive litigation, the amendment had the reverse effect and years later, after many federal lawsuits, the amendment was repealed.

Co-Chair Harris questioned if it had been the policy of the previous Administration to do things in less beneficial ways to relieve the Medicaid amount the State receives. Commissioner Gilbertson commented that there are always various considerations when making changes to Medicaid and those individuals affected by the changes. At present time, the Administration believes that the State must have greater authority and discretion in setting rates that reflect the actual costs.

Co-Chair Harris remembered that in past years, he had requested the Department to get the costs of the Medicaid program down. He voiced frustration that there had not been the motivation to accomplish that. He voiced his support for the current work of the Department.

Representative Croft pointed out that the bill would save about \$10 thousand dollars by getting rid of a significant public process. He claimed that the public input, which comes from the Commission, is worth that amount of money.

Co-Chair Harris rebutted that eliminating the Commission would only save about \$10 thousand dollars, however, the process that the Department would then go through will save considerably more by being more flexible in rates and the optional rates.

Representative Croft emphasized that it would lower the rates paid to providers in many areas, which are already too low. He added that stopping the benefits to these people have caused tremendous political fights. He emphasized that they can be called "cost containments", but in reality, they are getting rid of services.

Co-Chair Williams stated that the bill would be HELD for further discussion.

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JOEL GILBERTSON, COMMISSIONER, DEPARTMENT OF HEALTH & SOCIAL SERVICES, stated that under current law, if funds appropriated to the Medicaid program are insufficient for a given fiscal year, the Department is directed to eliminate optional Medicaid services based on a priority list that is out-of-date. The existing list is not an effective management tool and if used, would result in the denial of necessary and cost-effective services to Alaskans in need of health care.

He continued that the proposed bill would replace that obsolescent language with authority for the Department to undertake cost containment based on three key principles.

- First, the Department must pursue all other reasonable cost containment measures before eliminating any eligibility groups or services;
- Second, the Department should aggressively pursue strategies to maximize federal financial participation in the Medicaid program;
- Third, cost containment decisions should be made in a manner that best reflects the needs and interests of eligible Medicaid recipients.

Commissioner Gilbertson noted that it is imperative to slow the growth of State funding for Medicaid while at the same time maintaining health care coverage for needy Alaskans, which is an issue that can no longer be avoided. Passage of the legislation will give the Department additional tools to meet these challenges.

Representative Stoltze asked if the Department would see benefit in being able to prorate the amount of payment to eligible persons.

BOB LABBE, DEPUTY DIRECTOR, DEPARTMENT OF HEALTH AND SOCIAL SERVICES, stated that the payments made in the Medical Assistance Program are to health care providers rather than to individual beneficiaries. It is difficult to prorate once they have provided the service.

Representative Croft pointed out that the Department could determine to eliminate item #11, mammography screening, if the bill was passed.

Commissioner Gilbertson acknowledged that under the current options list, item #11 could go. The Department would maintain the discretion to help achieve cost containment.

Representative Croft commented that the Department could get rid on any item on the list and that they would not be required to move in the order already established. Commissioner Gilbertson acknowledged that was correct.

Representative Croft asked if there was any intent language, which would require the Department to come back to the Legislature before eliminating any one provision. Commissioner Gilbertson replied that there is not a provision in the bill that would require that, however, the Department would be working with the coordination of the Legislature, to find ways to insure that the funding was available for services that are needed. There is direction from the Legislature to the agency to provide for cost containment of the Department to manage the Medicaid budget within the amount that the Legislature appropriates. The Department needs the flexibility, which the bill provides to, accomplish that mission.

Representative Hawker commented on the latitude the Department needs in order to provide for cost containment. He inquired if situations might occur when the Legislature is not in session.

Mr. Labbe responded that in the past, the Department has projected the expenditures for the Medicaid program while in session. If the Department realizes that they have a significant reduction, they would bring the choices to the Legislature at that time. However, with only the option list available, there have been unintended consequences resulting from the high federal matching rate to achieve any savings. Mr. Labbe anticipated that if there were significant budget actions taken, the Department would then indicate a plan on how to meet that, such as:

- Eligibility levels
- Eliminating services and/or
- Providing enhancements

Mr. Labbe added that there would be a package deal in order to achieve the program outlined. The intent is to preserve the benefit and the eligibility levels. He pointed out that taking the proposed actions requires regulation change, which does not move very quickly. Based on the proposed

budget, the Department will not be able to make it through this next year without taking some additional measures.

Commissioner Gilbertson pointed out that the fiscal note indicates zero expenditures. The Department believes that if the Governor's budget passes as submitted, that budget contains all the cost containment intended.

Representative Hawker understood that the bill would give the Department latitude and/or flexibility to choose amongst alternate means to meet the budget shortfall.

Commissioner Gilbertson agreed that was correct. The current structure limits the Department's flexibility and disproportionately places the burden on a number of services that may not be efficient, such as the elimination of prescription drug coverage. The Department would have to go after some needed services before affecting the eligibility standards. The additional flexibility would allow the Department to manage the program to the same level of responsiveness to maintain costs. It would also reduce the impact on the consumers.

Co-Chair Williams noted that HB 153 would be HELD for further consideration.

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Representative Croft MOVED to report HB 152 out of Committee with individual recommendations and with the accompanying fiscal note. There being NO OBJECTION, it was so ordered.

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ADJOURNMENT

The meeting was adjourned at 3:54 P.M.