

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

January 30, 2003

3:03 p.m.

MEMBERS PRESENT

Representative Peggy Wilson, Chair
Representative Carl Gatto, Vice Chair
Representative Cheryll Heinze
Representative Paul Seaton
Representative Sharon Cissna
Representative Mary Kapsner

MEMBERS ABSENT

Representative Kelly Wolf

OTHER LEGISLATORS PRESENT

Representative John Coghill

COMMITTEE CALENDAR

CONFIRMATION HEARING

Commissioner, Department of Health And Social Services

Joel Gilbertson - Juneau

- CONFIRMATION ADVANCED

OVERVIEW: DEPARTMENT OF HEALTH & SOCIAL SERVICES, COMMISSIONER
DESIGNEE JOEL GILBERTSON

- HEARD [See 3:45 p.m. minutes for this date]

PREVIOUS ACTION

No previous action to record

WITNESS REGISTER

JOEL GILBERTSON, Commissioner
Department of Health and Social Services
Juneau, Alaska

POSITION STATEMENT: Testified as appointed commissioner of the Department of Health and Social Services.

ACTION NARRATIVE

TAPE 03-5, SIDE A

Number 0001

CHAIR PEGGY WILSON called the House Health, Education, and Social Services Standing Committee meeting to order at 3:03 p.m. Representatives Wilson, Gatto, Heinze, and Seaton were present at the call to order. Representatives Cissna, and Kapsner arrived as the meeting was in progress. Representative Coghill also attended.

CONFIRMATION HEARING

Commissioner, Department of Health And Social Services

Number 0090

CHAIR WILSON announced that the committee would consider the appointment of Joel Gilbertson as the commissioner of the Department of Health and Social Services. Chair Wilson asked Commissioner Gilbertson to give a statement and tell the members the direction he plans to lead the department.

Number 0190

JOEL GILBERTSON, Commissioner, Department of Health and Social Services (DHSS), told the members that for the past four years he had the privilege of serving as legislative director and staff representative for the United States Senate Finance Committee for Governor Murkowski during his term in the United States Senate. During that time, he said, he worked on issues such as Medicaid, Medicare, community access hospitals, and community health centers. He explained that a huge number of the federal programs that he worked on are handled at the state level by the Department of Health and Social Services. He told members what a tremendous task it will be to carry forward Governor Murkowski's agenda for DHSS because of the broad scope of services.

COMMISSIONER GILBERTSON told the committee that in reviewing the needs throughout the state, he finds that needs are being met in some areas, and not in others. He cited the ongoing lack of

primary health care access in a lot of Alaska, and the problems faced by many individuals who cannot access the health care insurance market. Even those who can access insurance find the cost is very high. He mentioned the need for greater assistance and more cooperation from the Departments of Health and Social Services and Labor and Work Force Development to provide job training and child care assistance to help individuals who are trying to transition from welfare to work.

Number 0317

COMMISSIONER GILBERTSON talked about the Division of Family and Youth Services' recent [during prior administration] federal review, which showed that it is not meeting the national standards. He stated there are areas within that review which are simply unacceptable for this state, and it will be the task of the commissioner and new director of the Division of Family and Youth Services to lead the division forward, restore morale, and provide good management. Commissioner Gilbertson summarized the primary goal of the department, which is to provide services and to meet the needs of Alaskans.

Number 0435

COMMISSIONER GILBERTSON expressed his view that the state does not always have to be the actual provider of services. He said that sometimes a facilitator can deliver the services and the state can provide the seed money so that entities can be the service provider. He explained, however, that there will still be some cases, particularly in some areas, for which the state will continue to be the provider. He emphasized that it is the responsibility of the Department of Health and Social Services to do everything as efficiently as possible.

COMMISSIONER GILBERTSON told the committee that the governor has asked Lieutenant Governor Leman and him to work in pursuing a faith-based agenda and to ensure that the Department of Health and Social Services is maximizing and facilitating the social services networks throughout the state. He said many of these organizations have a tremendous ability to provide care for those who need it. To facilitate this, the department will work to provide access to information on questions such as how it can deliver the service, where the populations are located, or where there is a gap in coverage. He stated that wherever there are needs not being met, it is going to be the department's task to build the partnerships and facilitate the collaborations that allow these services to be provided. Commissioner Gilbertson

emphasized that this is going to be particularly important at a time when the state is facing considerable financial challenges.

Number 0684

COMMISSIONER GILBERTSON stated to the committee that the State of Alaska's Medicaid program has a mission, a purpose, and an obligation under federal law to cover low-income individuals who cannot access health care insurance, and who need services. He expressed his commitment to identifying [those people], delivering [those services], and ensuring that those individuals who need services and coverage get it. He emphasized that as a state, Alaska has an obligation to make sure it is managing these programs in a fiscally prudent fashion.

Number 0738

COMMISSIONER GILBERTSON said the governor wants him to find a way for the state to protect services while trying to bring fiscal stability back to the programs. He said he wants to work with the legislature to protect programs, not just this year or next year, but into the future. Commissioner Gilbertson told the committee it will be essential to work together with communities, facilities, and providers to find solutions.

COMMISSIONER GILBERTSON told the committee that he accepted this job with a firm commitment to work as hard as he can every day to ensure the department is maximizing services for the dollars that are invested in the programs. He sees that as essential, he said, since there are needs that are still not being met, and the state simply does not have the resources to invest additional funds into the Medicaid program. He said this year the department will work aggressively with providers to make sure it is maximizing other revenue streams. Those sources will be federal funding, and the DHSS will be working closely with the congressional delegation to push for additional federal medical assistance percentage (FMAP) adjustments to draw down additional federal resources. The department will also be working aggressively and cooperatively with its grantees to find ways to refinance some of its grants in order to maximize federal dollars.

COMMISSIONER GILBERTSON explained that the Department of Health and Social Services is currently spending 100 percent of general fund dollars to fund grants. The department will be working to find ways whereby the state can continue that same level of service, but with less general fund commitment. He explained

that it will be essential to work cooperatively to identify inefficient systems where care is being delivered that does not maximize federal revenues. Federal medical assistance percentages are determined by who the beneficiary is and where the service is provided. In some areas there is 60 percent, in other areas there is 71 percent, and in some areas there is 100 percent federal reimbursement. The commissioner said the department must maximize those dollars so that services will be protected.

COMMISSIONER GILBERTSON stated that the Murkowski Administration is putting together a good team that is committed to working with the legislature, cooperatively and in partnership as they develop the budget and shape the missions for the Department of Health and Social Services and the State of Alaska. He expressed his commitment to always be available whenever the committee asks for assistance, or whenever the committee sees a need for dialogue about issues. He said he believes the Department of Health and Social Services and the legislature can work together to find solutions to maintain services, and that it is not all about the budget or fiscal problems, but he believes it is key to start there to bring financial stability back to the department. He said that it is essential for those individuals who interact with the Department of Health and Social Services to have predictability in the services and funding they receive, and that [the department] meet those unserved needs in both health and social services.

Number 0777

CHAIR WILSON noted that Representatives Kapsner and Cissna had joined the committee meeting. Chair Wilson opened the meeting to questions of Commissioner Gilbertson.

Number 0784

REPRESENTATIVE GATTO said that in reviewing the organizational chart of the Department of Health and Social Services he had noted that there are six vacant senior management positions that need to be filled to complete the team. Representative Gatto asked whose responsibility is it to make those appointments.

Number 0809

COMMISSIONER GILBERTSON responded that today Governor Murkowski announced the appointment of six individuals to the Department of Health and Social Services. Those individuals include Bob

Labbe, Deputy Commissioner, an individual who has served as the director of the Division of Medical Assistance. The commissioner said he is a national expert on Medicaid financing and Medicaid issues, an invaluable resource to the state and legislature, and a wonderful asset to the commissioner's office.

Number 0844

COMMISSIONER GILBERTSON said another wonderful individual is Karleen Jackson, Deputy Commissioner, an individual who has served for the last few years as the executive director of Catholic Social Services. He said she brings tremendous experience and is by far the most highly recommended individual he has ever seen, and he believes she will be a great asset to the department and the committee in the coming year.

Number 0874

COMMISSIONER GILBERTSON told the committee that Doug Bruce, the former chief executive officer (CEO) of Providence Health System, has been appointed the director of the Division of Public Health. He said Mr. Bruce has led one of the largest health care systems in Alaska through change and has led it well. The commissioner said he will be a tremendous asset as the leader of the largest division in the department, which provides health care services throughout the state and helps in many areas including epidemiology, maternal child services, nursing, and other areas. He will be a tremendous resource within the department, he concluded.

Number 0907

COMMISSIONER GILBERTSON stated that the governor also appointed Bill Hogan as the director of Mental Health and Developmental Disabilities. Mr. Hogan is currently serving as CEO of Life Quest, a mental health provider in Wasilla, and the current chair of the Alaska Mental Health Board.

Number 932

COMMISSIONER GILBERTSON said the governor appointed Ron Adler to replace Randall Burns, who is retiring as superintendent of Alaska Psychiatric Institute (API). He said Mr. Adler has served as the executive director of the Gateway Center for Human Services in Ketchikan.

Number 0943

COMMISSIONER GILBERTSON stated that the final appointment Governor Murkowski made today is Rebecca Parker, Special Assistant for the commissioner's office. Ms. Parker has served as the president of Providence Alaska Foundation and as the Director of Public Affairs of Providence Health System, and has also worked in several positions in the Public Affairs Department of ARCO [Atlantic Richfield Company]. He stated that she will be an invaluable resource serving the Department of Health and Social Services as the community coordinator, constituent services coordinator, and event organizer in Anchorage. She will be a partnership builder as the state works to find ways to involve the private sector, specifically, nonprofit organizations.

Number 0989

COMMISSIONER GILBERTSON specifically addressed the question by Representative Gatto, saying the governor makes all appointments and those appointees serve at the pleasure of the governor. He added that the Department of Health and Social Services has an excellent team coming on board, and that the administration is moving forward aggressively on a number of remaining vacancies. He said the governor is pleased to have these individuals on board. The commissioner told the committee he believes they are going to be a wonderful asset to the state.

Number 1010

CHAIR WILSON noted for the record that Representative Coghill had joined the meeting.

Number 1026

REPRESENTATIVE CISSNA inquired about the Department of Health and Social Services' support of legislation regarding breast and cervical cancer.

Number 1047

COMMISSIONER GILBERTSON responded that he is aware that legislation has been introduced, but has not personally reviewed the language. He added that he was privileged to work for Governor Murkowski, then United States Senator, to pass the Medicaid expansion option. The commissioner said that Governor and Mrs. Murkowski are supportive of the program, and he believes the governor is examining the legislation. He said the

Department of Health and Social Services will also be looking at it, but that process has not begun yet.

Number 1075

REPRESENTATIVE HEINZE asked Commissioner Gilbertson about the statement in his resume that he worked on Governor Murkowski's - then United States Senator - Alaska-specific Medicaid program that increased federal support to the program by \$300 million over eight years. Representative Heinze asked how he was able to do that.

Number 1094

COMMISSIONER GILBERTSON clarified that it was Governor Murkowski, then United States Senator, who accomplished it. The governor was able to pass through the United State Senate Finance Committee an FMAP adjustment in 1997 and again 2000. In 1997 there was a statutory change of the FMAP formula. At that time Alaska's FMAP percentage was 50 percent. What that meant was that the state was paying 50 cents on every dollar and the federal government was paying 50 cents on every dollar. During the change for 1997 through 2000, the state's FMAP percentage was fixed at 59.8 percent, and was a large increase in the Medicaid appropriation. The result of that change was about \$100 million additional dollars over the three-year period for Alaska's Medicaid program. In 2000, as part of the Benefits Improvement and Protection Act of 2000 (BIPA), the governor, then United States Senator, was successful in getting an adjustment in the formula through the United States Senate Finance Committee.

COMMISSIONER GILBERTSON explained, without getting too technical, that the formula basically looks at the per capita income of a state and compares that with the per capita income of the national average. States that have a lower per-capita income pay a smaller percent, and the reverse it true, wealthier states pay the highest percentage. The most a state can pay is 50 percent, so Alaska was paying as much as any state towards its claims. He said the lowest state was Mississippi, with the federal government picking up about 73 percent of the costs. The logical predicate for that adjustment is that the cost of delivering care in Alaska is a lot higher. Per-capita income is not a good marker in delivering care in Alaska.

COMMISSIONER GILBERTSON told the committee that in 2000 Governor Murkowski, then United States Senator, won an additional change

in the formula. He said he was privileged to work on this for the governor, then United States Senator, when the United States Senate Finance Committee adjusted Alaska's per capita income down by 5 percent before it is entered into the formula. The resulting adjustment was an increase in Alaska's federal medical assistance percentage. The end result of that is scheduled to sunset on October 1, 2005.

COMMISSIONER GILBERTSON concluded by saying that from 2001 to 2005 there will be an increase of about \$40 million dollars a year or \$200 million over five years for the State of Alaska. Those two adjustments combined are about \$300 million in additional Medicaid funding that has come from the federal government as a result of technical changes that Governor Murkowski, then United States Senator, made in Washington, D.C. to help improve services. Those federal dollars have been used to expand health care services and strengthen the delivery system to allow for a higher level of care and to provide a better provider rate to ensure providers continue to keep accepting Medicaid patients.

Number 1277

REPRESENTATIVE SEATON asked what he thinks of the draft change in the budget for the Independent Living Centers. He stated that the change will close Independent Living Centers in Fairbanks, Kenai, and Ketchikan, and reduce the one in Homer to one half. Representative Seaton said he understands that the Department of Labor [and Workforce Development's] 10-percent adjustment in the draft budget is all coming from that one area. He asked the commissioner if he is aware of the draft budget cuts and how that would impact Independent Living Centers.

Number 1331

COMMISSIONER GILBERTSON stated that both he and his director of the Division of Administrative Services, Janet Clarke, have not seen the proposal; however, he is aware there was some mention of it in the media. He promised to look into the proposal and get back to the committee.

Number 1365

REPRESENTATIVE SEATON offered to provide Commissioner Gilbertson with some materials concerning the proposal. He added that it would appear to be a huge impact on state dollars.

Number 1385

REPRESENTATIVE GATTO asked about breast and cervical cancer treatment, saying these are gender-specific benefits. He asked if females have a higher priority than males.

Number 1415

COMMISSIONER GILBERTSON explained that his background [master's degree in public health] has trained him in a core tenet of public health and, that is, do not produce a screening process if there is not a treatment available. He stated that in 1990, the federal government decided to establish a screening program for breast and cervical cancer within the CDC [Centers for Disease Control and Prevention] for low-income women. What they came up with was a program that said, "Congratulations you've got cancer; we'll try to work to find you some free treatment options in the community." It took 10 years to add the requisite insurance coverage to provide the care. The commissioner said that when the governor was in the U.S. Senate, he did not like it, so he co-sponsored and voted in favor of language that would provide the associated treatment option to go with that screening program. The Governor, then United States Senator, made a strong statement that this should not be a disease-by-disease or body-part by body-part expansion of the Medicaid program, but there was a commitment made to women that was not being fulfilled. He added that while it expanded the Medicaid program to provide the associated coverage, it is a very small population of women. There were legitimate concerns made by some United States Senators that this may not be a wise policy or a prudent way of expanding the Medicaid program. The commissioner said that at the time, the facts that were in front of Governor Murkowski, then United States Senator, were that there was a screening program that was ongoing, with no treatment options for these women. He said he believes the decision to make that a Medicaid option was appropriate. He pointed out that there have been tremendous differentiations between men and women for years, including differences in the way men and women are treated in clinical trials for drugs, and access to health care. There are a number of differences in the way men and women access health care services. For example, women go to doctors more often than men do.

Number 1595

REPRESENTATIVE KAPSNER stated for the record that several years back, then-Senator Duncan introduced prostate cancer legislation

that required insurance companies to cover prostate cancer, and the bill passed very quickly. Representative Kapsner said last year a number of women legislators were wondering why prostate cancer gets the green light, but breast and cervical cancer get the red light. She said she sees differing opinions on the anatomy and gender issues.

REPRESENTATIVE KAPSNER said the people of the Yukon-Kuskokwim Delta, and all of Alaska, want to thank Commissioner Gilbertson for his help in getting the Inhalant Abuse Treatment Center and all the work he has done on Medicaid.

Number 1649

REPRESENTATIVE KAPSNER stated that in the national media there has been a lot of coverage about family and youth services and foster care. She noted that in Alaska there have been deaths of young children in foster care. Representative Kapsner asked the commissioner how he is planning on improving the Division of Family and Youth Services.

Number 1665

COMMISSIONER GILBERTSON responded that there are good professionals in the Division of Family and Youth Services. However, there are serious problems, which were addressed in the federal review, and the division's failure to meet a number of those standards is reason for concern. He stated that the federal standards are good, and the debate should not be about whether or not the standards are appropriate for Alaska, but that when standards deal with harm to a child, the department will accept the highest standard. He told the committee the first thing the governor did is initiate an aggressive search for the best-qualified person to take over leadership of the Division of Family and Youth Services. He said final interviews will be conducted next week and an announcement of the person who will lead children's services into the future should be announced soon.

Number 1743

COMMISSIONER GILBERTSON went on to say that person will be tasked with developing and negotiating the program improvement plan for the Division of Family and Youth Services. As part of the federal review, the state is required to provide its program improvement plan to document how it is going to meet the federal standards. There will be a variety of issues addressed

including the review of caseloads for frontline social workers, ensuring that the requisite clerical and managerial support is available for frontline workers, ensuring they have the tools they need, and that there are adequate resources in the division to ensure that reports of harm can be investigated, and implementing a new information system to better track cases. The division will be working aggressively to make sure treatment options are available to help families stay together, including treatment options that ensure children are protected from abuse, and vigilance that the Department of Health and Social Services does not see patterns develop that one might see in the child protection system. The commissioner asked that the committee understand that he is not being specific, as the department is still in negotiations on how to move forward in the program improvement plan. He also does not want to be so specific it would inhibit program development for the new director of the Division of Family and Youth Services. He said the director will be the individual who will be held accountable for the results.

COMMISSIONER GILBERTSON explained that when the program improvement plan is approved by the federal government, the State of Alaska will have two years to implement that plan. He told the committee this administration, this department, this commissioner's office, and the new director of the Division of Family and Youth Services are going to be committed to accomplishing those goals. He emphasized his desire to see the professionals in children's services have the flexibility and tools to succeed.

Number 1840

CHAIR WILSON explained that Commissioner Gilbertson will be giving an overview of the Department of Health and Social Services later in the meeting and asked that, if appropriate, questions be held until then.

Number 1854

REPRESENTATIVE GATTO expressed concerns he has heard from many providers of Denali KidCare that the program is not adequately covering costs and that the program has discrepancies. He went on to say that Lieutenant Governor Leman has also expressed an interest in revising some of the specifics in Denali KidCare. He asked Commissioner Gilbertson what his plans are for the Denali KidCare program?

Number 1898

COMMISSIONER GILBERTSON stated that the governor wants to preserve Denali KidCare and wishes it to remain a viable insurance product for the children of Alaska. Governor Murkowski, then United States Senator, voted to create the state option for the children's health insurance program at the federal level. The commissioner said that states do retain tremendous flexibility in the design, structure, and management of their children's health insurance plan. In Alaska that is Denali KidCare, and it has been a tremendous success. He said the Department of Health and Social Services will be doing everything in its power to protect services, but the department stands ready to engage in any conversations that the legislature wants to have on structure. He told the committee that they will be meeting with the House Finance Committee tomorrow where Denali KidCare will be discussed. He explained that at the moment, the governor has not made any decision on how he wants to proceed on eligibility, benefits, or payment rates. While this is a program the governor supports, the program will be completely reviewed by the department to ensure that it has the resources to maintain it as a viable health insurance product for Alaska's children.

Number 1942

REPRESENTATIVE HEINZE asked Commissioner Gilbertson his opinion on certificate of need.

Number 1948

COMMISSIONER GILBERTSON replied that certificate of need is state law in Alaska and that the executive branch carries out the law. He said he is aware that some states have done away with the certificate-of-need clause, and some states have retained it. He explained that the certificate-of-need law's justification is that the state has an interest and investment in the health care system because the state is the primary payer for health care services in Alaska. The state's interest in how the health care systems are structured, designed, and positioned is to identify and ensure that sufficient health care resources and delivery needs of Alaskans are being met. If the legislature wants to look at the certificate-of-need program to see if this program is still important for Alaska, that is a conversation the Department of Health and Social Services is willing to have. He stated that it is the law now and that the department will continue to administer the certificate-of-need

program as responsibly and efficiently as possible. He said the department will work to clarify regulations; however, it has not yet begun the review of them, so he cannot provide specifics. He added that proposed regulations will be drafted, where needed, to clarify the certificate-of-need law.

Number 2010

REPRESENTATIVE HEINZE made a motion to advance the confirmation of Joel Gilbertson as commissioner of the Department of Health and Social Services to the full body for confirmation.

Number 2076

CHAIR WILSON asked if there were any objections to Representative Heinze's motion. There being no objection, the confirmation of Joel Gilbertson was advanced.

CHAIR WILSON announced that at 3:45 p.m. there would be a brief at-ease, after which the committee would hear an overview of the Department of Health and Social Services. [For the overview, see the 3:45 p.m. minutes for this date.]

ADJOURNMENT

The House Health, Education and Social Services Standing Committee took an at-ease at 3:45 p.m. in order to prepare for the overview. [For the overview by the Department of Health and Social Services, see the 3:45 p.m. minutes for this date.]