

ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

March 23, 2011

1:32 p.m.

MEMBERS PRESENT

Senator Bettye Davis, Chair
Senator Dennis Egan
Senator Kevin Meyer
Senator Fred Dyson

MEMBERS ABSENT

Senator Johnny Ellis

COMMITTEE CALENDAR

SENATE BILL NO. 5

"An Act relating to eligibility requirements for medical assistance for certain children and pregnant women; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 5

SHORT TITLE: MEDICAL ASSISTANCE ELIGIBILITY

SPONSOR(S): SENATOR(S) DAVIS, EGAN, ELLIS, FRENCH, WIELECHOWSKI

01/19/11	(S)	PREFILE RELEASED 1/7/11
01/19/11	(S)	READ THE FIRST TIME - REFERRALS
01/19/11	(S)	HSS, FIN
03/07/11	(S)	HSS AT 1:30 PM BUTROVICH 205
03/07/11	(S)	Heard & Held
03/07/11	(S)	MINUTE(HSS)
03/23/11	(S)	HSS AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

KAREN PURDUE
President and Chief Executive Officer
Alaska State Hospital and Nursing Home Association
Juneau, AK

POSITION STATEMENT: Testified in support of SB 5.

THOMAS OBERMEYER, Staff to Senator Bettye Davis
Alaska State Legislature
Juneau, AK

POSITION STATEMENT: Presented SB 5 for Senator Davis, the sponsor.

JOHN SHERWOOD
Medical Assistance Administrator
Department of Health and Social Services (DHSS)
Juneau, AK

POSITION STATEMENT: Answered questions regarding SB 5.

KATIE CHAPMAN
Planned Parenthood
Juneau, AK

POSITION STATEMENT: Testified in support of SB 5.

CAREN ROBINSON
Alaska Women's Lobby
Juneau, AK

POSITION STATEMENT: Testified in support of SB 5.

STACIE KRALY
Assistant Attorney General
Department of Law
Juneau, AK

POSITION STATEMENT: Answered questions regarding SB 5.

JOY LYON
Executive Director
Association for the Education of Young Children
Juneau, AK

POSITION STATEMENT: Testified in support of SB 5.

GUS MARKS
Juneau Youth Services
Juneau, AK

POSITION STATEMENT: Testified in support of SB 5.

MARY SULLIVAN
Alaska Primary Care Association
Juneau, AK

POSITION STATEMENT: Testified in support of SB 5.

RANDY SWEET
United Way of Anchorage

Anchorage, AK

POSITION STATEMENT: Testified in support of SB 5.

DEBBIE LEFLECHE

YWCA of Anchorage

Anchorage, AK

POSITION STATEMENT: Testified in support of SB 5.

WEETA MORRISON, representing herself.

Anchorage, AK

POSITION STATEMENT: Testified in support of SB 5.

KATHY DIAMOND

Tanana Chiefs Conference

Fairbanks, AK

POSITION STATEMENT: Testified in support of SB 5.

RICHARD PECK

Board President Liuliuk Clinic

Unalaska, AK

POSITION STATEMENT: Testified in support of SB 5.

REBECCA HOWE

Raven's Way

Sitka, AK

POSITION STATEMENT: Testified in support of SB 5.

ACTION NARRATIVE

[1:33:07 PM](#)

CHAIR BETTYE DAVIS called the Senate Health and Social Services Standing Committee meeting to order at 1:33 p.m. Present at the call to order were Senators Dyson, Egan, Meyer, and Chair Davis.

SB 5-MEDICAL ASSISTANCE ELIGIBILITY

[1:33:13 PM](#)

CHAIR DAVIS announced the first order of business would be SB 5, the Denali KidCare Bill.

KAREN PURDUE, President and CEO, Alaska State Hospital and Nursing Home Association (ASHNA), established in 1953, said ASHNA has consistently supported Denali KidCare and continues to support its passage today. They are involved in children's lives at delivery and also when they need acute medical care. It is a huge concern when you have a very sick child and coverage is not available.

Denali KidCare has allowed families to seek medical care at the most appropriate time for their children. ASHNA was disappointed in the governor's veto last year. Fourteen years ago she was involved as Commissioner of the Department of Health and Social Services in fashioning Denali KidCare.

1:35:56 PM

THOMAS OBERMEYER, staff to Senator Bettye Davis, gave an overview of the bill. SB 5 is an act relating to eligibility requirements for medical assistance for certain children and pregnant women. SB 5 establishes and restores to the original levels of fourteen years ago the qualifying income eligibility standard to 200 percent of the federal poverty level for the State Children's Health Insurance Program (SCHIP), called Denali KidCare in Alaska. Although one of the wealthiest states, Alaska is one of only four states which funds its SCHIP program below 200 percent of the federal poverty level.

This bill makes health insurance accessible to an estimated 1,077 more uninsured children and 225 pregnant women in Alaska. These are the people who were dropped from the system when the level was reduced to 175 percent. Denali KidCare is an enhanced Medicaid reimbursement program receiving up to 70 percent matching funds.

Denali KidCare serves an estimated 7,900 Alaska children and remains one of the least costly medical assistance programs in the state. Intervention and preventive care will greatly improve Alaska children's health and yield substantial savings to the state and private sector hospital emergency rooms. Uninsured children are five times as likely not to have a regular doctor as insured children and four times more likely to use emergency rooms. A similar bill was overwhelmingly passed with bipartisan support in 2010. Governor Parnell vetoed the bill over concern of increased eligibility which would require an increase in state funded induced terminations of pregnancies.

Medicaid funds 51 percent of all births in Alaska. In order to receive continued funding for the state Medicaid program and to comply with state law, constitutional provisions, and Alaska Supreme Court rulings, the state must provide medical services for pregnant women including medically necessary terminations as well as prenatal and postpartum care.

The Alaska Department of Health and Social Services (DHSS) estimated that no more than 22 induced terminations would

result. Induced terminations under Denali KidCare cost about \$384,000 annually, or less than .18 percent of the \$217 million Denali KidCare budget. While the governor understandably is concerned about the mushrooming costs of the state Medicaid program, Denali KidCare should not be among first cuts at the expense of Alaska's most vulnerable children and pregnant women. Increasing eligibility to 200 percent is uncomplicated, manageable, and could take effect immediately.

[1:40:58 PM](#)

SENATOR MEYER asked if indeed this is the same bill as last year and we still have the same governor, isn't it destined for the same fate.

CHAIR DAVIS responded she did have a brief meeting with the governor at the beginning of the session, and they could not agree on this issue. He has not had a change of mind. People within the department are trying to come up with a solution. She would like to at least move the bill from Health and Social Services to Finance. She did contact the commissioner's office and let them know she was going to move forward.

SENATOR MEYER said it sounds like discussions are still ongoing.

CHAIR DAVIS answered yes, the department has said it would get back to her with possible solutions or suggestions.

[1:43:58 PM](#)

JOHN SHERWOOD, Medical Assistance Administrator, Department of Health and Social Services (DHSS), said he was here primarily to answer questions. The department is continuing to analyze possible options.

CHAIR DAVIS asked if moving the bill forward at this time would interfere with those conversations.

MR. SHERWOOD replied to the best of his knowledge DHSS has no position on movement of the bill.

CHAIR DAVIS opened public testimony on SB 5.

[1:45:56 PM](#)

KATIE CHAPMAN, representing Planned Parenthood, said Planned Parenthood Votes Alaska supports the increase in Denali KidCare eligibility. The increase is good policy for the health and economics of our state. It reflects sound fiscal policy; children and pregnant women without access to health care are

four times as likely to use emergency room care. SB 5 simply brings eligibility back to the original level approved by the legislature in 1999. Alaska continues to be one of the few states that do not prioritize the needs of children and pregnant women.

[1:47:43 PM](#)

CAREN ROBINSON, representing the Alaska Women's Lobby, said the Alaska Women's Lobby has been at the table in support of Denali KidCare since 1999. They were defeated in 2004, and were pleased when the eligibility changed last year, and crushed when the governor vetoed the bill. Nearly 200 organizations have joined in asking the legislature to put us back up to 200 percent. Her grandson was a Denali KidCare baby; the hospital bill for his birth was \$65,000; this would have been a crushing debt for his parents. She reminded the committee that the legislature has the veto override power.

[1:50:37 PM](#)

SENATOR MEYER said the committee is supportive of SB 5, but there is that issue that is a concern to the governor and other legislators. He asked if she had any suggestions.

MS. ROBINSON responded that because of the constitution there are no real solutions. She would like to get a better handle on coding; there is some confusion regarding what is considered medically necessary. Even if a woman receives counseling but does not actually have an abortion, it could be coded as an abortion related service. There is also a national waiver program which involves intensive family planning services. The most recent study shows that states with this waiver have cut abortion rates in half. This helps families to make good decisions, and brings down the number of abortions instead of penalizing women who make the decision to have a child and who need this health care. She said she understands and respects the issue.

SENATOR MEYER said he had heard the same thing. Sometimes a miscarriage could be coded as an abortion. So this does need to be researched. A miscarriage is a loss.

MS. ROBINSON agreed.

[1:54:59 PM](#)

CHAIR DAVIS asked Mr. Sherwood to return to the stand. Noting that many women say miscarriages are classified as abortions, she asked him to speak about the medical coding.

MR. SHERWOOD said he was not an expert on the coding, but he could provide some information. He said that the department reviewed the statistics for "abortion related services" and they did not find instances where miscarriages were reported as abortions. For purposes of clarification, they are not grouping every termination of pregnancy together. He could provide more specific information on the actual coding.

CHAIR DAVIS asked what the state actually pays towards abortions and how are they billed.

MR. SHERWOOD answered eligibility categories are not changed. Denali KidCare is a subset of the larger Medicaid program. When anyone with Medicaid eligibility has an abortion, the state pays and does not claim federal funds. These women may be eligible for family or disability related Medicaid. At the payment level it is all just Medicaid.

CHAIR DAVIS asked why the state doesn't claim the federal funds for abortions.

MR. SHERWOOD responded there is a federal law restricting use of federal funds for abortions, the Hyde amendment. This mandates that federal funds can only be used for abortions in the case of rape, incest, or to save the life of the mother. The state will claim federal funds if they receive a form from the physician certifying those conditions have been met. Generally speaking the form is not submitted. So they lack the documentation to justify making the federal expenditure.

CHAIR DAVIS asked if DHSS could make that a requirement.

MR. SHERWOOD responded that court cases prevent us from limiting our coverage.

CHAIR DAVIS asked if they could be paid by the federal government, why providers are not required to submit forms.

[2:00:21 PM](#)

MR. SHERWOOD answered the state doesn't know what cases might be involved. Providers might not always know with certainty.

[2:00:52 PM](#)

STACIE KRALY, Assistant Attorney General, Department of Law, (DOL), said the question is can we require providers to submit certification in order to seek federal matching dollars for Hyde

Amendment abortions. She said she did not know whether the department has evaluated that question, but it warrants further investigation. DHSS could potentially increase its reporting requirements to require providers to submit that certification for purposes of federal reimbursement. She said she could look into this.

SENATOR DYSON said his memory is we had this debate a year or more ago; for a family of two, at 175 percent; they could be making \$45 or \$58 thousand dollars.

MR. SHERWOOD said he had the chart in his folder. Annual income for a family of 2 at 175 percent of poverty is \$32,165; for a family of four it is \$48,895.

[2:03:34 PM](#)

JOY LYON, Executive Director, Alaska Association for the Education of Young Children (AEYC), said Denali KidCare expansion is high on their list of priorities. AEYC also represents many local Juneau partners with its Best Beginnings partnership. They want to get families away from the emergency room. Partnership for Families in Juneau is working with pediatricians and health providers. All are using a screening tool around the risk factors for stress in the family. Doctors are able to guide families to appropriate services. Lowering the eligibility level for Denali KidCare would result in stronger, healthier children.

[2:05:46 PM](#)

GUS MARKS, Juneau Youth Services, said about 75 percent of their clients are on Denali KidCare. One issue is that grants are becoming more competitive and they receive less funding each year. The expansion of Denali KidCare would help them.

[2:06:50 PM](#)

MARY SULLIVAN, Alaska Primary Care Association, testified in support of SB 5. Children with access to primary care have healthier lives and do better in school. She has a family member who got pregnant early in life, and having the option of Denali KidCare was part of her decision to keep the baby. Now the mother is off of public support and is a productive citizen. Denali KidCare helps people make better choices. Anchorage Senior Citizen Advisory Commission also unanimously voted to support this bill; 8,000 seniors are raising grandchildren in Alaska, and many are on limited incomes.

[2:09:06 PM](#)

RANDY SWEET, United Way of Anchorage, said the United Way supports the increase in eligibility. They do appreciate the complexities of this issue; Alaskans have a tradition of working together to solve problems. Together we can respect diverse viewpoints and promote and protect the health of vulnerable women and children.

[2:10:56 PM](#)

DEBBIE LEFLECHE, YWCA of Anchorage, testified in support of SB 5. She said preventive care saves us all money.

[2:11:55 PM](#)

WEETA MORRISON, representing herself, said she was a single parent and fortunately had insurance but she knows others who have used Denali KidCare. Receiving preventive care prevents future problems.

[2:13:11 PM](#)

KATHY DIAMOND, Tanana Chiefs, testified in support of SB 5. They have seen many patients benefit from this coverage. There will be many children and pregnant women who would be covered and be eligible to receive medical care.

[2:14:19 PM](#)

RICHARD PECK, Board President, Liuliuk Clinic, Unalaska, testified in support of SB 5. He said that expansion of Denali KidCare would help them to sustain their number one priority, which is the youth of their community. He would like to remind the governor that Unalaska is America's number one fishing port and this program would help them sustain and maintain the port. This would add coverage for about 30 to 40 families in their community.

[2:15:12 PM](#)

REBECCA HOWE, Raven's Way in Sitka, said she works with teenagers who have addiction issues and Denali KidCare has helped them receive appropriate treatment, including aftercare services. Increasing eligibility will help these youth and their families.

[2:16:41 PM](#)

CHAIR DAVIS asked if any committee members had comments.

SENATOR MEYER said he didn't know the meaning of "medically necessary" abortions, and wondered if it was as easy as a woman saying she might be depressed. Obviously that is a big issue.

CHAIR DAVIS said she doubted it was that easy.

JOHN SHERWOOD said the DHSS does not have a standard in statute or regulation about "medical necessity." The coverage of abortions came about through court order. That determination of "medical necessity" is made by the physician.

CHAIR DAVIS asked if he had requested a definition of the term.

[2:19:50 PM](#)

MR. SHERWOOD noted that prior to 1998 abortions were covered for Medicaid eligible women through the general relief medical program. There was a definition of therapeutic abortion in that regulation. DHSS could provide that to the committee.

CHAIR DAVIS said she would like that.

MR. OBERMEYER said Senator Davis' office had a legal memorandum prepared last November, by Jean Mischel of Legislative Legal Services, and they asked about types of abortions and definitions. Jean Mischel said that for general relief funding, 7 AAC 47.290 provides as follows:

"(7) Elective abortion means a procedure other than a therapeutic abortion to terminate a pregnancy. (8) Therapeutic abortion means the termination of a pregnancy certified by a physician as medically necessary to prevent the death or disability of the woman or to ameliorate a condition harmful to the woman's physical or psychological health, or that resulted from actions that would constitute a crime of sexual assault, a crime of sexual abuse of a minor, or the crime of incest under 11.41.450".

So there are some administrative code provisions that do define it currently, and there are federal definitions as well.

SENATOR MEYER said he would like a copy of the memo.

MR. OBERMEYER said the Supreme Court writes "it is instructive to note the trial court definition of 'medically necessary' includes the professional judgment of the physician."

CHAIR DAVIS said all the information would be provided to committee members.

SENATOR DYSON said "medically necessary" is not defined for Denali KidCare by statute or regulation or by court decision in the State of Alaska.

[2:24:36 PM](#)

CHAIR DAVIS closed public testimony on SB 5 and said she would bring it before the committee on Monday. She stated she would like to move the bill on that date.

[2:25:06 PM](#)

There being no further business to come before the committee, she adjourned the meeting at 2:25 p.m.