

**ALASKA STATE LEGISLATURE**  
**HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

February 11, 2011

3:20 p.m.

**MEMBERS PRESENT**

Representative Kurt Olson, Chair  
Representative Craig Johnson, Vice Chair  
Representative Dan Saddler  
Representative Paul Seaton  
Representative Steve Thompson  
Representative Lindsey Holmes  
Representative Bob Miller

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 13

"An Act relating to fees and charges for medical treatment or services as they relate to workers' compensation; and providing for an effective date."

- MOVED HB 13 OUT OF COMMITTEE

HOUSE BILL NO. 12

"An Act establishing the Workers' Compensation Advisory Council, and abolishing the Medical Services Review Committee; and providing for an effective date."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 13

SHORT TITLE: WORKERS' COMPENSATION: MEDICAL FEES

SPONSOR(S): REPRESENTATIVE(S) OLSON

01/18/11	(H)	PREFILE RELEASED 1/7/11
01/18/11	(H)	READ THE FIRST TIME - REFERRALS
01/18/11	(H)	L&C, FIN
02/11/11	(H)	L&C AT 3:15 PM BARNES 124

BILL: HB 12

SHORT TITLE: WORKERS' COMPENSATION ADVISORY COUNCIL  
SPONSOR(s): REPRESENTATIVE(s) OLSON

01/18/11 (H) PREFILE RELEASED 1/7/11  
01/18/11 (H) READ THE FIRST TIME - REFERRALS  
01/18/11 (H) L&C, FIN  
02/11/11 (H) L&C AT 3:15 PM BARNES 124

**WITNESS REGISTER**

KONRAD JACKSON, Staff  
Representative Kurt Olson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 13, on behalf of the sponsor and answered questions.

LINDA HALL, Director  
Division of Insurance (DOI), Anchorage Office  
Department of Community & Economic Development (DCCED)  
Anchorage, Alaska

**POSITION STATEMENT:** Answered questions during the discussion of HB 13.

FRED BROWN, Executive Director  
Health Care Cost Management Corporation of Alaska (HCCMCA)  
Fairbanks, Alaska

**POSITION STATEMENT:** Testified in support of HB 13.

KONRAD JACKSON, Staff  
Representative Kurt Olson  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 12 on behalf of the prime bill sponsor, Representative Kurt Olson.

**ACTION NARRATIVE**

[3:20:26 PM](#)

**CHAIR KURT OLSON** called the House Labor and Commerce Standing Committee meeting to order at 3:20 p.m. Representatives Olson, Seaton, Johnson, Saddler, Thompson, Holmes, and Miller were present at the call to order.

**HB 13-WORKERS' COMPENSATION: MEDICAL FEES**

[3:21:02 PM](#)

CHAIR OLSON announced that the first order of business would be HOUSE BILL NO. 13, "An Act relating to fees and charges for medical treatment or services as they relate to workers' compensation; and providing for an effective date."

[3:21:56 PM](#)

KONRAD JACKSON, Staff, Representative Kurt Olson, Alaska State Legislature, on behalf of the prime sponsor, stated that HB 13 relates to fees and charges for medical treatment or services as they relate to workers' compensation. In 2005, the legislature amended AS 23.30 and expanded the makeup and scope of the Medical Services Review Committee (MSRC). Its new mission was to assist and advise the Department of Labor (DOL) and the Workers' Compensation Board (WCB) in matters involving the appropriateness, necessity, and cost of medical related services. The MSRC met a number of times during 2009 and produced a 62-page report in November 2009. He referred to pages 11-12 of the report, in members' packets, which discusses the need for a new medical fee schedule for the state. He explained that the current fee schedule is out of date and has been extended two times thus far. The current extension would have expired on December 31, 2010 but was extended by emergency regulation until June 30, 2011. This bill proposes that the full fee schedule be adopted. He presented a sectional analysis of HB 13. Section 1 would amend AS 23.30.097(a) by establishing a fee schedule, which would be adopted by the WCB and would include many new fee codes for medical supplies, injections, emergency transportations, and other medically related services. Section 2 of HB 13 would provide for an effective date, he said.

[3:24:33 PM](#)

LINDA HALL, Director, Division of Insurance (DOI), Anchorage Office, Department of Community & Economic Development (DCCED), stated that in 2004, the medical fee schedule had been frozen, but since then two consumer price index increases have been issued. The DOI needs a sustainable schedule, she said. She referred to pie charts in members' packets. The first was titled "Medical Benefits Constitute the Majority of Total Benefit Costs in Alaska." The point of this chart, obtained from the National Council on Compensation Insurance, is to show Alaska as compared to the region and nation. She related that \$.75 of every dollar of system cost in Alaska goes toward medical cost. The countrywide cost of medical costs is 58

percent, and the regional average is 67 percent. Alaska medical costs are the highest in the nation. Medical costs are the cost drivers for the Workers' Compensation premiums and health insurance premiums. She said one of the reasons that it is critical to have a sustainable fee schedule is that Alaska has increasingly high medical costs.

[3:26:39 PM](#)

MS. HALL referred to the second chart titled "Alaska Medical Average per Case vs. Countrywide," which shows the average cost per case versus a countrywide comparison. She said the latest data is from 2009 and indicates that the average cost for Workers' Compensation claim cases is \$37,000, as opposed to an average countrywide cost of \$27,000. These costs are approximately 37 percent higher in Alaska per case.

MS. HALL referred to the 2010 Oregon Workers' Compensation Premium Rate Ranking Summary, also in members' packets. She explained that Oregon conducts an annual study on premium rate ranking. She pointed out that Alaska is ranked number 2, which is the first time in six years that Alaska has not been in the number 1 spot. While this is an improvement it is still not good. It means that Alaska's costs have been reduced somewhat in comparison to at least one other state. She stressed the need for a fee schedule that Alaska can count on. In addition to the CPI increases, the state has lost a number of medical fees. She offered that medical procedures are coded. Currently, about 7,000 codes exist for procedures that are performed medically, for health insurance or for treating Workers' Compensation injuries. The current procedure code schedule is missing about 2,000 codes so the base fee schedule is 'woefully' incomplete.

[3:29:06 PM](#)

MS. HALL referred to Workers' Compensation premiums. In 2009, for Workers' Compensation premiums totaled \$250 million in premiums, which represents a big part of the industry. The cost of medical care plays a role in the amount of the premiums charged. In 2006, Alaska had a high of almost \$338 million, but fees have been reduced for a variety of reasons. She stressed the importance that Alaska has a fee schedule that is complete and allows a method to cap its medical costs. She explained the process to establish fee schedules. The Department of Labor (DOL) uses an outside vendor, Ingenix, to gather data across the country, but use Alaska bill charges to build an Alaska fee

schedule. Ingenix collects charges and arranges them from high to low and uses the 90th percentile in its fee schedule. Thus, 90 percent of the bill charges fall under that cap, she said.

[3:30:50 PM](#)

MS. HALL explained that Ingenix also develops its fee schedules based on geographical areas. She emphasized that this schedule is the same type of fee schedule as the 2004 schedule, which is based on Alaska charges and geographical zip codes, called geo zips. The medical fee caps are not based on what it costs to provide services in California or Louisiana, but on Alaska costs. The fee schedule is a statistically credible profile. Many health insurance companies use this same vendor for their charges. The DOI has some oversight ability to review the work Ingenix performs. The Division of Workers' Compensation would obtain the information to be approved by the Workers' Compensation Board. The board has the ultimate authority to adopt a fee schedule but there is a need to authorize them in statute to do so. Lastly, this brings in transportation costs. She suggested members may have heard stories about out of control transportation costs, and the intent is to bring those under the fee schedule, as well.

[3:32:51 PM](#)

CHAIR OLSON asked for the difference between HB 13 and a bill previously before the House Labor and Commerce Standing Committee last legislature.

MS. HALL explained that HB 13 does not contain changes to fraud and other issues that caused controversy, but only contains the fee schedule.

CHAIR OLSON recalled that the previous bill passed the House last year by 37-0.

[3:33:43 PM](#)

REPRESENTATIVE JOHNSON recalled the fee schedule does not currently contain the appropriate codes.

MS. HALL stated that the fee schedule is missing new procedure codes that have been developed since 2004. In further response to Representative Johnson, she answered that since the codes are not part of the fee schedule the fees are paid at 100 percent.

[3:34:32 PM](#)

REPRESENTATIVE JOHNSON asked for clarification that with the fee schedule updated, the fees would be paid at 90 percent and this bill addresses that aspect.

MS. HALL agreed.

REPRESENTATIVE MILLER referred to statistically credible data. He asked for the definition and how it is compiled.

[3:35:31 PM](#)

The committee took an at-ease from 3:35 p.m. to 3:43 p.m.

[3:43:36 PM](#)

REPRESENTATIVE MILLER asked again for a definition of statistically credible data.

MS. HALL responded that it is an actuarial term, which requires that a certain number of data elements are necessary to build charges to make it valid as a predictor. In the event that an adequate figure is not available in Alaska data, Ingenix reviews the countrywide data and uses a multiplier to establish a credible value. That value is then recognized as a valid fee charge. She recapped the typical ratemaking process, including that the DOI includes Alaska and other states' data that is accurate for an insurance company to use. She explained the data is valid because enough data exists for it to be credible. She added that one health insurance company in Alaska has sufficient data to use its own database since enough elements exist to make their data credible. Most companies do not have enough Alaska data to do so, she said.

[3:45:54 PM](#)

REPRESENTATIVE SADDLER referred to the fiscal note of \$75,000 per year. He asked for the reason for the ongoing cost and whether the fee schedule is updated annually.

MS. HALL answered yes, that a new fee schedule is created each year. She explained that procedure codes and bill charges would be updated for accuracy. In further response to Representative Saddler, she answered that the vendor updates the schedule. The Workers' Compensation Board would make the request and adopt it in time to be effective on January 1 of each calendar year.

[3:47:22 PM](#)

REPRESENTATIVE SADDLER asked for clarification of the December 31, 2010 date.

MS. HALL answered that was when the last fee schedule expired.

[3:47:47 PM](#)

REPRESENTATIVE MILLER recalled that part of the reason for HB 13 is to place a cap on medical costs besides updating the medical fee schedule. He asked for clarification.

MS. HALL answered that this bill refers to reimbursements to medical care providers such as doctors, hospitals, or medical services for injured workers.

[3:48:53 PM](#)

REPRESENTATIVE MILLER remarked that he is shocked at price increases for insurance premiums. He asked for the reason premiums are rising.

MS. HALL answered that ratemaking, which this bill does not cover impacts premiums because fees that are charged for medical services ultimately turn into claims cost. The claims cost in the Workers' Compensation system are taken into account when the ratemaking occurs. Collecting claims data is part of the ratemaking process. The DOI reviews historical claims costs. She related the process. Generally Workers' Compensation premium costs are effective January 1 to allow time for contractors to bid. The DOI begins the process sometime in July, August, or September, with a filing from the National Council on Compensation, Inc. (NCCI). The NCCI reviews three years of claims costs, then performs "trending" to predict the costs when the policy will go into effect. The DOI holds an annual public rate hearing in September, to determine "lost cost" since it also considers other factors. She explained that the rate is approved by November 2010 for policies effective on January 1, 2011. The DOI would predict costs not only for 2011, since it must also consider that for those with serious injuries, the medical costs may continue for up to 20 years. Thus, the DOI is not just computing a three year average of claims costs since adjustments are required to balance the premium with claims cost. "Ideally they would come out to one," she said. In Alaska, claims costs can be \$1.54 per every \$1

collected. For the last five years, the state has experienced rate decreases in Workers' Compensation rates. She characterized the process as a fairly complex one.

[3:52:32 PM](#)

REPRESENTATIVE MILLER asked whether HB 13 is good for injured workers.

MS. HALL answered yes, since the state wants to be certain injured workers have access to good medical care. She offered her belief that when the fee schedule is set at the 90th percentile, it is higher than any other fee schedule. Many insurance companies use the 80th percentile and some self-insured plans use the 70th percentile. This bill would dictate a high level of reimbursement for medical providers, which gives access to quality care for injured workers. She related that the purpose is to ensure that injured workers have access. She remarked that if the state only allowed Medicare charges for providers, not many doctors would be willing to treat injured workers.

[3:53:51 PM](#)

REPRESENTATIVE THOMPSON asked how emergency Medivac costs can be maintained or made reasonable, given that he has heard that Medivacs can cost \$60,000 to \$175,000.

MS. HALL agreed, noting she has heard the same anecdotal stories with respect to Medivac costs. She explained that the DOI currently does not regulate Medivac charges. This bill attempts to bring these charges under the new fee schedule. The Centers for Medicare and Medicaid Services (CMS) have fee schedules that include procedure codes and promulgate fees. She said she hopes the state can bring these transportation entities under this fee schedule but she was uncertain that it could easily be done. She pointed out that transportation costs are not limited to Medivacs, but include costs to transport injured or ill consumers, and have become extremely expensive. These costs are an important component in ratemaking, in terms of the costs being paid out. She expressed concern over the high transportation costs as are a number of individual companies and self-insured groups, who are very concerned about the costs they are paying for those services. She said she thought these costs are federally regulated to a great extent. "This isn't a first attempt to work at that issue," she stated.

[3:55:54 PM](#)

REPRESENTATIVE SADDLER related his understanding that this bill would provide that whatever fee schedule the Workers' Compensation Board adopts would include the usual, customary, and reasonable fees for treatment for category I, II, and III medical services. It would also adopt a separate standard the health care procedure coding system for supplies, injections, emergency transportation, and other medically related services. He asked whether this provides for emergency transportation.

MS. HALL answered yes.

REPRESENTATIVE SADDLER asked for clarification on the cost process to arrive at the 90th percentile.

MS. HALL explained that Ingenix sets the fees. She related a scenario, in which there are 10 charges for knee surgery, which range from \$100 to \$20. She explained that 9 of 10 fees would be covered under the 90th percentile, and one outlier would be capped. It is set at the 90th percentile so that the majority of charges billed in Alaska would be covered. If it were set at the 80th percentile, only 8 out of 10 would be covered. The schedule is based on actual billed charges for the procedure code performed in Alaska. In further response to Representative Saddler, she confirmed that it covers the amount billed.

REPRESENTATIVE SADDLER asked whether that was a generous amount.

MS. HALL answered yes, that the amount is set higher than normally seen in health insurance industry.

[3:58:23 PM](#)

CHAIR OLSON related that the way the rates are promulgated the state will not have four years of historical costs at the end of this calendar year. He asked whether the state would enjoy some savings on premiums by the end of the third year.

MS. HALL offered her belief that this may not be a premium savings bill. She did not view this as reducing fees, but more likely to keep fees stable.

[3:59:08 PM](#)

CHAIR OLSON commented that this bill would impact rates, perhaps by slowing down the premium increases or keeping them at a stable level.

MS. HALL clarified that the way rates are calculated as costs increase the billing charges increase, and ultimately the fee schedule will also rise.

[3:59:35 PM](#)

REPRESENTATIVE SADDLER recalled 2,000 procedure codes are not contained in the current fee schedule so as Workers' Compensation injured workers receive services that fall under the 2,000 missing procedure codes, the services are paid at the full cost. He asked whether adopting the 90th percentile for costs would result in some savings as it filters through the system.

MS. HALL agreed.

[4:00:08 PM](#)

FRED BROWN, Executive Director, Health Care Cost Management Corporation of Alaska (HCCMCA), recapped that in the past six years, Alaska has had the highest premium rates in the United States and in the most recent Oregon report, that Alaska has "traded places with Montana." He explained that his organization reviewed costs. He stated that the Alaska State Chamber of Commerce is drawing attention to a 2010 CNBC cable news report, that Alaska is the least competitive state in the union for conducting business. A component of this ranking is based on high Workers' Compensation premium rates. In short, his organization is a coalition of Taft-Hartley funds and self-insured benefit funds that covers approximately 10 percent of Alaska's population. He offered support for the efforts to control medical costs and the 90 percent fee schedule in HB 13. However, the HCCMCA referencing the MSRC report, stressed that much more dramatic steps must be taken to reverse the trends in the high Workers' Compensation health care costs. He remarked that 90 percent of an increasing rate is still a high number which keeps Alaska at or near the top of the premium rate charts.

MR. BROWN related that his coalition is currently working with Alaska AFL/CIO, the Alaska State Chamber of Commerce, and the National Electrical Contractors Association to garner support for passage of a bill in Alaska which has had similar versions

passed in 12 other states. He offered his belief that members may have seen drafts of the proposed bill, which is commonly referred to the alternative dispute resolution (ADR) Workers' Compensation "carve out" bill. He briefly explained that this bill would allow parties to a collective bargaining agreement to privately agree to opt of the state Workers' Compensation. These parties would select labor and management trustees in a Taft-Hartley type trust, who would choose a plan administrator and arbitrators to help resolve Workers' Compensation disputes. This process alone would help hold down Workers' Compensation medical costs given the added efficiency this program could bring to the system, he said.

[4:04:24 PM](#)

MR. BROWN referred to proposed Section 2 of the aforementioned bill, and stated the trustees would be allowed to choose the best providers to deliver Workers' Compensation medical treatment. The trustees would also be allowed to establish a preferred provider organization (PPO) pricing system. He again referred to the MSRC report.

CHAIR OLSON advised that the bill before the committee is HB 13 and not the bill he is referring to today.

MR. BROWN again referred to the MSRC report in members' packets that describes the frustration the MSRC committee members felt by the inability to implement a PPO process in Alaska. He wanted to alert the House Labor and Commerce Standing Committee members to a provision in an upcoming bill. In summary, he offered support for HB 13, and to alert the committee about a proposed bill that may soon be introduced to further accomplish the goals articulated in the MSRC report.

[4:06:31 PM](#)

CHAIR OLSON, after first determining no one else wished to testify, closed public testimony on HB 13.

REPRESENTATIVE SADDLER said he thought he understood the bill, which scares him.

[4:07:07 PM](#)

REPRESENTATIVE JOHNSON moved to report HB 13 out of committee with individual recommendations and the accompanying fiscal

notes. There being no objection, HB 13 was reported from the House Labor and Commerce Standing Committee.

[4:07:38 PM](#)

The committee took an at-ease from 4:07 p.m. to 4:10 p.m.

**HB 12-WORKERS' COMPENSATION ADVISORY COUNCIL**

[4:10:14 PM](#)

CHAIR OLSON announced that the final order of business would be HOUSE BILL NO. 12, "An Act establishing the Workers' Compensation Advisory Council, and abolishing the Medical Services Review Committee; and providing for an effective date."

[4:10:37 PM](#)

KONRAD JACKSON, Staff, Representative Kurt Olson, Alaska State Legislature, explained that HB 12 would establish a Workers' Compensation Advisory Council (WCAC). He related that this is one of the MSRC's recommendations as outlined in its November 2009 report on pages 13-14 of the report. This bill, HB 12, incorporates the recommendation for the WCAC's composition. It would consist of 11 voting and 5 non-voting members: four voting members representing organized labor, four voting members representing various employer groups and three voting members from the various medical societies. Non-voting members would provide expertise, with two members from the insurance industry, two ex officio members from the legislature - one from each body - and the DOL commissioner or his/her designee. He pointed out that 11 of the 16 members would be voting members and the rest would be non-voting or ex officio members. He remarked that the WCAC's membership makeup did not receive overwhelming consensus and it passed by a simple majority. He said the sponsor believes this is a worthwhile council to establish. One recommendation the MSRC made was that all WCAC recommendations or decisions should be adopted by a three-fourths majority of the voting members present, but that recommendation was not incorporated in this bill to avoid a pocket veto of the minority members of the council.

MR. JACKSON concluded by reminding members that this bill sets up an "advisory" council and not an exclusive panel to rule Workers' Compensation. This council would serve to advise the legislature and the Workers' Compensation Board.

[4:13:12 PM](#)

REPRESENTATIVE MILLER asked whether this WCAC has any powers besides the advisory capacity and role.

MR. JACKSON referred to page 2, subsection (g), the WCAC shall advise the department on all matters pertaining to the application, revision, and operation of this chapter. Thus, the WCAC operates only in an advisory capacity. The bill spells out the number of meetings but the WCAC is solely advisory.

REPRESENTATIVE MILLER asked for the rationale for the board's composition.

MR. JACKSON agreed that 11 members are voting members on the proposed WCAC. He stated that the composition was established by the Medical Services Review Committee.

MR. JACKSON referred to page 1 to paragraph (3), to the three members from the medical care providers. He related that the process for attaining voting membership was contentious, but the MSRC decided this by simple majority.

[4:15:30 PM](#)

REPRESENTATIVE MILLER asked whether part of contentiousness within the discussion had to do with the number of votes for industry. He could foresee seven votes were not representatives of the labor industry. Thus, labor could be the minority, yet the issues of Workers' Compensation are labor related.

MR. JACKSON said he also thought that employees could work with the doctors and overrule the employer. He pointed out that coalition happens in the legislature and is part of the process. The intent is to strive for a balance without any group having dominance. He pointed out that the three members of medical care providers have less representation, but the medical field has a vested interest since the doctors are paid for services provided to the injured worker. He also pointed out that the employer has a vested interest to have the employee return to work, while the employee also wants to return to work and obtain a full paycheck. He reiterated that the proposed composition seemed to provide a balance. Nothing prevents consensus building as a means of representing his/her constituency.

[4:17:55 PM](#)

CHAIR OLSON provided history on the issue. The prior bill on this issue went as far as the House Finance Committee last year. He agreed that it was one of the more contentious bills. He said, "No one likes it, but most of the people, I believe, can live with it. We've had minimal contact from any of the groups with a vested interest this go around." He offered his intention to hold HB 12 over, although he did not believe any new constituencies would be added to the proposed WCAC. He pointed out that the key word is that the proposed WCAC is "advisory."

[4:19:17 PM](#)

REPRESENTATIVE SADDLER referred to the employer composition, noting the four members were broken down by category. He asked to know more about the process used to identify who would represent employers and labor representatives.

MR. JACKSON answered that the MSRC made recommendations on the proposed WCAC. He also related that the sponsor wanted to limit the overall size of the proposed WCAC so limits were imposed.

[HB 12 was held over.]

[4:20:31 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:20 p.m.