

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

March 12, 2003
1:32 p.m.

MEMBERS PRESENT

Senator Fred Dyson, Chair
Senator Lyda Green, Vice Chair
Senator Gary Wilken
Senator Bettye Davis

MEMBERS ABSENT

Senator Gretchen Guess

COMMITTEE CALENDAR

Overview: Department of Health and Social Services
Reorganization by Mr. Bob Labbe and Ms. Karleen Jackson, Deputy
Commissioners

SPONSOR SUBSTITUTE FOR SENATE BILL NO. 41

"An Act relating to medical care and crimes relating to medical
care, including medical care and crimes relating to the medical
assistance program."

MOVED CSSSSB 41(HES) OUT OF COMMITTEE

PREVIOUS ACTION

SB 41 - See HESS minutes dated 2/26/03.

WITNESS REGISTER

Ms. Cathy Giessel
Alaska Nurse Practitioner
12701 Ridgewood
Anchorage AK 99801

POSITION STATEMENT: Supported SB 41.

ACTION NARRATIVE

TAPE 03-10, SIDE A

CHAIR FRED DYSON called the Senate Health, Education and Social Services Standing Committee meeting to order at 1:32 p.m. Present were Senators Dyson, Wilken, Green and Davis. He announced the committee would have the department overview first.

Overview Presentation: Reorganization of the Alaska Department of Health & Social Services

MS. KARLEEN JACKSON and MR. BOB LABBE, Deputy Commissioners of the Department of Health and Social Services (DHSS), began the presentation of the reorganization of their department in order to provide better customer service and to better integrate service delivery within their current programs. Other goals of this restructuring are: enhanced quality of life for the people DHSS serves; efficient coordination and management of multiple health and human services programs; maximum benefit from existing resources and reduce burdensome regulations; and innovation, flexibility, and accountability at all levels. The highlights of this activity are: internal consolidations, name and function changes for four Divisions; the creation of a department-wide program review function; the addition of five programs from the Departments of Administration and Education/Early Development; and the decentralization of the administration of the Medicaid Program which aligns its program functions to other appropriate Divisions.

The Office of the Commissioner will also be reorganized, expanding staff to include three Deputy Commissioners. Two new offices will be utilized, using existing positions. A rate review function will be initiated to centralize the setting of rates paid for all services. The new Office of Program Review (OPR) will ensure that DHSS programs accomplish goals. Specifically, OPR will help Divisions find ways to refinance programs, reduce General Fund expenditures, maximize federal funding, enhance program integrity, promote government relations, integrate Faith-Based and community initiatives, facilitate interdepartmental coordination, and improve customer service.

The Office of Children's Services will provide a new, well-rounded system to help families keep their children safe and healthy. Child health programs are moved from the Division of Public Health (DPH). This office will also implement the Performance Improvement Plan initiated by the 2002 Federal Review. Behavioral Rehab Services are moved from the Division of Medical Assistance (DMA) to better serve children needing

community-based residential services. The key functions of this office that were formerly in the Division of Family and Youth Services (DFYS) include child protection services, adoption, foster care, and family services.

#SB41

SB 41-MEDICAID COSTS AND CRIMES

CHAIR DYSON announced SB 41 to be up for consideration. He called an at-ease from 2:37-2:38 p.m.

SENATOR WILKEN moved to adopt the sponsor substitute to SB 41, version 23-LS0204\I, dated 3/12, as their working document. There were no objections and it was so ordered.

SENATOR GREEN, sponsor, said their work had produced a number of changes and almost everyone agrees that it works for the department as well as provides the protection and assurance that medical assistance will be given the highest and best use.

She reviewed a sectional analysis that each member had in their packets. She said that section 2 is particularly important to her in that the Department of Health and Social Services would undertake a complete review of outstanding claims of medical assistance providers charged with misconduct involving a controlled substance. If there are outstanding claims, they would be on that review.

Section 3 adds new sections to AS 47.05. regarding medical assistance fraud. It sets out the provisions by which annual audits will be maintained and conducted. The number of audits required annually shall be .75% of all enrolled medical assistance providers, but may not be fewer than 75 and must include both on-site and desk audits and must be a variety of provider types.

SENATOR GREEN said these audits would cover doctors and dentists from the largest hospital to the smallest provider. All entities will have the potential of being audited. It outlines the description of a successful contractor. It is important that there be certain characteristics and qualifications of the auditor so legislators could feel confident that they are competent enough to conduct the full audit.

Section (b) requires the department to begin administrative proceedings to recoup identified overpayments within 90 days of receiving each audit report and requires the commissioner to

provide copies of all audit reports to the attorney general for purposes of screening for criminal violations. Subsection (c) has legislative intent that the state share a recovered overpayment or account for it separately, a portion of which may be appropriated to the department to pay for the annual audits.

SENATOR GREEN said they want to make sure that the audits continue on a regular basis and the legislature is required to review the request for payment for the audit. Subsection (d) allows for audit and inspections of the records of a medical assistance provider that are pertinent to providing service to a medical assistance recipient. Subsection (e) says the department is not prohibited from performing other audits that are allowed or required under other laws.

SENATOR GREEN said that AS 47.05.210, page 3, establishes new criminal statutes with penalties ranging from class B felony to class B misdemeanor. AS 47.05.220 has notice of charges by the attorney general that a medical assistance provider is charged with fraud. AS 47.05.230 allows charges to be aggregated depending on the amounts involved. AS 47.05.240 allows the commissioner of DHSS to exclude a medical assistance provider from participating in the program if they had been convicted of medical assistance fraud or misconduct involving a controlled substance. It includes persons convicted under both Alaska statutes, U.S. court or a court of another state for similar crimes. The exclusion may be up to 10 years following the unconditional discharge. AS 47.07.010 defines the purpose of the medical assistance program for needy persons. All records pertinent to providing services to a medical assistant's recipient must be available for inspection, not just the financial records. At one point it listed only the word "financial."

SENATOR WILKEN asked what is meant by "statewide sample" on page 2, line 23 and 24.

MS. TRACI CARPENTER, Staff to Senator Green, replied that there are approximately 10,000 enrolled medical assistance providers.

SENATOR WILKEN asked if there would always be at least 75 under audit and a maximum of .75%, which would be 100.

MS. CARPENTER indicated that was correct.

CHAIR DYSON asked if someone is convicted of this kind of fraud, is there an automatic action against their medical license.

SENATOR GREEN replied that she didn't think that was necessarily the case.

MR. LABBE said he wasn't sure either.

CHAIR DYSON said he understood that most welfare fraud was perpetrated by applicants and that most Medicaid fraud was perpetrated by providers.

SENATOR GREEN said people wanted to make sure this language applies to medical service providers, so that they could be prosecuted under this statute.

MS. CATHY GIESSEL, Alaska Nurse Practitioner Association, wholeheartedly endorsed SB 41. However, they have one concern with some terms that appear in the bill. The term "physician" has been used and she thought it was important to recognize that AS 47.07. says there are numerous categories of health care providers, not just physicians. There are dentists, nurse practitioners, chiropractors, etc. Several places in the bill the terms medical practice, medical care and medical profession are used. It sounds as though the bill is directed only to physicians and she recommended that on page 1, line 14; page 2, lines 1 and 2; and page 7, line 17, that instead of "medical care or medical provider" the terms "health care or health care provider" be substituted. That would encompass all the various providers who provide services to Medicaid recipients.

She said this bill directs attention to controlled substances and the DHSS last year put out a policy that restricts the health care providers from the amount of oxycodone products they can prescribe each month to Medicaid recipients. So, some controls are already in place.

SENATOR GREEN moved an amendment on page 1, line 14 to delete "medical" and insert "healthcare"; on page 2, line 1 to delete "medical" and insert "health"; on page 2, line 2 to delete "medical" and insert "health care"; and on page 7, line 17 to delete "medical" and insert "health". There were no objections and it was so ordered.

MR. LINDSTROM supported the new language. He said he didn't know what the fiscal note would be, but could probably get a one within 24 hours. The fiscal note for their original bill, which they assumed would be 200 audits a year, and that was \$2.9

million. He estimated that this bill would be less than half of that.

CHAIR DYSON said he heard that investigations in other states for Medicaid fraud have produced more revenue than the cost of the audits and he hoped that would be true here and taper off as the word got around. He asked what could be done with the money that is recovered.

SENATOR GREEN replied that it would require legislative approval, but the intent would be for it to go to the general fund and to be set aside for the audits.

MR. LINDSTROM added that in the previous fiscal note, they estimated recoveries beginning in FY05 of approximately \$4 million with \$3 million in expenditures and increasing over time.

SENATOR GREEN noted that many other states have these provisions in place already.

SENATOR WILKEN moved to pass CSSSSB 41 (HES) from committee with individual recommendations and pending fiscal note. There were no objections and it was so ordered.

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CHAIR DYSON adjourned the meeting at 3:07 p.m.