

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

February 16, 2005

1:33 p.m.

MEMBERS PRESENT

Senator Fred Dyson, Chair
Senator Gary Wilken, Vice Chair
Senator Lyda Green
Senator Kim Elton
Senator Donny Olson

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 82

"An Act relating to child protection, including forensic interviews and transportation of children; and providing for an effective date."

MOVED CSSB 82(HES) OUT OF COMMITTEE

SENATE BILL NO. 78

"An Act establishing the SeniorCare program and relating to that program; creating a fund for the provision of the SeniorCare program; repealing ch. 3, SLA 2004; and providing for an effective date."

HEARD AND HELD

SENATE BILL NO. 79

"An Act relating to coverage for adult dental services under Medicaid; and providing for an effective date."

MOVED CSSB 79(HES) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: SB 82

SHORT TITLE: CHILD PROTECTION INTERVIEW/TRANSPORT

SPONSOR(S): RULES BY REQUEST OF THE GOVERNOR

01/26/05 (S) READ THE FIRST TIME - REFERRALS

01/26/05 (S) HES, JUD
02/14/05 (S) HES AT 1:30 PM BUTROVICH 205
02/14/05 (S) Heard & Held
02/14/05 (S) MINUTE(HES)
02/16/05 (S) HES AT 1:30 PM BUTROVICH 205

BILL: SB 78

SHORT TITLE: SENIOR CARE PROGRAM

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/24/05 (S) READ THE FIRST TIME - REFERRALS
01/24/05 (S) HES, FIN
02/16/05 (S) HES AT 1:30 PM BUTROVICH 205

BILL: SB 79

SHORT TITLE: MEDICAID FOR ADULT DENTAL SERVICES

SPONSOR(s): RULES BY REQUEST OF THE GOVERNOR

01/24/05 (S) READ THE FIRST TIME - REFERRALS
01/24/05 (S) HES, FIN
02/16/05 (S) HES AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

Stacie Kraly, Senior Assistant Attorney General
Department of Law
PO Box 110300
Juneau, AK 99811-0300

POSITION STATEMENT: Supports SB 82.

Marcie Kennai, Deputy Commissioner
Office of Children's Services
Department of Health &
Social Services
PO Box 110601
Juneau, AK 99801-0601

POSITION STATEMENT: Supports SB 82.

Linda Wilson, Deputy Director
Public Defender Agency
Department of Administration
PO Box 110200
Juneau, AK 99811-0200

POSITION STATEMENT: Opposed SB 82 if not amended

Joel Gilbertson, Commissioner
Department of Health & Social Services

PO Box 110601
Juneau, AK 99801-0601
POSITION STATEMENT: Introduced SB 78

Jon Sherwood, Medicaid Specialist
Department of Health & Social Services
PO Box 110601
Juneau, AK 99801-0601
POSITION STATEMENT: Answered questions on SB 78

Pat Luby
AARP Representative
Anchorage, AK
POSITION STATEMENT: Testified in strong support of SB 79

Rosemary Hagevig
Catholic Community Services
Juneau, AK 99801
POSITION STATEMENT: Testified in support of SB 79

ACTION NARRATIVE

CHAIR FRED DYSON called the Senate Health, Education and Social Services Standing Committee meeting to order at [1:33:56 PM](#). Present were Senators Gary Wilken, Kim Elton, and Chair Fred Dyson.

SB 82-CHILD PROTECTION INTERVIEW/TRANSPORT

CHAIR FRED DYSON announced SB 82 to be up for consideration and asked for a motion to adopt proposed Amendment 1.

[1:35:14 PM](#)

SENATOR WILKEN moved Amendment 1 and objected for discussion purposes.

STACIE KRALY, senior assistant attorney general, Department of Law (DOL), explained the reason the DOL proposed the amendment stemmed from the fact that "forensic interview" was not defined in the original bill. Amendment 1 provides that it is a specialized kind of interview that is employed by advocacy centers to elicit information for use in criminal or civil court proceedings.

24G-1

A M E N D M E N T 1

HEALTH EDUCATION AND SOCIAL SERVICES COMMITTEE

TO: SB 82

Page 1, line 8, following "cause":

Insert ", as documented by the department, "

Page 2, following line 14:

Insert the following new material:

"(2) "forensic interview" means a structured interview that employs objective and age-appropriate questioning techniques to elicit accurate and reliable facts that may be used in court proceedings;"

Page 2, line 15:

Delete "(2)"

Insert "(3)"

CHAIR DYSON read the proposed change on page 1, line 8, and commented that the wording needed further clarification so the amendment would be conceptual.

[1:36:25 PM](#)

CHAIR DYSON noted the objection was withdrawn and [conceptual] Amendment 1 was adopted.

CHAIR DYSON recalled a question about the immunity section on page 2, paragraph (e), and asked Ms. Kraly to comment.

MS KRALY recapped saying the discussion on Monday related to the scope of the immunity provision stated on page 2, lines 5-8. After much discussion, the Department of Law (DOL) and the Office of Children's Services (OCS) decided that the entire paragraph could be removed.

CHAIR DYSON remarked it would revert to the standards in Title 9.

MS. KRALY agreed that it reverts to the general immunity provisions under Title 9.

[1:38:20 PM](#)

CHAIR DYSON moved to remove paragraph (e) from page 2, line 5 and subsequently renumber the paragraphs. Hearing no objection, Amendment 2 was adopted.

CHAIR DYSON referenced the amendment concerning findings and noted Senator Green's concern is that the language implies a duty for the state to provide child advocacy center (CAC) type services. He noted the last line in the first (a) subsection says that no child shall be denied comprehensive services because of inability to pay.

CHAIR DYSON recalled several years ago sexual assault victims were required to pay for their own investigation. Although that issue had been addressed, he was concerned about the possibility of the state failing to gather admissible evidence because a victim wasn't able pay for the investigation. He asked Senator Green whether she was concerned that the implication was that the state would provide CAC type services everywhere.

[1:40:29 PM](#)

SENATOR GREEN said she didn't want to create an entitlement.

CHAIR DYSON said this section of statute isn't the place to imply the use of remedial services.

MARCIA KENNAI, deputy commissioner, Office of Children's Services (OCS), Department of Health and Social Services (DHSS), expressed agreement and said if the final sentence is read in entirety, it appears the intent is that the issue be related to the ability to pay in those circumstances where OCS engages in an investigative circumstance and not remedial services.

CHAIR DYSON asked whether the intent would be clarified if "forensic services" or "investigative services" were inserted and "therapeutic" removed from the paragraph.

MS. KRALY said since forensic interview is defined, the phrase should say:

No child in Alaska should be denied access to a forensic interview during a child abuse investigation including a medical assessment because of inability to pay.

[1:43:01 PM](#)

CHAIR DYSON recapped saying delete, "comprehensive services" and insert, "forensic interview" to the phrase "during a child abuse investigation including medical assessment".

SENATOR ELTON said it wouldn't work to strike "comprehensive services" and insert "forensic interview" and also include, "including medical assessment" because medical assessment wouldn't be included in a forensic interview.

MS. KRALY concurred with the interpretation. If the purpose of the limitation is to create a forensic interview, then the medical assessment is a separate issue from the forensic interview as it is defined.

[1:44:05 PM](#)

CHAIR DYSON asked if it should read:

No child in Alaska should be denied access to a forensic interview and medical assessment during a child abuse investigation because of inability to pay.

SENATOR GREEN asked whether he intended to include legislative intent in the findings amendment.

CHAIR DYSON responded that was yet to be determined.

[1:44:52 PM](#)

MS. KRALY said used as legislative intent, she would suggest changing the medical assessment language to match the language in AS.47.17.064. Because "medical assessment" isn't defined, the phrase should read:

No child in Alaska should be denied access to a forensic interview or a medical or radiological examination [during a child abuse investigation because of inability to pay.]

[1:46:24 PM](#)

CHAIR DYSON drew attention to subsections (b) and (c) and asked Senator Green if a duty or an obligation was still inferred.

SENATOR GREEN opined it implies a huge obligation and emphasized the danger in being too specific with entitlements.

CHAIR DYSON acknowledged his history is different than hers. He asked where she sees the entitlement language.

SENATOR GREEN replied it's the "No child shall be denied..." language.

CHAIR DYSON said that phrase is qualified with the phrase "because of inability to pay for an investigation."

SENATOR GREEN pointed out it's subject to the interpretation.

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CHAIR DYSON said this doesn't refer to someone with a need; it refers to a victim of a crime. He intended this to be a narrowing to include investigation of the crime and recording of the evidence rather than treatment of the person.

SENATOR ELTON said he would like to assume that a criminal investigation wouldn't be interrupted because someone couldn't pay for the interview. Rather, he'd like to think that the language is a restatement of current department practices, which is that an investigation wouldn't stop because a victim couldn't pay.

MS. KRALY agreed with the statement and reminded members that the advocacy center proposed the amendment. Nevertheless, she didn't believe that criminal or child abuse investigations are held at bay to determine who might pay for the service.

CHAIR DYSON moved, as Amendment 3, a new Section 1, with subsequent renumbering. He said it's the legislative intent findings and it changes just the last sentence in subsection (a). It would read:

No child in Alaska should be denied access to forensic interview or medical assessment or radiological examination because of inability to pay.

CHAIR DYSON asked whether there was objection to Amendment 3.

SENATOR GREEN objected.

SENATOR ELTON asked whether he moved the entire page and suggested the findings component be one amendment and the language change on community partnership be a second amendment.

CHAIR DYSON acknowledged the two paragraphs were separated on his sheet and he announced the motion to adopt Amendment 3 included just the findings.

CHAIR DYSON asked for a roll call on proposed Amendment 3.

Amendment 3 failed 2-2 with Senator Elton and Chair Dyson voting yea and Senators Green and Wilken voting nay.

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CHAIR DYSON asked for a motion to adopt the definition language.

SENATOR ELTON moved to accept the definition language on page 2 lines 10 - 14.

A M E N D M E N T 4

Page 2, lines 10, delete "-based program"

Add, "partnership committed to a multidisciplinary team approach".

CHAIR DYSON questioned whether it was worthwhile voting on a definition since the amendment talking about child advocacy failed.

SENATOR ELTON suggested it replaces similar language already in the bill on page 2, subsection (f)(1) and is purely definitional. Instead of saying "community-based program" as it does in the bill, it would say, "...community partnership committed to a multi-disciplinary team approach..."

CHAIR DYSON asked whether there was objection.

SENATOR GREEN objected to discuss the definition further. She asked if the use of the term "multi-disciplinary team" might commit the state to certain standards and expectations regarding the function of child advocacy centers.

SENATOR OLSON joined the committee at 1:56 PM.

MS. KENNAI said the term is also used in places that don't have child advocacy centers. When child sexual abuse cases are reported the multi-disciplinary team meets.

SENATOR GREEN asked if a standard and expectation is established that may not exist some places in the state.

MS. KENNAI replied her understanding is that the fields of law enforcement, child protection, criminal prosecution, victim

advocacy, and medical and mental health helped develop the protocols and those fields are available in the communities where child advocacy centers are in place.

SENATOR GREEN asked whether the definition of a child advocacy center is in the new language.

CHAIR DYSON pointed to page 2, line 10.

SENATOR GREEN asked where the primary reference to child advocacy center resides in statute.

MS. KENNAI pointed to Section 1, lines 10-11.

CHAIR DYSON asked whether there was objection to Senator Elton's motion. Hearing none, Amendment 4 was adopted.

SENATOR WILKEN moved Amendment 5.

Strike the sentence in Section 1, line 5 that begins: "No child in Alaska..." and ends in "...because of an ability to pay." The balance of the section would remain.

He explained he agrees with Senator Green about not creating an entitlement, but he didn't want to lose the entire findings.

CHAIR DYSON clarified the proposed amendment offers a modified Section 1. He asked whether there was objection to Amendment 5.

SENATOR DONNY OLSON apologized for his late arrival and asked what would happen if a child was abused physically or sexually and didn't have the ability to pay.

SENATOR WILKEN replied: "I'm not in this business, but I can't imagine how we would turn someone away without saying it in the law." Furthermore, he didn't believe a child would be turned away because of an inability to pay.

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SENATOR OLSON said his interpretation is different. The sentence doesn't turn someone away as much as it denies access.

CHAIR DYSON asked whether there was objection to Amendment 5.

SENATOR OLSON objected.

SENATOR ELTON summarized the previous discussion for Senator Olson.

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SENATOR OLSON asked the department to comment on the proposed amendment.

MS. KENNAI clarified the department would never deny a child a medical exam or an investigation because they weren't able to pay.

CHAIR DYSON added there is no impediment in law and the department has the authorization to do what is needed during a criminal investigation. He asked Senator Olson if he maintained his objection.

SENATOR OLSON replied just to further the discussion. He asked about the procedure for getting a child to a facility from a remote area.

MS. KENNAI replied if a disclosure happened in a village school and a child needed to fly to a child advocacy center, DHSS would fly the child in at department expense as part of the investigation.

SENATOR OLSON withdrew his objection to Amendment 5.

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SENATOR GREEN objected to Amendment 5 and stated, "I'm not going to support this because I still think this totally changes the focus of what this legislation is. It's become a definition of a child advocacy center in my mind. And for the record, I object."

CHAIR DYSON asked for a roll call vote.

Amendment 5 passed 4-1 with Senators Elton, Wilken, Olson and Chair Dyson voting yea and Senator Green voting nay.

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LINDA WILSON, deputy director, Alaska Public Defender Agency (APDA), Department of Administration reported that the agency handles the representation of parent and child protective proceedings and children in juvenile delinquency proceedings. Furthermore, APDA has participated in the Children's Justice Task Force with members of OCS and is familiar with the child advocacy centers.

Although she looks forward to working toward a resolution, APDA wants to put their concerns on the record. The following is verbatim:

I was able to listen in to most of the testimony on Monday and so while I'm not going to be specifically addressing the amendments that you discussed today, I did want to just share some of our concerns about what the purpose of this bill does and maybe look to ways that we could possible shore up some of it so that some of those concerns might go away.

I think what you have to start out with is understanding the importance of parental rights - that parents have a right to custody of their children and to parent their children. We have to understand that that's a given. And I think there was testimony Monday also about our right against unreasonable searches and seizures.

What this bill does is grant an extraordinary power to OCS that is not something that is typically done. What it's allowing OCS to do is to seize a child - to take physical control of a child and take them somewhere without notifying the parent. And it does this without any judicial oversight at all. The parts of the bill that do that are in Section 1 - again I'm looking at the version without those recent amendments done. So it's [subsection] (c) and (d) that are going to be added to [AS] 47.17.064.

Wanting to do this without officially taking the child into emergency - that was the goal - not requiring them to take emergency custody but yet to physically transport children to have either a forensic interview that may or may not include a very invasive gynecological exam. This is very concerning, I think, to parents out there that they're not notified about this type of thing.

What we would like to see at least in here is some judicial oversight. When you don't take official custody - and we can call that emergency custody that's provided for in [AS] 47.10.142 - in 47.10.142 when you do take official emergency custody, within 24 hours you have to file something with the courts. Let the court know if you decided during that 24 hours to

release the children. You at least have to report to the court what you did, why and what your reasons were.

In this bill, there's no requirement to do that. So if you were to take the children and go have them do this forensic interview - which may or may not include an invasive genealogical exam - if they return the children, there's no reporting, no accounting, no judicial process, no oversight by the courts and that's very concerning.

In criminal cases, if somebody wants to [indiscernible] or do a glass warrant, all they have to do is call the on-duty magistrate, present their case to them and the magistrate gives their blessing to it. Why wouldn't we want them to be doing that? Why wouldn't we want some sort of judicial oversight before they're taking this drastic measure? If there's reasonable cause, why shouldn't they be willing to present that to an on-duty magistrate? All it would take is a telephone call; it could be done in a matter of minutes. It's not that onerous of a hoop to jump through.

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So those are our concerns. We would certainly like to see some sort of judicial oversight component in this bill for this type of drastic action.

SENATOR OLSON asked Ms. Wilson whether she favored the legislation or not.

MS. WILSON replied she didn't support the legislation without amendment because there is no judicial oversight. Referencing the end of subsection (d) she read: "Transportation of a child under this section does not constitute the child being taken into emergency custody of the state under AS 47.10.142." Without

SENATOR GREEN asked whether DOL might be available to respond to Ms. Wilson's testimony because in the previous hearing it was stated that troopers already have this authority.

MS. KRALY responded she and Ms. Wilson had a detailed conversation earlier regarding the fact that "this was not a vast departure from current practice." She said Ms. Wilson

remained concerned and they agreed to continue the discussion to try and find common ground.

SENATOR ELTON noted Ms. Wilson identified this as an extraordinary step and he was curious if other states require some sort of judicial oversight before removing and/or transporting a child.

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MS. KENNAI replied some states do require temporary custody. The primary goal here is to take children who disclose for a forensic interview before they go home and get coached. Certainly, the parent would be notified so that they could meet at the child advocacy center if possible. Current emergency custody statutes do not allow it, but current statute does authorize transport of children to a hospital or examination without parental permission when there is evidence of physical abuse. SB 82 adds sexual abuse to statute.

SENATOR ELTON mentioned a phone call could be made to a magistrate or judge and he questioned whether that would create difficulty for either the child or the department.

MS. KENNAI replied it has caused some difficulty. Although they certainly have the authority to contact a judge to obtain emergency custody, on many occasions permission has been denied based on the fact that the disclosure may not be sufficient evidence. "If you look at the research, most children who disclose sexual abuse are telling the truth. There's a very small percentage that are false allegations." If a child is sent home and a parent begins to coach or intimidate, the child becomes afraid to speak up by the time they reach the advocacy center.

CHAIR DYSON expressed concern and asked if DHSS or a peace officer is currently authorized to take custody.

MS. KRALY replied the standard for taking emergency custody is under AS 47.10.142. She read:

(a) The Department of Health and Social Services may take emergency custody of a child upon discovering any of the following circumstances:

(1) the child has been abandoned as abandonment is described in AS 47.10.013;

(2) the child has been neglected by the child's parents or guardian, as "neglect" is described in AS

47.10.014, and the department determines that immediate removal from the child's surroundings is necessary to protect the child's life or provide immediate necessary medical attention;

(3) the child has been subjected to physical harm by a person responsible for the child's welfare, and the department determines that immediate removal from the child's surroundings is necessary to protect the child's life or that immediate medical attention is necessary; or

(4) the child or a sibling has been sexually abused under circumstances listed in AS 47.10.011(7).

MS. KRALY said the distinction is that it's a heightened standard to take emergency custody. As Ms. Kennai indicated, mere disclosure isn't always sufficient to establish discovery to support an emergency custody. The standard should be heightened to be able to remove a child from a parent's home without notifying the parent or without getting pre-judicial approval. Under the emergency custodies statutes, you must either file a petition or release within 24 hours.

SENATOR DYSON questioned the reason a child's disclosure of sexual abuse wouldn't be enough to take emergency custody.

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MS. KRALY replied it's certainly a complicated question, but a disclosure alone might not be sufficient depending on what disclosure is made, how it is made, and to whom it is made. "That's when we want to get more information before we make a mistake."

CHAIR DYSON said he was uncomfortable with that and perhaps the issue ought to be addressed in the Senate Judiciary Standing Committee.

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CHAIR DYSON stated his preference to send the bill to the Senate Judiciary Standing Committee then return it to this committee for review.

SENATOR WILKEN moved CSSB 82(HES) out of committee with individual recommendations and attached fiscal notes.

SENATOR OLSON said the point Ms. Wilson brought forward is cause for concern, but he was curious whether those concerns had ever been legitimized.

MS. WILSON responded Ms. Kraly mentioned they haven't always gotten a writ of assistance when requested. "But I can guarantee you that the majority of the time, if there are allegations of sexual abuse, the state takes emergency custody." She assured members that this happens on a regular basis.

What the bill does not provide, she said, is judicial oversight. Physically taking control of a child is emergency custody and most states don't have that extraordinary power without judicial oversight. What about the instances of false findings, she asked. "Don't we at least want there to be some judicial hoops that they have to jump through at some point in the process - especially if it results in no findings?"

SENATOR OLSON remarked getting a 48-hour hold or a Title 47 commitment from a magistrate in the middle of the night is one of the last things he wants to worry about as a doctor. On the other hand, it's extremely invasive for a young child to have a gynecological examination when it isn't justified.

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SENATOR ELTON said it would seem that the fiscal note would be greater than zero to reflect additional transportation expenses.

MS. KENNAI said they would have to do an analysis on that but DHSS doesn't see there would be a large increase in the number of interviews. In some areas of the state it is a problem while in other areas they can call a judge and get permission to take the child for an interview.

She explained once the child gets to the child advocacy center, the physical exam isn't conducted without parental consent so some checks and balances already exist even though they aren't in statute.

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CHAIR DYSON asked whether there was objection to Senator Wilken's motion to move CSSB 82(HES) out of committee. Hearing none, the motion carried.

SB 78-SENIOR CARE PROGRAM

[2:30:06 PM](#)

SENATOR DYSON announced SB 78 to be up for consideration.

COMMISSIONER JOEL GILBERTSON, Department of Health and Social Services, advised he was addressing his comments to the committee substitute (CS). The bill deals with extending SeniorCare benefits to Alaska seniors - particularly around prescription drug coverage. The Legislature passed a bill last session that established a \$120.00 per month cash assistance program for low-income seniors living below 135 percent of poverty and a prescription drug subsidy for seniors that are between 135 and 150 percent of poverty.

That benefit program expires on January 1, 2006 at which time the new, Part D, federal Medicare drug benefit will become effective and provide seniors with prescription drug benefits. Parts A and B are what most Alaska seniors have. Part A relates to in-patient hospital services for seniors; Part B relates to out-patient physician reimbursements; Part C deals with managed care plans under Medicare but isn't used in Alaska; and Part D is the new prescription drug benefit.

Each part has associated costs. Part A has its own deductible; Part B has its own premium and deductible for seniors to pay; and Part D will have a premium deductible. Therefore, as seniors enroll in Medicare Part D, those above 135 percent of poverty will be responsible for some premium and deductible costs. Those are first dollar costs, which means they must satisfy those before they may receive benefits under the prescription drug benefit.

SB 78 is a proposal under SeniorCare. He emphasized that:

First and foremost this legislation states that for seniors above 135 percent of poverty and below 300 percent of poverty, the State of Alaska will cover the premium and deductible costs for those seniors to ensure that there is no senior in this state ... that will not be able to enroll in a comprehensive prescription benefit plan beginning next year.

Prescription drugs represent a sizeable part of health care and many seniors in the state are forced to choose between food, rent or prescription drugs. By itself the Medicare drug benefit won't ease that decision for many low-income seniors, but the extension of the \$120 per month cash assistance for low-income seniors below 135 percent of poverty will help some.

He referenced a chart that looks at what the qualifications and benefits mean in real dollars, and said it's important when talking about income levels. The cash assistance benefit continues at \$120 per month or for seniors below 135 percent of poverty. Those individuals won't get state help with prescription drug expenses because the federal government will cover the costs for them. Instead the state acknowledges they have other costs and recognizes that cash is much more flexible.

Therefore, seniors below 135 percent of poverty, which is just under \$16,000 per individual and about \$21,000 per couple, will continue to receive the \$120 per month cash assistance. They will receive the Medicare drug benefit with no premium and no deductible. The state expects to serve about 7,000 seniors, which is about the same as the cash assistance program under SeniorCare.

The new benefit under SB 78 deals with prescription drug assistance for seniors above 135 percent of poverty and up to 300 percent of poverty. That amounts to just less than \$35,000 for an individual and just under \$47,000 for a couple. Following an asset test, the state will step in and cover monthly premium and deductible costs, but individuals will still have out of pocket expenses for coinsurance and prescription drugs. Under this proposal, DHSS expects to serve about 10,000 seniors.

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Comparing old and new SeniorCare prescription drug benefits, he pointed out the considerable savings that seniors would enjoy under the new proposal.

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As previously stated, DHSS expects to serve about 7,000 people with cash assistance. For the original SeniorCare program, the estimates were accurate for the cash assistance benefit in the 135 percent of poverty bracket, but were somewhat inaccurate between 135 and 150 percent of poverty, which means there is a surplus in the SeniorCare Trust Fund. The surplus will be used to pay for start up and a portion of the first year costs.

The fiscal notes indicate increased expenses for the first year because the Medicare drug benefit doesn't begin until the second half of the next state fiscal year.

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SENATOR KIM ELTON asked the reason the old program didn't eliminate residents in the Pioneer/Veteran Homes while the new proposal does.

JON SHERWOOD, Medicaid specialist, Department of Health and Social Services, said both the current program and SB 78 contain provisions for temporary stay in the home. Since the original bill, other statutes have defined public institutions to exclude Pioneer/Veteran Homes. Prior to last session they were included in some definitions so that's why they decided to specify them separately.

COMMISSIONER GILBERTSON said the justification for excluding those residents is that this would be a redundant benefit since there is already a Pioneer Home Assistance Program.

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SENATOR ELTON said he was working from Version \A even though Version \G was under consideration so some of his questions might have already been answered.

He noted seniors are limited to 30-day out of state trips with exceptions for out of state medical treatment or to accompany a family member who is receiving medical treatment outside the state. However, it isn't an exception to leave the state to care for an ill family member that lives out of state because the senior isn't accompanying the family member outside.

COMMISSIONER GILBERTSON agreed with the interpretation and said the point is legitimate. He recalled working on the issue last year and acknowledged it would be advantageous to use the language they settled on at that time. He thought there was a waiver process that was established for the department to have discretion on a case-by-case basis.

[2:44:38 PM](#)

SENATOR ELTON suggested the committee look at the exception language for Permanent Fund dividends to accommodate medical treatment for an immediate family member. He then questioned the effective date.

MR. SHERWOOD explained the committee substitute (CS) simplifies the language to have the bill take effect when Medicare Part D becomes available in Alaska.

SENATOR ELTON remarked in five years the program would be more expensive than the Longevity Bonus Program.

MR. SHERWOOD replied he didn't have five-year numbers, but the projection is to serve about 17,000 seniors in the first year for about \$17 million and the Longevity Bonus Program was to serve 15,000 seniors for \$38 million.

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SENATOR ELTON acknowledged that because of the phase out, no one would have been served without this program.

CHAIR DYSON asked for an explanation of the differences between Versions \A and \G.

MR. SHERWOOD described four changes: conforming language changes; clarifying reference to the Medicare Modernization Act; adding SeniorCare Benefit to the statutory list of items that can not be garnished; and changing effective date to eliminate reference to January 1.

[2:49:52 PM](#)

SENATOR ELTON moved to adopt Version \G as the working document. There being no objection, the motion carried.

CHAIR DYSON suggested the committee entertain a conceptual amendment to make eligibility the same as for the Permanent Fund Dividend as far as traveling out of state.

SENATOR ELTON said he would like to review that before moving the bill since he didn't remember the language precisely.

CHAIR DYSON expressed agreement and said he is uncomfortable that seniors must go through a waiver process to go outside for medical reasons. He added the department would have an opportunity to speak against the change here and in the Senate Finance Standing Committee.

COMMISSIONER GILBERTSON said the department really doesn't monitor senior travel patterns and that particular change in the program management might be minimal. Acknowledging that it is within Legislature's purview to change, he said the current language has proved to be adequate to address the issue in the last year.

SENATOR WILKEN suggested it is important for the committee to know how many other states have this type of program and how other states are treating the federal drug prescription program. He suggested that western states were of particular interest.

COMMISSIONER GILBERTSON said he would make the information available at the next hearing, but other states haven't begun to respond to the integration between the state pharmacy assisted plan and Medicare drug benefits. The Medicare, Part D, drug benefit would be delivered in a different way than Medicare Part A and Part B. Part D would essentially be delivered through private insurance - pharmacy benefit management firms. At least two firms would bid on each region after which the region is assigned an actuarial value per life of individuals that would be served. Then the actuarial/cash value is converted to a benefit for the consumers.

He suggested many states are digesting the information and deciding how to convert what used to be a Medicaid benefit to a supplement to Medicare.

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SENATOR WILKEN said he would prefer not to move the bill from committee in order to provide time for further clarification.

CHAIR DYSON asked the process used to decide that 300 percent of the federal poverty level was the right number to use.

COMMISSIONER GILBERTSON replied he would provide information regarding what the various income threshold options mean. To some extent, he said, the line is discretionary and there is nothing to peg it to in the private market place. Governor Murkowski has taken the position that the threshold should be low enough so that seniors in need are served. He doesn't want any senior in the state not to be enrolled in a prescription drug benefit next year because they aren't able to afford the premium or deductible, which is sizeable. The out of pocket expense before the first benefit is received is around \$700.

After reviewing the income levels, the governor decided that for a senior who makes less than \$35,000 per year a \$670 deductible is high so that's where he drew the line.

CHAIR DYSON asked whether the poverty level is \$10,000 per year for a single person.

COMMISSIONER GILBERTSON replied the Alaska poverty level is higher than the national average by 25 percent and in Alaska, 100 percent of poverty is between \$11,000 and \$12,000 per year. Where you draw the poverty line is the discretion of policy makers, he emphasized.

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CHAIR DYSON asked whether there is an asset test.

COMMISSIONER GILBERTSON said yes, for the seniors who receive the \$120 cash assistance benefit, the liquid asset limit per individual is \$6,000. The secondary benefit, the prescription drug subsidy liquid asset level is \$50,000.

CHAIR DYSON asked about non-liquid assets.

COMMISSIONER GILBERTSON replied there is none.

CHAIR DYSON noted the in state advertisements for restructuring assets to qualify for different programs and remarked that some of it looks like scam.

COMMISSIONER GILBERTSON agreed and said it has been a constant struggle for states and the federal government to keep up with lawyers that work to reduce senior's assets. The fiscal crisis in Medicaid is largely associated with senior and disability services. Middle and upper middle income Americans are spending down parents and transferring assets when they need long-term care. Although both federal and state look-backs have become stricter, a great number of lawyers are still helping seniors become eligible for programs such as this.

[3:02:39 PM](#)

CHAIR DYSON said if 40 percent of the senior population would qualify that means that that 40 percent of seniors are living under the 300 percent of federal poverty level.

COMMISSIONER GILBERTSON replied it's a rough estimate, but if 17,000 seniors are served it's about 40 percent.

CHAIR DYSON announced he would hold the bill and would be interested in the department looking into the qualifications for being out of state and whether the permanent fund is a good model.

SENATOR WILKEN said he would like to know what other states are doing with regard to the federal program.

[3:04:33 PM](#)

CHAIR DYSON said he would be interested in comparisons with Colorado and Idaho.

SENATOR DONNY OLSON asked for information on the distribution of rural participants.

COMMISSIONER GILBERTSON agreed to do so.

CHAIR DYSON asked for information about what additional benefits people might qualify for.

COMMISSIONER GILBERTSON said he would get the information and clarified there would be some dual eligibility so the program would be available to Alaska Natives who are eligible for Indian Health Service (IHS) benefits. He would provide information on the number of dual eligibilities and the benefits they have access to, but it is well established in law that benefits will be provided to all individuals regardless of whether or not they are eligible under IHS or a Native health corporation.

[3:07:00 PM](#)

CHAIR DYSON said he could appreciate that, but doesn't want someone to receive payment twice for the same drug.

SENATOR ELTON expressed interest in whether the previous program had pro rata language and also in departmental discussions about inserting pro rata language in this bill.

[3:08:24 PM](#)

CHAIR DYSON held SB 78 in committee.

SB 79-MEDICAID FOR ADULT DENTAL SERVICES

CHAIR FRED DYSON announced SB 79 to be up for consideration.

[3:08:43 PM](#)

BRAD WHISTLER, dental officer, Department of Health and Social Services (DHSS), introduced himself.

COMMISSIONER JOEL GILBERTSON, Department of Health and Social Services (DHSS), explained this is a Governor proposal under Medicaid. It would provide capped preventative dental healthcare benefit to all low-income adults in Alaska.

Currently, Medicaid dental coverage for people over age 21 is restricted to emergency dental services, which basically means pulling a tooth if a problem arises. SB 79 proposes to enhance the emergency dental Medicaid services for adults to include preventative and/or restorative care. Because of the lack of preventative Medicaid dental services in years past, a backlog

exists, which justifies the proposed annual benefit cap for preventative services to \$1,150 per client. The annual limit amounts to what it would cost to replace an upper or lower denture so that a senior could replace a full denture over a two-year period.

He noted currently there are about 41,000 Medicaid beneficiaries in Alaska.

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COMMISSIONER GILBERTSON said the Mendenhall Trust Authority is a partner in the proposal and has allocated some of its money to pay part of the state match. Recent studies have shown a link between oral health and chronic diseases and the trust recognizes the trustees have a pressing need for oral health care. "This transition will allow us to position the Medicaid program around preventative services, which is a good investment for the state."

He noted the associated fiscal note and explained the general fund match is augmented with Mental Health Trust money for the next six years. There are a number of optional services under Medicaid and this proposal is to include preventative dental services.

[3:13:06 PM](#)

SENATOR KIM ELTON asked the number of Alaska dentists that do Medicaid services.

COMMISSIONER GILBERTSON acknowledged access has been an issue.

MR. WHISTLER said access varies across the state but overall, about 85 percent of Alaska dentists are enrolled in the Medicaid program. Although he didn't know how many dentists are accepting new Medicaid clients he did acknowledge the real access issue is when new clients who are enrolled in Medicaid go for care. With regard to the adult program, the proposal would augment the tribal dental programs that are already serving adults.

[3:15:32 PM](#)

SENATOR ELTON referenced the fee information in the fiscal note and said it would be helpful to have a list of the Juneau dentists that provide two cleanings a year for \$250 because he pays considerably more.

MR. WHISTLER replied the fiscal note is based on Medicaid reimbursement rates and private rates would be higher.

CHAIR DYSON commented most medical practitioners aren't happy with the Medicaid reimbursement rates. He was curious about the view dentists might have.

MR. WHISTLER replied most dental practices wouldn't have more than 5 to 10 percent of its clients in the Medicaid program so dentists don't typically rely on those clients for practice income. He suggested it might make dentists more vocal about reimbursement rates. The program has tried to maintain reimbursement at between 70 and 80 percent of usual customary reasonable fees.

COMMISSIONER GILBERTSON added the department has always been concerned about provider participation in the Medicaid program. Across the board, between 55 and 60 percent of the licensed providers in the state accept Medicaid as a portion of the insurance they accept.

[3:18:04 PM](#)

SENATOR DONNY OLSON noted chronic diseases were addressed, but he saw no mention of acute diseases such as gingivitis and resultant septicemia. He was curious how the bill would address those issues.

MR. WHISTLER said that sort of case would fit an emergency dental service, which would be covered in the current program. This bill proposes to cover preventive and restorative dental services in addition to the emergency services. Hopefully this would augment existing services so fewer people would get into an acute condition.

COMMISSIONER GILBERTSON restated Mr. Whistler's response.

[3:19:22 PM](#)

CHAIR DYSON recognized Mr. Jessie and asked whether he was testifying that the Mental Health Board agrees with the bill and the funding provided by the Mental Health Trust.

JEFF JESSIE said that is correct. He informed members the trust issues over \$1 million per year in mini grants paid directly to beneficiaries and nearly 70 percent of the requests are for dental needs that aren't covered by Medicaid. It's clear there is need in this area.

PAT LUBY, AARP representative, testified in of SB 79.

ROSEMARY HAGEVIG, executive director, Catholic Community Services, testified in strong support of SB 79. She pointed out that providing dental care would help many people get back into the workforce so they see this as a workplace issue.

[3:23:26 PM](#)

CHAIR DYSON asked for the will of the committee.

SENATOR ELTON moved CSSB 79(HES) \G version, and attached fiscal note from committee with individual recommendations. There being no objection, it was so ordered.

There being no further business to come before the committee, Chair Dyson adjourned the meeting at [3:23:56 PM](#).