ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE
March 10, 2015
3:05 p.m.

MEMBERS PRESENT

Representative Paul Seaton, Chair
Representative Liz Vazquez, Vice Chair
Representative Neal Foster
Representative Louise Stutes
Representative David Talerico
Representative Geran Tarr
Representative Adam Wool

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

HOUSE BILL NO. 59
"An Act relating to marijuana concentrates; and providing for an effective date."

- MOVED CSHB 59(HSS) OUT OF COMMITTEE

DISCUSSION: MEDICAID EXPANSION

- HEARD

HOUSE BILL NO. 40
"An Act relating to the use of electronic cigarettes; and providing for an effective date."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: HB 59
SHORT TITLE: MARIJUANA CONCENTRATES; LICENSES
SPONSOR(s): REPRESENTATIVE(s) SEATON

01/21/15	(H)	PREFILE RELEASED 1/16/15
01/21/15	(H)	READ THE FIRST TIME - REFERRALS
01/21/15	(H)	HSS, JUD
02/03/15	(H)	HSS AT 3:00 PM CAPITOL 106

02/03/15	(H)	Heard & Held
02/03/15	(H)	MINUTE(HSS)
02/26/15	(H)	HSS AT 3:00 PM CAPITOL 106
02/26/15	(H)	Heard & Held
02/26/15	(H)	MINUTE(HSS)
03/10/15	(H)	HSS AT 3:00 PM CAPITOL 106

BILL: HB 40
SHORT TITLE: USE OF ELECTRONIC CIGARETTES AS SMOKING
SPONSOR(s): REPRESENTATIVE(s) HERRON

01/21/15	(H)	PREFILE RELEASED 1/9/15
01/21/15	(H)	READ THE FIRST TIME - REFERRALS
01/21/15	(H)	HSS, JUD
03/10/15	(H)	HSS AT 3:00 PM CAPITOL 106

WITNESS REGISTER

VALERIE DAVIDSON, Commissioner Designee
Office of the Commissioner
Department of Health and Social Services (DHSS)
Juneau, Alaska
POSITION STATEMENT: Answered questions previously posed to the Department of Health and Social Services by the committee.

JON SHERWOOD, Deputy Commissioner
Medicaid and Health Care Policy
Office of the Commissioner
Department of Health and Social Services
Juneau, Alaska
POSITION STATEMENT: Answered questions during the DHSS response to questions previously posed by the committee.

MARGARET BRODIE, Director
Director's Office
Division of Health Care Services
Department of Health and Social Services
Juneau, Alaska
POSITION STATEMENT: Answered questions during the DHSS response to questions previously posed by the committee.

JARED KOSIN, Executive Director
Rate Review
Division of Health Care Services
Department of Health and Social Services
Anchorage, Alaska

POSITION STATEMENT: Answered questions during the DHSS response to questions previously posed by the committee.

MONIQUE MARTIN, Health Care Policy Advisor
Office of the Commissioner
Department of Health and Social Services
Anchorage, Alaska
POSITION STATEMENT: Answered questions during the DHSS response to questions previously posed by the committee.

ALBERT WALL, Director
Central Office
Division of Behavioral Health
Department of Health and Social Services
Juneau, Alaska
POSITION STATEMENT: Answered questions during the DHSS response to questions previously posed by the committee.

REPRESENTATIVE BOB HERRON
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Presented HB 40 as the sponsor of the bill.

ROB EARL, Staff
Representative Bob Herron
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: Explained the changes to HB 40 on behalf of the bill sponsor, Representative Herron.

EMILY NENON, Alaska Government Relations Director
American Cancer Society Cancer Action Network
Anchorage, Alaska
POSITION STATEMENT: Testified during discussion of HB 40.

CHAR DAY
Americans for Non-Smokers' Rights (ANR)
Berkeley, California
POSITION STATEMENT: Testified in support of HB 40.

ACTION NARRATIVE

3:05:45 PM

CHAIR PAUL SEATON called the House Health and Social Services Standing Committee meeting to order at 3:05 p.m.

Representatives Seaton, Foster, Tarr, Wool, Talerico, Stutes, and Vazquez were present at the call to order.

HB 59-MARIJUANA CONCENTRATES; LICENSES

3:06:12 PM

CHAIR SEATON announced that the first order of business would be HOUSE BILL NO. 59, "An Act relating to marijuana concentrates; and providing for an effective date."

3:08:13 PM

REPRESENTATIVE VAZQUEZ moved to adopt the proposed committee substitute (CS) for HB 59, labeled 29-LS0257\F, Martin, 2/28/15, as the working draft. There being no objection, it was so ordered.

3:08:44 PM

REPRESENTATIVE VAZQUEZ moved to report CSHB 59, Version 29-LS0257\F, Martin, 2/28/15, out of committee with individual recommendations and the accompanying fiscal notes.

REPRESENTATIVE WOOL objected for the purpose of discussion. He stated that he was a license holder under AS 4, and, as portions of the proposed bill dealt with license holders, he opined that it was more appropriate for some of the stipulations and issues to be worked out by the regulatory board.

3:09:44 PM

REPRESENTATIVE WOOL maintained his objection.

A roll call vote was taken. Representatives Foster, Vazquez, Talerico, and Seaton voted in favor of CSHB 59. Representatives Tarr, Wool, and Stutes voted against it. Therefore, CSHB 59(HSS) was reported out of the House Health and Social Services Standing Committee by a vote of 4 yeas - 3 nays.

[Further discussion of HB 59 occurred later in this meeting.]

Discussion: Medicaid Expansion

3:11:03 PM

CHAIR SEATON announced that the next order of business would be a response by the Department of Health and Social Services to the previously asked questions on Medicaid Expansion.

VALERIE DAVIDSON, Commissioner Designee, Office of the Commissioner, Department of Health and Social Services (DHSS), said that the Healthy Alaska plan, previously introduced to the committee, and Medicaid Expansion both offered benefits, improved the health of Alaskans and the economy of Alaska, and saved general fund dollars. She declared that this was "a really good investment for Alaska" as it infused a significant amount of federal funds into the Alaska economy at a time when the economy could use the boost.

CHAIR SEATON directed attention to the graph, titled "All Medicaid Direct Services Beneficiaries and Expenditures" [Included in members' packets].

3:13:05 PM

REPRESENTATIVE TARR asked for a comparison to the number of the beneficiaries as a percentage of population in other states. She questioned if Alaska was "on par" and had similar percentages.

COMMISSIONER DAVIDSON offered her belief that Alaska did have similar percentages, but stated that she would provide the accurate information.

3:13:50 PM

REPRESENTATIVE VAZQUEZ said that she could not address the obvious inconsistencies with such short notice, offering an example for the stated enrollment of approximately 140,000 enrollees, even though the information that she had researched in her personal conversations indicated that there were 165,000 enrollees. She reported that the Centers for Medicare and Medicaid Services (CMS) had stated that enrollment was 124,000. She asked which figure was correct. She said that there would be other inconsistencies and that she was not prepared to address all the issues given this short notice.

CHAIR SEATON reminded her that this was a short follow up and a short response to get all the information, and that the committee was not moving the bill out of committee today. He suggested that specific questions could be presented and that a work session, while sitting around a table and not on opposite

sides of table, could be conducted. He declared that it was necessary to put the questions on the table, in order to address them in the future.

3:16:33 PM

REPRESENTATIVE VAZQUEZ said that she would prefer to move on and discuss the discrepancies at a later time.

CHAIR SEATON explained that these were responses to the questions submitted after the previous committee meeting. He declared his desire to ensure that every member of the committee had the time to analyze these responses, and that any qualitative responses from the department could be placed on the record.

3:17:24 PM

JON SHERWOOD, Deputy Commissioner, Medicaid and Health Care Policy, Office of the Commissioner, Department of Health and Social Services, in response to Representative Vazquez, directed attention to the truncated footnote at the bottom of the table, and offered to follow up for the specific details to which number was used for Medicaid enrollees. He explained that different reports generated different numbers, as some were average monthly enrollment, and others were quarterly or annual unduplicated numbers. He offered to provide the source of this figure to the committee.

CHAIR SEATON said that he was unaware of the various sets of numbers, and that the committee would wait for the information.

REPRESENTATIVE WOOL pointed to the decline for the Medicaid numbers in 2014, and asked if this was related to the implementation of the Patient Protection and Affordable Care Act.

MR. SHERWOOD replied that the expenditure numbers very likely reflected conversion into the new Enterprise Medicaid Management Information System (MMIS). He said that there was some possibility that the change in beneficiaries reflected the required change in income methodology, MAGI (Modified Adjusted Gross Income), a result of the Patient Protection and Affordable Care Act. He explained that MAGI impacted the way income for certain children, parents, caretaker relatives, and pregnant women was calculated. He shared that the department was not yet

comfortable with a definitive explanation to the beneficiary changes.

3:20:11 PM

COMMISSIONER DAVIDSON added that the Patient Protection and Affordable Care Act had changed the ways of qualification for Medicaid, subsequently making it easier. As asset testing was no longer used, it was now only based on modified adjusted gross income, which she referred to as "the welcome mat effect."

CHAIR SEATON asked in which year on the chart this had come into effect.

MR. SHERWOOD explained that the change for benefits took effect on January 1, 2014, and that a provision for a three month transition did not allow a case to be closed as a result of the application of the new rules. He noted that some children had been extended for another year if the changes had a negative impact. He allowed that in most circumstances the changes were favorable, although there could be a negative impact when it required the accounting of income from step parents when everyone was part of the same tax filing. He noted that previously the department had been prohibited from including step parent income.

CHAIR SEATON asked that an explanation for the decline in numbers be presented.

3:22:14 PM

REPRESENTATIVE TARR asked if January 1, 2014 had been the effective date for both the Patient Protection and Affordable Care Act and Medicaid Expansion, in order to make it easier for qualification and enrollment.

COMMISSIONER DAVIDSON replied "yes." She relayed that under the original law, Medicaid Expansion was mandatory for states. She noted that the decision by the U. S. Supreme Court allowing states to opt out of Medicaid Expansion had created a "new donut hole" in Medicaid, as individuals who earned less than 100 percent of the federal poverty level were now not eligible for subsidies on the federally facilitated market place.

3:23:38 PM

REPRESENTATIVE VAZQUEZ directed attention to the total funds for 2014, at the bottom of the spread sheet titled "Medicaid Expenditures by Fund Source," [Included in members' packets] which totaled $1,326,503,000. She stated that other budgetary documentation in the Legislature indicated that this would be closer to $1.7 billion. She asked about the discrepancy.

3:24:44 PM

MARGARET BRODIE, Director, Director's Office, Division of Health Care Services, Department of Health and Social Services, asked for clarification to the question.

REPRESENTATIVE VAZQUEZ stated that she had documentation elsewhere that indicated the 2014 expenditure was closer to $1.7 billion.

MS. BRODIE replied that, although the Medicaid projection for 2014 had been close to $1.6 billion, this chart was for the actual expenditure. She reported that DHSS had tightened down on the waiver programs through the reassessments, resulting in a lot of cost savings.

3:26:47 PM

REPRESENTATIVE TARR asked if the Medicaid reform efforts to this point had already resulted in $300 million in savings.

MS. BRODIE replied that the savings might not be that high, as half had been in cost savings, whereas the other half was because the system had yet not paid disputed claims.

REPRESENTATIVE VAZQUEZ asked about the difficulties with MMIS, and whether this had resulted in non-payment for claims which were customarily paid.

MS. BRODIE expressed her agreement, but pointed out that currently there had been correct payment for over 95 percent of the claims.

REPRESENTATIVE VAZQUEZ asked if claims were still being paid with paper checks.

MS. BRODIE replied that DHSS paid both electronically and with paper checks.

REPRESENTATIVE VAZQUEZ asked for the breakdown.

MS. BRODIE replied that she would research that.

3:28:36 PM

COMMISSIONER DAVIDSON asked to elaborate on a point previously made by Ms. Brodie. She reported that, when MMIS was delayed, Ms. Brodie and her team "worked really hard with providers to be able to get advance payments paid," to enable some revenue to many providers, a process she had negotiated with CMS to allow providers "to keep their doors open." She pointed out that, although the department had CMS approval to book those figures, a later determination had been made by the Division of Legislative Audit that those figures had not been claimed through the MMIS system, and consequently needed to be set aside and moved forward to 2015. She opined that some of that could be reflected in this spreadsheet. She relayed that, although the department had been very careful to have clearance for these advance payments from CMS, the Division of Legislative Audit had required that the payment claims be booked in 2015.

3:30:58 PM

CHAIR SEATON expressed his appreciation for the Department of Health and Social Services efforts to make those advance payments, as it otherwise could have created accounting nightmares for years.

CHAIR SEATON directed attention to the second question, "Please provide the numbers for Medicaid expansion at full enrollment." [Included in members' packets] He explained that this should include everyone who was eligible for Medicaid, and he read from the attached table dated July 1, 2015: Newly Eligible Adults, 41,910; Spending Per Enrollee, $7,248; Federal Participation Rate, 100 percent; Federal Spending, $303,763,680; State Spending, $1,460,650; Offsets to State Spending from CAMA, Department of Corrections, and Behavioral Health Grants, (6,100,000); and Savings to State, ($4,639,350).

3:33:38 PM

REPRESENTATIVE VAZQUEZ directed attention to the aforementioned table on page 2, and asked about the offsets to state spending, questioning why the woodwork effect, discussed in the Lewin Group report, had not been taken into account.

COMMISSIONER DAVIDSON replied that her original DHSS presentation on Medicaid Expansion had mentioned the Lewin Report, as well as the Urban Institute report, which she referred to, affectionately, as "dueling banjo reports." She stated that, as they were both dated and conducted by firms which did not have a lot of experience with Alaska, DHSS had asked Evergreen Economics to analyze the Medicaid data. She pointed out that Evergreen Economics had a long history analyzing Medicaid data for DHSS. She stated that the woodwork effect reflected people who had already signed up for Medicaid.

3:35:55 PM

REPRESENTATIVE VAZQUEZ said that the Lewin report suggested a substantial effect from the woodwork effect, and as these people were already eligible, they would only have a 50 percent federal match. She stated that this report came out in April, 2013, whereas the Evergreen report came out in February, 2015, and that there were dramatic differences between the two reports. She stated that she had tables that she would share with everyone, and that her research indicated that there would be an effect and an additional expense to the state from this woodwork effect.

COMMISSIONER DAVIDSON replied that it depended on how this was categorized. She stated that the impact from expanded Medicaid coverage would not include the people on woodwork, as they were already eligible for the regular Medicaid program, hence there would not be an additional expense due to expansion.

REPRESENTATIVE VAZQUEZ said that this would still be an added cost to the state. She stated that there were also people who would drop private insurance or drop income in order to qualify for Medicaid.

CHAIR SEATON pointed out that this was not included in the second question regarding the cost effect for people newly eligible for Medicaid expansion. He stated that he did not want to mix apples and oranges. He asked that Commissioner Davidson also provide some estimates for this data under the Healthy Alaska plan, as well as an estimate if all the newly eligible enrolled, so that both columns could be included in a review of the parameters.

3:39:42 PM

REPRESENTATIVE VAZQUEZ, directing attention to the table with question 2, said that there should be a second column for estimated enrollment as there would not necessarily be 100 percent enrollment of newly eligible adults.

COMMISSIONER DAVIDSON replied that, as she had indicated in her prior presentation, the department anticipated about 63 percent of the eligible would enroll. She pointed out that the committee had asked for a table reflecting enrollment for 100 percent of those eligible under Medicaid Expansion.

CHAIR SEATON expressed his agreement, noting the annual increases reported in the Healthy Alaska plan.

3:41:34 PM

REPRESENTATIVE TARR asked about the spending per enrollee, noting the possibility of a "pent up need" for services by people who had not previously had access to health care, resulting in higher costs. She asked if the average cost per enrollee would go down over time.

COMMISSIONER DAVIDSON replied that Evergreen Economics had looked at the cost per enrollee and found that it was much smaller than a prior report by the Lewin Group to the State of Alaska. She explained that the eligible population for expansion were 54 percent male, with 20 percent of those men between ages 19 - 34. She reported that, although the cost per enrollee for this group had historically only grown 1 percent annually, the current estimate for 2016 had been increased to account for the initial pent up demand by those now having access to care and trying to get caught up with care. She pointed out that this projected cost per enrollee would also address the fact that Medicaid Expansion would cover some of the generally higher cost CAMA (Chronic and Acute Medical Assistance) beneficiaries, the cost for which was currently 100 percent covered by the general fund. She reported that the cost per enrollee would be about $7248 in 2016, increasing to about $8433 in 2021.

REPRESENTATIVE VAZQUEZ noted an inconsistency for the projected $6 million in administrative costs in FY 2016 on Table 2 [Included in members' packets] as the Lewin Report had estimated that cost to be about $11 million.

CHAIR SEATON acknowledged that different reports had different cost estimates. He asked if there had been any further research

to other states, beyond the Healthy Alaska plan, on whether the projected 63 percent for new enrollees was "pretty well on track." He questioned if the projection in the Healthy Alaska plan was the current estimate.

COMMISSIONER DAVIDSON replied that this was the current estimate.

3:47:33 PM

REPRESENTATIVE VAZQUEZ referenced the March 5 presentation [Healthy Alaska Plan] to the committee by Commissioner Davidson, slide 14, and said that the projected administrative cost in that report had been zero, which was quite different than the $6 million estimate.

COMMISSIONER DAVIDSON pointed to the asterisk next to the administrative cost in the Healthy Alaska plan, stating that the administrative cost for the first year was being funded by the Alaska Mental Health Trust Authority.

REPRESENTATIVE VAZQUEZ asked if that estimated amount had been about $1.5 million.

MR. SHERWOOD pointed out that this referenced the general fund savings. He explained that the total administrative expenditure, which would serve 20,000 Alaskans in the first year, in the Healthy Alaska plan would have been about $3 million, half of which was federally funded, with the remainder of the state share paid by the Alaska Mental Health Trust Authority funds. He noted that this would result in a zero cost to the general fund, even though there was a federal fund expenditure. He added that service for a projected 41,000 Alaskans in FY 2016 would increase the estimated administrative expenses.

COMMISSIONER DAVIDSON pointed out that 50 percent of the administrative costs were reimbursed by the federal government.

CHAIR SEATON reviewed that the $1.5 million of the cost from general fund would be covered by the Alaska Mental Trust Authority in FY 2016, with the remaining $1.5 million being covered by federal funds, for a total of $3 million in administrative costs.

REPRESENTATIVE VAZQUEZ said that the Lewin Group had reported a cost of $11,204,000 as the cost to the state, with an additional

cost to the federal government. She stated that there was still a discrepancy between the initial estimate by DHSS and this report.

COMMISSIONER DAVIDSON expressed agreement.

REPRESENTATIVE TARR asked for any characterization of differences since the activation of Medicaid Expansion on January 1, 2014 between the Lewin report and the Evergreen report, as there was now some data for comparison.

COMMISSIONER DAVIDSON replied that an unfortunate result from the decision by the State of Alaska to not expand Medicaid in the first year was that many Alaskans now do not have any health coverage when there could have been improvement to their health care while the state received federal funding. She relayed that a benefit of this delay had been the opportunity to look at the experience of other states in 2014 for reform of their Medicaid programs, thus providing more information to compare with Alaska's experience for Medicaid trends.

CHAIR SEATON expressed the need to recognize that there were two different reports covering two different time periods with different analyses. He stated that the committee would need to "figure out what numbers make the most sense." He pointed out that the Healthy Alaska plan from DHSS was its synopsis of the different reports with the most reasonable assumptions going forward. He allowed that it was not necessary that the committee agree with that plan, but rather that the committee decide which report to use most critically, and then decide whether DHSS had done an adequate job with its analyses of the different reports for its Healthy Alaska plan. He stated that the committee was not chastising but was working to understand the difference between each of these reports and the resulting numbers.

3:54:53 PM

REPRESENTATIVE TARR asked about the expected enrollment from Medicaid Expansion, noting that fewer enrollees could mean a significant reduction of spending by the state.

MR. SHERWOOD replied that the aforementioned presentation on the Healthy Alaska plan showed that state expenditures in FY16 at the regular rate would be zero, and that, in addition, there would be offsets to other programs resulting in a net general fund reduction. He expressed agreement that, although full

enrollment without additional funding from the Alaska Mental Health Trust Authority would incur state expenses of approximately $1.4 million, there would be substantial net reductions in general funds in excess of $4 million with the offsets.

3:56:32 PM

CHAIR SEATON moved on to question number 3, "Please provide the incomes of the hospitals that reported the $90 million in uncompensated care," and he directed attention to the handout and table of the same title in response to this question [Included in members' packets]. He summarized that Medicaid Expansion would attempt a reduction in that care with fully compensated care.

MR. SHERWOOD stated that the Office of Rate Review had supplied the information on the included table, noting that the net income listed included all sources of revenue, including one time payments, against expenses as opposed to operating revenue. He offered an example of capital appropriations in the revenue, and reported that this net income did not inherently represent profit, as a case by case analysis of each facility would be necessary.

CHAIR SEATON noted that grants appeared as net income, although it was only the facility receiving a capital grant. He added that bond issues could also be represented as net income.

3:59:32 PM

REPRESENTATIVE TALERICO offered his belief that it would be important to have a discussion for this $91 million in uncompensated care by the non-tribal facilities. He questioned whether it was possible to use these net income numbers to figure this out.

CHAIR SEATON expressed his agreement that the capital projects did make it difficult, and said that he was unsure if there was a way to get to the requested information.

4:01:36 PM

REPRESENTATIVE TARR directed attention to the listing on the aforementioned table for Providence Alaska Medical Center, with a net income of about $88 million, and asked about the corresponding 13 percent of revenue.

4:02:17 PM

JARED KOSIN, Executive Director, Rate Review, Division of Health Care Services, Department of Health and Social Services, explained that after they take total revenue and deduct total expenses, the remaining net income reflected the corresponding percentage, listed on the same line, of total revenue.

REPRESENTATIVE TARR asked how the amount of uncompensated care would be applied to the listed information for each facility. She asked if it had already been figured as an expense, or would it be subtracted from the listed net income.

MR. KOSIN replied that uncompensated care costs were considered in the total expenses that had been deducted to arrive at the net income. He said that the only way hospitals could be reimbursed for uncompensated care by the state was through the disproportionate share of hospital payments, which was distributed through the federal government as a part of the Patient Protection and Affordable Care Act, and this money was being phased out over the upcoming seven to ten years. He stated that it was considered in the reported expenses for total net income, but was reimbursed through a separate revenue stream, and not through Medicaid.

CHAIR SEATON asked if that separate revenue stream to the hospital was part of its net income.

MR. KOSIN replied that it was.

REPRESENTATIVE TARR asked if there was an industry standard that the net income should be above a specific percentage of the total revenue.

MR. KOSIN explained that the staff accountants in his office had cautioned that this global scale for total net income did not allow for any way to draw the conclusions that financial health could be assessed based on any percentage. He stated that it was necessary to draw down on each individual revenue stream and each individual expense on each line in order to determine whether there was a healthy margin. He reported that with this information this analysis would be inconclusive.

REPRESENTATIVE VAZQUEZ asked if he had any determination for the disproportionate share hospital payments.

MR. KOSIN replied that the federal government determined the aggregate amount of money allowed for disproportionate share hospital payments, and then regulations specified how the funds were to be distributed. He said that his office did figure facility specific limits for each hospital that reported uncompensated care, and then determined the relevant caps to payments for each of these hospitals.

CHAIR SEATON asked for a broad explanation of disproportionate care payment.

MR. KOSIN explained that these disproportionate share hospital payments were designed to help hospitals serving a disproportionate share of uncompensated care patients. He stated that, as patients with no payer source were still treated even though there was not any reimbursement for those costs, the federal government had created a means to help offset those costs by annually publishing a state by state aggregate amount they would fund. From this fund, each state could draw down at a 50:50 match to distribute payments to identified hospitals in order to offset the uncompensated care. He pointed out that the Patient Protection and Affordable Care Act, since Medicaid Expansion was originally mandatory, had made this program irrelevant; however, when Medicaid Expansion was ruled not mandatory, the reductions in Disproportionate Share Hospital payments were delayed and are supposed to start this year.

4:08:18 PM

REPRESENTATIVE VAZQUEZ asked if uncompensated hospital care was considered in the cost reports submitted to his office.

MR. KOSIN replied that uncompensated care was not considered for the reimbursement calculation, although it was reported in the cost report. He clarified that it was not in the Medicaid reimbursement for hospitals, and it was not compensated.

REPRESENTATIVE VAZQUEZ asked why it was reported.

MR. KOSIN replied that the Medicare cost report was a very thorough report in mechanism, as Medicare took a look at all the financials for a hospital, including the requirement to submit its annual audit. He stated that DHSS required that the same data, along with some additional financial information, be submitted for Medicaid calculations. He reported that these reports allowed the department to isolate allowable costs, and then reimburse for those costs.

REPRESENTATIVE VAZQUEZ asked about the difference between Medicare and Medicaid, and which program his office handled.

MR. KOSIN spoke about the reimbursement programs for both Medicaid and Medicare. He said that Medicaid served a different population as it was state based, and Medicare was a federal program. He said that with Medicaid, states had the authority to set the way to reimburse for Medicaid services; however, as Medicare covered the same or similar services, dependent on the population, the Medicaid programs would mirror those payment methodologies and would adjust them based on the state. He stated that the Office of Rate Review and the State of Alaska were Medicaid.

MR. SHERWOOD, in response to Representative Vazquez, stated that Medicare was a federal program providing health coverage for individuals over 65 years of age, and for individuals with disabilities. He said that it was more closely modeled to conventional insurance, as it was paid into through employer withheld taxes, was administered directly by the federal government, and provided a wide range of primary and acute care services, although it did not provide substantial long term care services. He reported that it was not based on assets or income, as the criteria was only for age or disability, and for the required payment participation. He explained that most people qualified for hospital coverage, Part A, without premiums, and that almost everyone paid for Medicare Part B, the outpatient, primary care. He noted that there was also prescription drug coverage, Part D. He explained that Medicare Advantage was for the managed care program, Part C. He declared that it was not a needs based program and the policies were made at the federal level.

MR. SHERWOOD said that Medicaid was a needs based program for individuals with low incomes, and, in some categories, asset tests did apply. He stated that it had historically been dependent on certain categorical requirements, including aged, blind, disabled, pregnant women, and children. He said that childless adults between the ages of 21 - 64, who were not parents or care taker relatives, did not have a substantial disability, and were not pregnant, did not qualify regardless of income. He explained that it was a state administered program, under federal rules, although states had certain options for what they could offer, how they administer their program, and who they can cover. He noted that the state worked in partnership with the federal government. He reported that

states paid a share of the costs of Medicaid. He allowed that some people, including the aged, and those with disabilities, low incomes and few assets, were dually eligible for both programs.

4:15:33 PM

REPRESENTATIVE VAZQUEZ summarized that Medicare was for the elderly, over 65 years of age, and the disabled and that Medicaid was for individuals with certain disabilities, long term care, and low income.

COMMISSIONER DAVIDSON said that asset testing was still in place for people receiving certain long term care services.

REPRESENTATIVE VAZQUEZ asked whether this was no longer relevant as of the last year.

MR. SHERWOOD explained that assets for children, pregnant women, and parents or care taker relatives were not subject to an asset test. He said that older Alaskans and individuals who qualified through disabilities were subject to asset tests.

REPRESENTATIVE VAZQUEZ asked for clarification that the TEFRA (Tax Equity and Fiscal Responsibility Act) program did not have any asset tests, as the child was considered as a single household.

MR. SHERWOOD replied that TEFRA did have an asset test, although it only pertained to the child's assets and not to the parent's assets. He explained that for qualification, the child must meet an institutional level of care, and if the child was in an institution, the parent's assets were not counted.

MR. SHERWOOD, in response to Representative Tarr, clarified that TEFRA, the Tax Equity and Fiscal Responsibility Act, was a broad legislation which included the option for states to cover individuals.

4:18:10 PM

REPRESENTATIVE WOOL referenced the aforementioned question 3 regarding the $90 million in uncompensated care. He asked whether this question stemmed from the amount each hospital paid in uncompensated care, and what percentage that was of its net income. He opined that this information was not included on the table.

MR. SHERWOOD expressed agreement that the table did not have any information for uncompensated care.

REPRESENTATIVE WOOL surmised that hospitals were in favor of Medicaid Expansion as it would reduce uncompensated care.

COMMISSIONER DAVIDSON expressed her agreement.

REPRESENTATIVE WOOL asked if uncompensated care received any reimbursement from the federal government.

COMMISSIONER DAVIDSON asked whether he was referencing the disproportionate share payments, and she explained that, as initially the Patient Protection and Affordable Care Act had included mandatory Medicaid Expansion, it was planned to phase out the disproportionate share payments over time as a way to help fund the expansion. When the mandatory Medicaid Expansion provision was disallowed by the U. S. Supreme Court, many hospitals across the country took "the requisite hits to be able to pay for the increases and resources that would come with Medicaid Expansion, but Medicaid Expansion was off the table in terms of being a mandatory service."

4:22:11 PM

MR. KOSIN explained that disproportionate share hospital payments were partly funded by the federal government, with the remaining 50 percent funded by the state. He pointed out that these can "get complicated very quickly," as they appear to be designed to reimburse for uncompensated care, although the payments are structured so that only certain services were eligible. As the majority of the eligible services were behavioral health services, the predominant amount of funds went to the Alaska Psychiatric Institute, as it was the only institution for mental disease in the state. He pointed out that the state had to pay half of the payment in order to receive the federal match, so that drawing down these funds was not a given and could not be counted on while determining the budget. He reported that only two or three other hospitals in Alaska received any of this funding, as it was for behavioral health services. He shared that, "at best, it only offsets a little uncompensated care and per the Affordable Care Act, it's set to phase out anyways over the next seven to ten years."

4:24:21 PM

REPRESENTATIVE WOOL reflected that, as Medicaid eligibility was based on income, not assets, it had been suggested that people would choose to lower their income intentionally to be on Medicaid. He opined that, if people had any experience with receiving care through the Medicaid system, this would not be a choice for anyone with a lot of assets. He asked if the Patient Protection and Affordable Care Act subsidy structure was also based on assets.

COMMISSIONER DAVIDSON explained that, under the Patient Protection and Affordable Care Act, to qualify, in Alaska this was a federally facilitated market place, individuals were only eligible for these market place subsidies if they had income between 100 percent and 400 percent of the federal poverty level. She stated that anyone with income less than 100 percent of the federal poverty level was not eligible for a subsidy on the market place. She relayed that Medicaid Expansion would cover individuals with incomes up to 138 percent of the federal poverty level.

REPRESENTATIVE WOOL asked if there was an overlap for individuals with incomes between 100 percent and 138 percent [of the federal poverty level] for eligibility from either Medicaid or subsidies from the Patient Protection and Affordable Care Act.

MR. SHERWOOD offered his belief that, as the process was based on income, an individual with income in this range would be directed to Medicaid in a state that had accepted Medicaid Expansion, or to the [market place] exchange dependent on their income. He explained that the subsidy from the exchange could be accepted down to 100 percent [of the federal poverty level.]

4:28:18 PM

MONIQUE MARTIN, Health Care Policy Advisor, Office of the Commissioner, Department of Health and Social Services, explained that an individual with an income less than 138 percent of the federal poverty level residing in a state which had expanded Medicaid coverage would receive a determination or an assessment suggesting the person was eligible for Medicaid and that this information would then be transmitted to the state. If a person was determined eligible for minimum essential coverage under the Patient Protection and Affordable Care Act, they would not be able to sign up for a subsidy and would only be eligible for Medicaid.

4:30:10 PM

REPRESENTATIVE TALERICO asked about other categories in accounting, such as operating income, which could include non-operating expenses. He suggested that any other accounting information would be good to share with the committee.

CHAIR SEATON suggested that he discuss this with the department and determine whether the information was meaningful within this context.

REPRESENTATIVE TALERICO expressed his agreement.

CHAIR SEATON reiterated that any member of the committee could directly contact the department through the legislative liaison.

4:32:05 PM

CHAIR SEATON moved on to question 5, "Please provide information on how Medicaid and Medicaid expansion might help with behavioral health medicine compliance issues." [Included in members' packets] In response to Representative Tarr, he stated that he would temporarily bypass question 4, in order to discuss expansion before moving on to reforms.

REPRESENTATIVE TARR asked about the unintended consequences to behavioral health and mental health from stopping medication, noting that there could be correctional issues, as well.

CHAIR SEATON paraphrased from the second bullet point in question 5, which read:

> for individuals transitioning from hospital care or releases from correctional facilities, because individuals leaving these facilities will not only have prescriptions in hand for their medications but also the coverage to pay for them as long as they are medically necessary.

CHAIR SEATON opined that the key point to her question was that Medicaid Expansion would provide this to those populations.

4:35:04 PM

COMMISSIONER DAVIDSON, in response to Representative Tarr, said that there were definite benefits in a variety of settings, as experience had shown that continuity of care, assurance for the

right care, at the right time, in the right place, including medications, would also help individuals to continue to contribute to a healthy, productive lifestyle. She expressed agreement that this could also lead to opportunities to reduce recidivism, offering Texas as an example for investment in health instead of prisons. She reported that the offering of a variety of behavioral health and treatment services was one of the biggest opportunities to change the dynamic of recidivism. She pointed out that a high percentage of the prison population, as they were there awaiting trial and not because they had been convicted, could be, instead, placed in treatment programs paid for through Medicaid Expansion.

REPRESENTATIVE TARR stated that, as the Department of Corrections was the largest mental health care provider [in Alaska], it would be better to have care for an individual prior to their criminal behavior.

COMMISSIONER DAVIDSON added that, in addition to treatment facilities being better than incarceration in the prisons, it was necessary to have continuity of care for medications and follow up behavioral health services for an individual upon return to their community. She pointed out that these community health provider programs after release from incarceration already existed in other states.

4:39:52 PM

ALBERT WALL, Director, Central Office, Division of Behavioral Health, Department of Health and Social Services, reported that, for the population with serious mental illness, the most important thing for stability was access to consistent care, with medication, on an ongoing basis. He declared that this ongoing access was available through the Medicaid Expansion, and would allow these people to rise to the greatest extent possible.

REPRESENTATIVE WOOL expressed recognition for the potential realized savings from Medicaid Expansion as medical treatment outside the prison facility for prisoners would be covered by Medicaid. He noted that, as mental health treatments would also be covered through this expansion, it could potentially lower the prison population. He asked if any of these calculations for reduced recidivism or a reduction in the need for use of the state corrections system had been put into the projected savings for Medicaid expansion.

COMMISSIONER DAVIDSON replied that the only part of the cost savings used in the projections was for the out of facility overnight medical care, which she described as contract in-patient care. She stated that it did not include the savings from anti-recidivism efforts, behavioral health services, or substance and alcohol abuse services. She declared that DHSS did expect to realize those savings.

4:43:13 PM

CHAIR SEATON paraphrased question number 6 [Included in members' packets], which read:

> Representative Seaton would like to hear our opinion on whether expansion legislation could include reform requirements with a delayed implementation timeline to provide a level of accountability and assurance to the legislature.

CHAIR SEATON noted that there would also be discussion on the response from DHSS on reform efforts. [Included in members' packets] He offered his belief that there were two things that did not meet in time: expansion that occurred when it was expanded, and reforms that could take time to implement. He offered an example of an HMO (health maintenance organization) model that was not instantaneous, as it would entail a shift from the current fee for service model. He asked if DHSS felt that something could be done in legislation to move forward with Medicaid Expansion while there were definite timelines for itemized reforms to be accomplished.

COMMISSIONER DAVIDSON replied that a lot of the identified reform efforts were "not things that you can flip a switch with," or they would have taken place over previous administrations. She declared that a lot of the reform efforts took time. She stated that the current challenge was for smaller budgets and smaller revenues. She noted that DHSS had identified some reform efforts that had already been undertaken. She declared that DHSS had already commenced working on a timeline for reform efforts. She directed attention to the handout titled "March 5, 2015 Meeting - Follow-up Questions" [Included in members' packets] which she explained was a document of the efforts for savings opportunities and timelines. She offered her belief that DHSS was "happy to work with the Legislature on reform ideas," and that DHSS had identified a path forward to this end. She pointed out that savings had been identified through the budget process, some of which were

included in the handout. She offered her belief that any further delay to Medicaid Expansion was a missed opportunity for taking advantage of the $145 million in federal funds in 2016, which "would really go a long way to be able to improve the health of Alaskans and quite frankly boost the economy of Alaska for a considerable savings to our state general fund budget."

REPRESENTATIVE STUTES expressed her concern that reform efforts would take time, as, otherwise, they would have occurred during the past several administrations. She expressed her hope that changes and reforms would not take many future administrations for completion. She expressed her belief that it would be difficult for reform adjustments and controlled spending when the money was coming in, and that it was imperative that reform go hand in hand [with expansion]. She declared that reform needed to be as much of a priority as Medicaid Expansion, or it would not be successful.

COMMISSIONER DAVIDSON expressed her agreement, noting that this was a very different budget environment than in prior administrations. She shared that the governor had expectations for the department commissioners to review each departmental budget and to plan for 25 percent reductions over the next several years. She reported that DHSS had taken $76 million in budget cuts from the House and it was rumored that the Senate would make further cuts of $4 million. She relayed that reform efforts with opportunities and timelines for savings were already underway because "nobody is more incentivized to hold ourselves accountable than we are. We recognize that Medicaid is a significant portion of our department's budget, and if we are going to cut our budget by 25 percent in the next four years, and our biggest budget item is Medicaid, reform really is our opportunity to be able to meet the governor's expectation."

4:50:29 PM

CHAIR SEATON referenced the aforementioned three pages which itemized the reform efforts, stating that the purpose of question 6 was to determine whether the administration was willing to have delayed implementation, in statute, to assure that there were variable time lines for reform.

4:51:36 PM

COMMISSIONER DAVIDSON, referencing the reform efforts handout, noted that the underlined sections referred back to those

numbered slides in the original PowerPoint presentation to the committee.

4:52:21 PM

REPRESENTATIVE WOOL offered an analogy to the injection of cash, jobs, and the stimulation of the economy from the proposed F-35 fighter jets being stationed on a military base in Fairbanks, although it was argued that the military was in need of reform and the F-35 project needed more testing. He opined that all of this could go on in parallel, even though the military was a big, complex institution that most likely had waste. He suggested that this was analogous to the discussion for Medicaid Expansion.

COMMISSIONER DAVIDSON offered her belief that this was very similar, noting that when the military had come to Alaska, it had asked for various departments of the state government to provide information for the benefits to military personnel from Alaska. She reported that a lot of military personnel qualified, because of income and children, for Medicaid, and could potentially qualify under the expansion. She relayed that, after the military had studied many states and communities, they had reported back that the military population in Alaska benefitted from a great partnership with the community and the services it provided.

HB 59-MARIJUANA CONCENTRATES; LICENSES

4:56:18 PM

CHAIR SEATON, upon request from Representative Stutes, returned the committee's attention to HB 59. In further response to Representative Stutes, Chair Seaton confirmed that the next committee of referral for HB 59 is the House Judiciary Standing Committee.

REPRESENTATIVE STUTES moved to reconsider her vote on the motion to report CSHB 59, Version 29-LS0257\F, Martin, 2/28/15, from committee. She stated she wanted to change her vote from a nay to a yea vote. There being no objection, Version F was before the committee.

REPRESENTATIVE VAZQUEZ moved to report CSHB 59, Version 29-LS0257\F, Martin, 2/28/15, out of committee with individual recommendations and the accompanying fiscal notes. There being

no objection, CSHB 59(HSS) was moved from the House Health and Social Services Standing Committee.

HB 40-USE OF ELECTRONIC CIGARETTES AS SMOKING

4:58:01 PM

CHAIR SEATON announced that the final order of business would be HOUSE BILL NO. 40, "An Act relating to the use of electronic cigarettes; and providing for an effective date."

4:58:33 PM

REPRESENTATIVE BOB HERRON, Alaska State Legislature, relayed that the genesis of the proposed bill was a result of e-cigarette use in the Anchorage Airport. When he asked the Department of Transportation & Public Facilities, he was told there was not any policy, law, or regulation limiting the use of electronic cigarettes. He stated that although he was not against e-cigarette devices, the exhaled aerosol did contain particulates. He asked that the use of these devices be limited to those areas where cigars and cigarettes were currently allowed.

5:00:23 PM

REPRESENTATIVE VAZQUEZ moved to adopt the proposed committee substitute (CS) for HB 40, labeled 29-LS0232\W, Martin, 3/7/15, as the working draft. There being no objection, it was so ordered.

5:01:03 PM

ROB EARL, Staff, Representative Bob Herron, Alaska State Legislature, explained that the committee substitute added "and other oral smoking devices," on page 1, line 8, in order to capture the next generation of vaporizers. The American Cancer Society had made the suggestion to expand this definition. He stated that the proposed bill expanded the definition of smoking in AS 18 to include e-cigarettes, and the bill also defined electronic cigarettes, lines 4 - 7. He reported that proposed HB 40 would prohibit e-cigarette use statewide in any public places where smoking tobacco was currently not allowed as spelled out in AS 18.35.300, which included public transportation vehicles, facilities, state office buildings, other buildings operated by the state, nursing homes, etc. He said that state law was currently a bit unclear whether e-

cigarette use would be prohibited in public places where tobacco was currently banned because there was not a definition of smoking in AS 18. The proposed bill would clarify that issue by defining smoking to include e-cigarettes. He said that some local Alaska jurisdictions had enacted comprehensive smoke free workplace ordinances that included bans on smoking which included e-cigarettes. He listed these communities to include Nome, Juneau, Palmer, Haines Borough, Petersburg, and Skagway, although the Anchorage law, passed in 2006, did not mention e-cigarettes.

5:02:57 PM

CHAIR SEATON asked for clarification that the proposed bill was for e-cigarettes to be banned from areas where cigarettes were currently banned.

REPRESENTATIVE STUTES asked about the advice from the American Cancer Society to equate these devices the same as tobacco.

MR. EARL explained that the American Cancer Society (ACS) had helped expand the definition for smoking in the committee substitute. He referenced slide 11 of the PowerPoint [Included in members' packets], and clarified that proposed HB 40 did not define e-cigarettes as a tobacco product, as there would then be taxation and other implications.

REPRESENTATIVE STUTES, asking about the advice from ACS to treat e-cigarettes similar to products containing tobacco, questioned what substantiated that advice.

MR. EARL deferred to a representative from ACS.

5:05:36 PM

REPRESENTATIVE TARR asked if there was testimony available from Legislative Legal Services.

CHAIR SEATON pointed out that the bill would be held over.

5:06:03 PM

EMILY NENON, Alaska Government Relations Director, American Cancer Society Cancer Action Network, said that she would be available at the next House Health and Social Services Standing Committee meeting, and that she was available for any questions.

5:06:40 PM

CHAR DAY, Americans for Non-Smokers' Rights (ANR), explained that the organization was a national member based group committed to clear the air of second hand smoke, including "the smoke that comes off of the end of an e-cigarette and out of the breath of those who use e-cigarettes." She said the group was also working to prevent another generation addicted to nicotine. She encouraged support for HB 40, as it would prohibit the use of e-cigarettes and other electronic smoking devices in places that were required to be smoke free. She declared that ANR supported prohibiting the use of electronic cigarettes in smoke free environments at all times without exception. She offered her belief that this was a worker health and safety issue, given the growing body of science for what was in the second hand aerosol, also known as vapor, emitted from an e-cigarette. She allowed that, although there was not as much science on what was in the second hand aerosol from an e-cigarette as tobacco cigarettes, there was plenty to cause concern. She stated that second hand aerosol contained volatile organic compounds, ultra-fine particles, lead, chromium, nicotine, and other toxins. She stated that legislators were choosing to not allow the use of electronic smoking devices in smoke free environments so that workers and patrons do not have to breathe the aerosol. She relayed that there were currently at least 274 municipalities and 3 states which had included e-cigarettes as items prohibited from use in smoke free environments. She clarified that ANR was not proposing an outright prohibition or ban on e-cigarettes, but were only concerned with exposure to non-users from the emitted aerosol. She stated that e-cigarettes should not be used indoors or inside public places that would then pose a health hazard to non-users. She pointed out that e-cigarettes could be used to vape other substances, including hemp oil and marijuana. She declared that there was a growing body of science research which showed that the aerosol was a new source of air pollution that contained ultra-fine particles with low levels of toxins known to cause cancer, including benzene, formaldehyde, and lead. She urged support of HB 40 to prohibit the use of e-cigarettes and other electronic smoking devices in places that are supposed to be smoke free.

REPRESENTATIVE STUTES noted that there was not a lot of history or studies that it may potentially cause health issues, and she asked for verifiable research that these were as hazardous to health as cigarettes.

MS. DAY replied that there were new studies about e-cigarettes being released monthly. She listed a recent study by the American Society for Heating and Air Conditioning Regulations, the standard setting body for indoor air, which had added e-cigarettes to the list for things not to have in indoor air. She noted that the World Health Organization had written a background paper on e-cigarettes, which stated that people exposed to e-cigarette vapor absorb nicotine, with one study comparing this to the levels comparative to passive smokers. She stated that a recently published environmental research journal addressed the cotinine of non-smokers exposed to e-cigarettes. She reiterated that new studies were published monthly about the dangers of e-cigarettes.

CHAIR SEATON asked that copies of the studies be provided to the committee.

5:12:44 PM

[HB 40 was held over]

5:12:52 PM

ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 5:12 p.m.