

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

March 28, 2013

3:07 p.m.

**MEMBERS PRESENT**

Representative Pete Higgins, Chair  
Representative Wes Keller, Vice Chair  
Representative Benjamin Nageak  
Representative Lance Pruitt  
Representative Lora Reinbold  
Representative Paul Seaton  
Representative Geran Tarr

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

HOUSE BILL NO. 134

"An Act requiring Medicaid payment for scheduled unit dose prescription drug packaging and dispensing services for specified recipients."

- HEARD & HELD

**PREVIOUS COMMITTEE ACTION**

BILL: HB 134

SHORT TITLE: MEDICAID PAYMENT FOR MEDISET PRESCRIPTION

SPONSOR(S): REPRESENTATIVE(S) COSTELLO

02/20/13	(H)	READ THE FIRST TIME - REFERRALS
02/20/13	(H)	HSS, FIN
03/19/13	(H)	HSS AT 3:00 PM CAPITOL 106
03/19/13	(H)	Heard & Held
03/19/13	(H)	MINUTE(HSS)
03/28/13	(H)	HSS AT 3:00 PM CAPITOL 106

**WITNESS REGISTER**

CHARLES GUINCHARD, Staff  
Representative Mia Costello  
Alaska State Legislature  
Juneau, Alaska

**POSITION STATEMENT:** Presented HB 134 on behalf of Representative Costello, sponsor of the bill.

ROBIN COOK, President  
Alaska Pharmacist Association  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during discussion of HB 134.

KATRINA BETTS  
Ark of Anchorage  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during discussion of HB 134.

PAUL BROTHERTON, Manager  
Anchorage Medset Pharmacy, Inc. (AMP Pharmacy)  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during discussion of HB 134.

SHERRY METTLER  
Assisted Living Industry  
Kenai, Alaska

**POSITION STATEMENT:** Testified during discussion of HB 134.

THERESA BRINSKY, RN  
Marlow Manor Assisted Living  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during discussion of HB 134.

KAHALANI DREW  
Anchorage, Alaska

**POSITION STATEMENT:** Testified during discussion of HB 134.

JON SHERWOOD, Medicaid Special Projects  
Office of the Commissioner  
Department of Health and Social Services  
Juneau, Alaska

**POSITION STATEMENT:** Testified during discussion of HB 134.

MARY MUNDELL  
Susitna Mediset Services  
Wasilla, Alaska

**POSITION STATEMENT:** Testified during discussion of HB 134.

#### **ACTION NARRATIVE**

[3:07:39 PM](#)

**CHAIR PETE HIGGINS** called the House Health and Social Services Standing Committee meeting to order at 3:07 p.m. Representatives Higgins, Nageak, Keller, Tarr, Seaton, Reinbold, and Pruitt were present at the call to order.

**HB 134-MEDICAID PAYMENT FOR MEDISET PRESCRIPTION**

[3:09:27 PM](#)

CHAIR HIGGINS announced that the only order of business would be HOUSE BILL NO. 134, "An Act requiring Medicaid payment for scheduled unit dose prescription drug packaging and dispensing services for specified recipients." [In front of the committee was Version 28-LS0303\P, Mischel, 3/18/13, adopted as the working document on March 19, 2013.]

[3:09:41 PM](#)

REPRESENTATIVE PRUITT moved to adopt the proposed committee substitute (CS) for HB 134, labeled 28-LS0303\Y, Mischel, 3/23/13, as the working document.

REPRESENTATIVE SEATON objected for an explanation to the changes.

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CHARLES GUINCHARD, Staff, Representative Mia Costello, Alaska State Legislature, explaining the changes to the proposed working document, directed attention to page 2, lines 3-12, of Version Y. He explained that the Department of Health and Social Services used criteria to consider the fee for dispensing services of a prescription, and he shared that these criteria had now been refined to "eliminate duplicative and ambiguous language." He noted that language regarding the review of returned medication packaging and the necessity for a 24 hour, on-call pharmacist had been deleted. He reported that the provision regarding quarterly review had been amended to allow the review to be conducted by phone, and would ensure that a pharmacist was not operating in excess of the scope of their practice. He stated that the provision regarding local delivery had been clarified to ensure the most cost effective method for delivery.

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REPRESENTATIVE REINBOLD asked to define the most cost effective method for delivery, as she had been under the impression that it was to be delivery by the USPS.

MR. GUINCHARD, directing attention to page 2, line 12, said that local delivery would use the most cost effective method. He indicated page 2, line 13, and specified that non-local delivery was to also use the most cost effective method, "specifically by mail."

[3:13:18 PM](#)

REPRESENTATIVE PRUITT asked to clarify whether the definition for mail included UPS and Fed Ex, as well as USPS.

MR. GUINCHARD, in response, stated that the proposed bill only specified that it be the most cost effective method by mail, when local service was not available. He offered his belief that the method could include any of the aforementioned mail services.

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REPRESENTATIVE SEATON directed attention to page 2, line 15, and asked to clarify if "mail" included package delivery services.

MR. GUINCHARD, in response to Representative Seaton, indicated that there was not a memorandum from Legislative Legal Services, but that, although the request for changes had explicitly asked for an insert of language to include USPS, Fed Ex, and UPS, this language had been the response. He offered his belief that this allowed the flexibility for use of any of the delivery services.

REPRESENTATIVE SEATON asked to have these services more clearly defined to include those other than USPS.

MR. GUINCHARD replied that it would be done.

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REPRESENTATIVE KELLER, indicating page 1, line 9, asked if there were any statutory guidelines for criteria to a physician that required "scheduled unit doses in medication compliance packaging."

MR. GUINCHARD, in response, opined that it was not clarified in statute; however, page 1, line 11, would give DHSS the authority

to promulgate regulations specifying the eligibility for patients.

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REPRESENTATIVE KELLER expressed his concern with any program that was expanding its services. He declared his support for the packaging program, but declared that he "was struggling with the whole concept" and possibility for expansion to the cost of prescriptions.

MR. GUINCHARD pointed to page 1, line 12, and stated that the packaging was to assist patients "to adhere to a difficult dosing regimen." He reported that DHSS had a category of recipients for mediset and directed attention to a State of Alaska letter titled, "RE: Mediset fee FAQ and guidance" [Included in members' packets]. He read the list of qualifications for mediset, which included: living in a congregate home; recipient of home and community-based waiver services; eligible for Medicaid due to a disability or blindness; adult experiencing a serious mental illness; or, child experiencing a severe emotional disturbance. He opined that the intent of the sponsor was for the proposed bill to apply to this same group of recipients.

REPRESENTATIVE KELLER requested that these criteria be included in the proposed bill.

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MR. GUINCHARD remarked that the second major change for Version Y was on page 2, line 13, and that Legislative Legal Services had been requested to insert language regarding courier service for non-local delivery.

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MR. GUINCHARD reported that the last change to Version Y had been to delete a section which had referenced pharmacies including prescriptions in a mediset, even if mediset had not been noted in the prescription. This had been determined by the sponsor to be confusing and unnecessary, as it could create some unintended consequences. He stated that it was now necessary for every prescription to have mediset written on it to be included for reimbursement.

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CHAIR HIGGINS asked to clarify that there had been agreement to bundle the five criteria for reimbursement, and he questioned if that had occurred.

MR. GUINCHARD offered his belief that DHSS would consider all five criteria as associated costs in its fee calculations, and then aggregate the data to establish one fee which reflected all five criteria.

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REPRESENTATIVE SEATON removed his objection to Version Y as the working document. There being no further objection, the proposed committee substitute (CS) for HB 134, labeled 28-LS0303\Y, Mischel, 3/23/13, was adopted as the working document.

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CHAIR HIGGINS opened public testimony.

ROBIN COOK, President, Alaska Pharmacist Association, stated that the association had been concerned with the wording in the original bill, Version N, but these concerns had been addressed with the revisions. She explained that the specific concerns had included the need for a definition for a qualified pharmacy, as all pharmacies licensed in the State of Alaska, which were capable, should be able to provide this service to clients. She noted the requirement that it was necessary for a pharmacy to have 70 percent of its business as mediset, in order to be recognized as a mediset pharmacy, had been removed. She asked that the proposed bill clarify the services that would be reimbursed, and to clarify whether a pharmacy would bill for each service separately or as a bundle. She offered her belief that, although the fee would be determined by the State of Alaska through Medicaid, it would be fair to the pharmacy with no hidden costs to Medicaid. She suggested that the wording "unit dose" was incorrect, and would be better defined as "unit of use." She expressed gratitude to the sponsor of the bill, declaring that medisets were an important vehicle for safe and effective care to at-risk patients. She declared support for Version Y.

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REPRESENTATIVE SEATON asked for clarification to "unit of use."

MS. COOK explained that the definition of unit dose was a single dose packaged as a single dose unit. She pointed out that all of these single doses, when packaged with other single doses, became a unit of use, the medication plan. She clarified that "does not include a refill" was not part of the formal definition of "unit dose." Each slot that was designated for a specific time of the day was a "unit of use."

REPRESENTATIVE SEATON asked to clarify that a bubble pak, with medications which all were to be taken at the same specific time, would be designated as a "unit of use." He asked if the proposed bill should include the terminology, "does not include a refill," page 2, line 29.

MS. COOK replied that the terminology was nebulous and did not belong.

REPRESENTATIVE SEATON expressed his confusion whether the terminology regarding a refill should be removed.

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MS. COOK, in response to Chair Higgins and Representative Seaton, said that "does not include a refill" was not in the formal definition for "unit dose." She recommended eliminating "does not include a refill," or using the correct terminology for a mediset, "unit of use." She explained that "does not include a refill" referred to one drug, a "unit dose," which was packaged separately.

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MR. GUINCHARD, in response to Representative Tarr, brought attention to Amendment Y.2, labeled 28-LS0303\Y.2, Mischel, 3/28/13, which read:

Page 1, line 6:  
Delete "**dose**"  
Insert "**of use**"

Page 1, line 10:  
Delete "unit doses"  
Insert "units of use"

Page 1, line 12:  
Delete "difficult"  
Insert "specific"

Page 2, line 25:  
Delete "dose"  
Insert "of use"

Page 2, line 28:  
Delete the first occurrence of "dose"  
Insert "of use"

Referencing page 2, line 28 in proposed Amendment 1, which recommended deleting "dose" and inserting "of use" in Version Y, he declared that this amended language would be the definition for a unit of use, and he pointed out that the remainder of the text on lines 28 and 29 of Version Y would remain the same. He stated that the remainder of the proposed amendment would conform to this definition change.

REPRESENTATIVE TARR opined that testimony by Ms. Cook had now indicated that this proposed amendment was not the correct definition, and she offered to consider a further amendment.

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CHAIR HIGGINS asked if this change from "unit dose" to "unit of use" would correct the definition.

MS. COOK, in response, offered to supply the correct definition for "unit of use."

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REPRESENTATIVE KELLER asked for clarification of the proposal in Amendment 1 to delete "difficult" and insert "specific" on page 1, line 12.

MS. COOK offered her belief that "specific" would be more effective.

REPRESENTATIVE KELLER declared that, as there were no guidelines in the current Version Y for the appropriate use of medisets, "this would be it." He opined that the definition which was used in regulation should be used in this version.

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MS. COOK, in response, explained that a patient, who could not manage medication, was often referred by a pharmacist to a

mediset pharmacy. She clarified that, although this was usually initiated by the physician's office after many treatment failures, the pharmacy providers could determine this was an option.

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The committee took a brief at-ease.

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CHAIR HIGGINS brought the committee back to order.

REPRESENTATIVE PRUITT moved to adopt Amendment 1, labeled 28-LS0303\Y.2, Mischel, 3/28/13. [Text included above]

REPRESENTATIVE SEATON objected for discussion.

MR. GUINCHARD explained that Amendment 1 was in response to discussion with the Alaska Pharmacists Association for substitutions which would strengthen and maintain the intent of the bill. He pointed to the proposed change on page 1, line 6, and noted that this was an attempt to better define "unit of use" throughout Version Y.

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REPRESENTATIVE KELLER, pointing to the proposed change on page 2, line 25, suggested that the change would create a grammatical error. He opined that the proper wording would be "units of use."

MR. GUINCHARD expressed agreement for a conceptual amendment to Amendment 1, a grammatical correction on page 2, line 25, which would delete "unit doses" and insert "units of use."

[The committee treated Conceptual Amendment 1 as adopted.]

[3:42:04 PM](#)

MR. GUINCHARD explained that the Alaska Pharmacists Association had suggested the change on page 1, line 12, which would delete "difficult" and insert "specific."

REPRESENTATIVE NAGEAK asked for an explanation.

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MS. COOK, in response to Representative Nageak, explained that a patient could have numerous medications, but if the patient was non-compliant, they would not be receiving the necessary treatment. She said that the proposed change would allow packaging of a small number of medications to ensure compliance.

REPRESENTATIVE NAGEAK asked to clarify that this linked to packaging.

MS. COOK expressed her agreement that the proposed change would allow packaging and payment as a mediset.

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MR. GUINCHARD explained that "difficult" was a subjective term, in that its reference was for a dosing regimen for a capable person. He noted that a simple dosing regimen could still be difficult for a patient not able to manage their own regimen, and that the proposed use of "specific" would add clarity to the proposed bill.

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REPRESENTATIVE KELLER declared his objection to proposed Amendment 1. He asked for a definition to both "specific" and "difficult."

CHAIR HIGGINS opened public testimony.

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REPRESENTATIVE SEATON removed his objection to proposed Amendment 1, but requested that there be clarity for the conceptual amendment and for the request by Representative Keller.

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The committee took a brief at-ease.

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REPRESENTATIVE PRUITT withdrew proposed Amendment 1.

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KATRINA BETTS, Ark of Anchorage, stated that the individuals outlined by the guidelines for waiver services and behavioral health services had already qualified for these services to be written into a treatment plan through a physician. She pointed out that these individual recipient guidelines already existed. She emphasized that the individuals really needed these services to maintain independence and quality of life. She noted that, without these services, there would be higher costs from emergency room visits, jail, and other incidences. She declared that provider agencies and physicians worked to ensure that these supports for individuals remained in place to obtain a quality of life.

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CHAIR HIGGINS declared that there was not any intent to eliminate the mediset program, but to "improve upon it."

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PAUL BROTHERTON, Manager, Anchorage Medset Pharmacy, Inc. (AMP Pharmacy) explained that the mediset program allowed a patient to take medication out of one slot in a package for each specific time on each specific day. He suggested amending page 2, line 24 to read: "one or more prescription medications that have been divided by a provider into individual doses to be taken over a specified period..." He offered his belief that this would eliminate the necessity of the definition currently on page 2, lines 28-29.

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REPRESENTATIVE TARR asked Ms. Betts if the revised version of the proposed bill had persuaded her organization to testify.

MS. BETTS replied that, although her organization appreciated the changes, it had been a scheduling conflict that had prevented earlier testimony.

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SHERRY METTLER, Assisted Living Industry, stated her full support for adopting this into statute, in order not to be "revisiting this issue time and time and time again." She declared that medisets were important to assisted living home residents.

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THERESA BRINSKY, RN, Marlow Manor Assisted Living, referred to her prior testimony to the House Health and Social Services Standing Committee on March 19, 2013. She declared that there would be a significant increase of costs in other areas, including emergency rooms, correctional facilities, and Alaska Psychiatric Institute, if medisets were eliminated.

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KAHALANI DREW shared that she was "first and foremost, a mother" of eight children, seven of whom were adopted from Office of Children Service-type organizations. She declared that, because of her children's disabilities, she counted on the mediset regimen for her children to function, and she offered an anecdotal account about one of her children.

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CHAIR HIGGINS said that he would leave public testimony open.

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JON SHERWOOD, Medicaid Special Projects, Office of the Commissioner, Department of Health and Social Services, in response, clarified that the fiscal note had been written in response to an earlier Committee Substitute (CS) to HB 134, Version 28-LS0303\P, Mischel, 3/18/13, which the committee had adopted as the working draft on March 19, 2013. He reported that the fiscal note reflected an appropriation of \$414,000 for FY 14, which was awarded using a match of state general funds with federal funds. He stated that this assumed that implementing regulations were in effect for the proposed bill. He pointed out that the fiscal note would increase in subsequent years to \$1,657,000, which would continue to be derived from the match of state general funds with federal funds. He explained that this increased fiscal note was the result of weekly, instead of monthly, dispensing of medications and mediset fees, and an increase by the providers to include the Fairbanks area.

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REPRESENTATIVE KELLER, referencing the aforementioned regulations to be set for the mediset pharmacy providers, offered his belief that it was necessary "to be really, really careful" with any increased costs to health care expansion. He

asked for further explanation that "if somebody is served at a home, or a community based waiver, and they're given a service, give me an idea, to be eligible for a home waiver for care really doesn't have any direct ramifications on the person that is being served, their mental state, whether or not they have family support, all that kind of thing, aren't really definitive as to whether or not the service is needed or not, right?" He asked to clarify that there was more Medicaid eligibility by qualifying for disability under social security. He asked if the fiscal note for expansion was beyond a geographical expansion, and would be an increase of service to a greater number of individuals.

MR. SHERWOOD, in response to Representative Keller, said that the increase to the fiscal note was strictly geographic, and would not change the scope of the mediset eligible population. He explained that eligibility for a home and community based waiver was determined by a nursing home level of care, or a care facility for intellectual or developmental disabilities. He offered his belief that DHSS "thought it was an appropriate target group when we made our regulations." Regarding disabilities, he stated that the social security criteria had not changed. He noted that, with the wide range for disabilities, some would need assistance with adherence to medication.

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REPRESENTATIVE KELLER stated that, although mediset was a wonderful service, his concern was for an inappropriate expansion. He asked if Mr. Sherwood was comfortable enough with the regulatory criteria to place it into statute. He offered his belief that there was an incentive for both providers and beneficiaries to have this service made available. He asked if it was necessary to put these regulations into statute.

MR. SHERWOOD replied that DHSS did not have a position on the language, and noted that any changes to the regulatory structure for licensing and regulations would have to be made in statute.

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CHAIR HIGGINS asked for a response to his belief that the mediset program was better in regulation than in statute.

MR. SHERWOOD replied that the administration did not have a position on the proposed bill.

CHAIR HIGGINS opined that the crux of the problem was that, as DHSS were the experts on administering programs for the state, and that the House Health and Social Services Standing Committee wanted to ensure that DHSS had the necessary tools, it was necessary for the committee to understand the department's position on the proposed bill. He offered his belief that regulations could be more quickly adapted than statutes.

MR. SHERWOOD replied that DHSS believed it had adequate statutory authority to provide mediset reimbursement. He noted that, as specific criteria was not in statute, the department had more flexibility. He reported that DHSS contended with providing access to appropriate care, while meeting the federal criteria, and having payment methodologies that were efficient and cost effective. He expressed his agreement that there was a benefit to flexibility.

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REPRESENTATIVE SEATON, referring to page 2, line 3, of the fiscal note [included in members' packets], asked if it was more cost effective to change medications during a monthly mediset cycle and lose the value for unused medication or to use a more costly weekly mediset dispensing cycle, which allowed for changes to medication and a minimal value loss for unused medication.

MR. SHERWOOD, in response, explained that the monthly dispensing fee did not restrict the dispensing to once a month. It only restricted the number of times for receiving a fee. He reported that a new prescription for a different dosage or drug initiated a new dispensing fee. He opined that there were not general concerns for the dispensing fees, although he was not the expert with the pharmacy issues.

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REPRESENTATIVE SEATON stated that he was not able to find a basis for comparison of the weekly versus monthly dispensing fee, with regard to the loss of medication values resulting from changes to prescriptions.

MR. SHERWOOD offered to research the records available, and see if that information was in the claims data.

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REPRESENTATIVE SEATON clarified that he was only requesting estimation for wasted prescriptions, in order to give parameters to the fiscal note.

[4:19:06 PM](#)

MARY MUNDELL, Susitna Mediset Services, stated that she appreciated the committee support for the mediset program. She shared that new regulations proposed by the Centers for Medicare and Medicaid Services would decrease reimbursement by 7 percent. She offered her belief that the information was based on an error in the cost of dispensing survey, which resulted in the decrease. She said that mediset pharmacies would no longer be able to offer services with this decrease, as it was "way below our cost of doing business." She offered to provide financial information to better understand the importance of reimbursements.

[HB 134 was held over.]

[4:23:24 PM](#)

#### **ADJOURNMENT**

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 4:23 p.m.