ALASKA STATE LEGISLATURE
HOUSE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE
May 9, 2017
3:02 p.m.

MEMBERS PRESENT

Representative Ivy Spohnholz, Chair
Representative Bryce Edgmon, Vice Chair
Representative Sam Kito
Representative David Eastman
Representative Jennifer Johnston
Representative Colleen Sullivan-Leonard

MEMBERS ABSENT

Representative Geran Tarr

COMMITTEE CALENDAR

HOUSE BILL NO. 215
"An Act relating to program receipts; and relating to fees for services provided by the Department of Health and Social Services."

- MOVED CSHB 215(HSS) OUT OF COMMITTEE

PREVIOUS COMMITTEE ACTION

BILL: HB 215
SHORT TITLE: DHSS: PUBLIC HEALTH FEES
SPONSOR(s): FINANCE

04/07/17	(H)	READ THE FIRST TIME - REFERRALS
04/07/17	(H)	HSS, FIN
04/18/17	(H)	HSS AT 3:00 PM CAPITOL 106
04/18/17	(H)	Heard & Held
04/18/17	(H)	MINUTE(HSS)
04/20/17	(H)	HSS AT 3:00 PM CAPITOL 106
04/20/17	(H)	-- MEETING CANCELED --
04/25/17	(H)	HSS AT 3:00 PM CAPITOL 106
04/25/17	(H)	-- MEETING CANCELED --
05/09/17	(H)	HSS AT 3:00 PM CAPITOL 106

WITNESS REGISTER

JENNY MARTIN, Staff

Representative Paul Seaton
Alaska State Legislature
Juneau, Alaska
POSITION STATEMENT: During the hearing of HB 215, offered testimony and answered questions.

JILL LEWIS, Deputy Director
Division of Public Health
Department of Health and Social Services
Juneau, Alaska
POSITION STATEMENT: During the hearing of HB 215, offered testimony and answered questions.

JEANNIE MONK, Vice President
Policy and Programs
Alaska State Hospital and Nursing Home Association (ASHNHA)
Anchorage, Alaska
POSITION STATEMENT: Testified in opposition to HB 215.

ACTION NARRATIVE

3:02:53 PM

CHAIR IVY SPOHNHOLZ called the House Health and Social Services Standing Committee meeting to order at 3:02 p.m. Representatives Spohnholz, Eastman, Kito, Sullivan-Leonard, Edgmon, and Johnston were present at the call to order.

HB 215-DHSS: PUBLIC HEALTH FEES

3:03:29 PM

CHAIR SPOHNHOLZ announced that the only order of business would be HOUSE BILL NO. 215, "An Act relating to program receipts; and relating to fees for services provided by the Department of Health and Social Services."

3:04:09 PM

JENNY MARTIN, Staff, Representative Paul Seaton, Alaska State Legislature, explained that the proposed bill came out of the subcommittee process, when indirect expenditure reports were reviewed, as ways for the departments to become more self-sufficient. One of these suggestions had been to consider that public health centers charge fees not previously allowed. She shared that further discussions with the Department of Law and the Division of Public Health [Department of Health and Social

Services] had recognized that the proposed bill was somewhat limiting, and she asked to explain the proposed amendment.

3:05:22 PM

CHAIR SPOHNHOLZ moved to adopt Amendment 1, labeled 30-LS0673\D.3, Glover, 5/4/17, which read:

Page 1, lines 5 - 6:
Delete all material and insert:
"(90) the following fees, receipts, income, and monetary recoveries collected by the Department of Health and Social Services:
(A) receipts of the Department of Health and Social Services, Bureau of Vital Statistics;
(B) monetary recoveries of Medicaid expenditures from recipients, third parties, and providers under AS 47;
(C) the state's share of overpayments collected under AS 47.05.080;
(D) income received from a state or federal agency for children in foster care under AS 47.14.100;
(E) fees received or collected under AS 44.29.022 for nursing and planning services provided at health centers, genetic screening clinics and specialty clinics, the certification of x-ray machines, the Alcohol Safety Action Program, and other public health programs and services;
(F) fees received under AS 18.08.080 for the certification of emergency medical technicians, emergency medical dispatchers, and emergency medical technician instructors;
(G) fees received under AS 47.32;
(H) the state's share of child support collections for reimbursement of the cost of the Alaska temporary assistance program as provided under AS 25.27.120, 25.27.130, and AS 47.27.040; and
(I) monetary recoveries under AS 09.58 (Alaska Medical Assistance False Claim and Reporting Act)."

Page 1, line 10:
Delete "AS 44.29.020(a)(1) - (8)"
Insert "**AS 44.29.020(a)(1) - (8) and (14)** [AS 44.29.020(a)(1) - (8)]"

Page 1, line 12:

Delete "**AS 18.05.010**"
Insert "**AS 18**"

Page 2, following line 3:
Insert a new bill section to read:
"* **Sec. 3.** AS 37.05.146(c)(42), 37.05.146(c)(59), 37.05.146(c)(60), 37.05.146(c)(61), 37.05.146(c)(62), 37.05.146(c)(63), 37.05.146(c)(64), 37.05.146(c)(65), 37.05.146(c)(66), 37.05.146(c)(67), 37.05.146(c)(71), and 37.05.146(c)(88) are repealed."

REPRESENTATIVE EDGMON objected for discussion.

3:05:41 PM

MS. MARTIN paraphrased from the Amendment D.3 statement [included in members' packets], which read as follows [original punctuation provided]:

> After clarification with the Dept. of Health & Social Services (DHSS) and the Department of Law it was determined that only listing AS 18.05.010 (as the services for which DHSS could create fees) was limiting for public health. AS 18.05.010 is limited to DHSS duties under AS 18.05, 18.09, and AS 18.15.355 - 18.15.395, but public health provides additional services under other areas of AS 18. For example, if public health were to get a request to provide data collection services under AS 18.08 (Emergency Medical Services), they would not be able to charge fees for that service. This amendment corrects this issue.
>
> **Amendment page 1, line 1-23 to page 2, line 1-2:** changes how public health is listed under AS 37.05.146 (c) AS 37.05.146 (c) is the definition list of designated general fund program receipts and non-general fund program receipts that are accounted for separately, and appropriations from these program receipts are not made from the unrestricted general fund. In HB215 ver D, public health programs under AS 18.05.010 were added to the list as number (90). For reasons noted above, this amendment broadens (90) by replacing AS 18.05.010 with the language: "other public health programs and services" (Amendment-line 16). Note: the specific public health programs and services for which DHSS may establish fees are specified under AS 44.29.022 (a).

In addition, because the list under (c) includes programs and services from many different departments it was determined that the statute could be made clearer by consolidating other DHSS programs and services along with public health under (90). From the current list of 89 program receipts the following would move under (90):

- current #42 would become (90) (A)
- #59 becomes (B)
- #60 becomes (C)
- #61 becomes (D)
- #62, 63,65, 66 becomes (E)
- #64 becomes (F)
- #67 is now (G)
- #71 is now (H)
- #88 is now (I)

Amendment page 2, line 4-6: adds AS 44.29.020 (a)(14) to AS 44.29.022 (a) Fees for department services This will allow public health the option to establish fees for services and programs it provides through its tobacco control programs under AS44.29.020(a)(14).

Amendment page 2, line 8-10: replaces AS 18.05.010 with AS 18 under AS 44.29.022 (a) As stated previously, only listing AS 18.05.010 under AS 44.29.022 (a) was limiting and did not encompass all the public health services that DHSS provides and for which they could develop fees. While there are other departments also listed within AS 18, language under AS 44.29.022 (a) states that the commissioner of DHSS may only establish fees for services listed under this statute that are provided by DHSS.

Amendment page 2, line 12-16: repeals statues moved to new subsection AS 37.05.146 (c) (90) As noted above, these statues were moved under (90) to help consolidate DHSS programs under one subsection.

3:11:16 PM

REPRESENTATIVE EASTMAN asked how the fees would be worked out for the tobacco control programs.

3:11:33 PM

JILL LEWIS, Deputy Director, Division of Public Health, Department of Health and Social Services, stated that much of what had been done in the way of prevention activities would not have charged fees. She suggested that services through Alaska's Tobacco Quit Line, including nicotine patches and counseling services which were currently not charging fees, could have fees for the services, which would allow for additional funding to increase the services.

3:12:42 PM

CHAIR SPOHNHOLZ asked if the department could bill insurance, or would an individual have to bill their own insurance. She noted that many insurance plans covered tobacco cessation.

MS. LEWIS, in response, said that as the department did not have the volume to set up a third-party billing system, it would be cost prohibitive. She explained that the patient was billed with first party billing, and then patient would send the claim to the insurance company for reimbursement. She noted that although the Tobacco Quit Line was an administrative cost, any extra service would free up funding because it could then be a first party billing.

3:14:03 PM

REPRESENTATIVE EDGMON removed his objection. There being no further objection, Amendment 1 was adopted.

3:14:37 PM

CHAIR SPOHNHOLZ opened public testimony on HB 215.

3:14:52 PM

JEANNIE MONK, Vice President, Policy and Programs, Alaska State Hospital and Nursing Home Association (ASHNHA), shared the ASHNHA concerns for the proposed bill. They recognized the serious budget situation facing Alaska and the need to look to all sides for revenue to support state services. They believe it is appropriate for the Division of Public Health to explore when it is possible to charges fees for services provided. She expressed her support for the proposed amendment to put fees into designated funds which then go back into those programs. She expressed concern about the broad latitude being given to the Division around regulatory compliance as it allowed the

Division of Public Health authority to impose fees for the administration of public health programs. She stated that this was a very broad statute which allowed the charging of fees in a very broad way, and the proposed Amendment 1 broadened this even further. She noted that currently there was a list in statute for services to which fees could be charged, all of which have gone through a public process allowing for comment. They support allowing public health more latitude to charge user fees, when appropriate and reasonable, and believe that stakeholder involvement is important to the process. In their experience, the regulatory and budget processes alone were often insufficient to provide appropriate oversight to what fees the division could impose and what compliance programs they could build up with this new revenue source. Once the regulation process is underway there is no opportunity for meaningful dialogue to impact what is being proposed. They realize public comment is always an option during the regulation process, but it is often too late in the process. She declared the desire to protect health care providers and the public from unnecessary and growing regulatory and cost burdens. She offered some examples, which included radiological device fees to support a second radiological health physicist for registration, certification, and inspection of radiology devices. They supported requiring a stakeholder process on the reasonableness of fees prior to the regulation process and feel this will strengthen the effort to charge appropriate user fees. They believe that public health services are a critical part of our health system and will never be sustainable based on user fees alone. They advocate for continued funding for public health functions to protect vulnerable populations and ensure healthy communities. They want to be sure public health services continue even when no user fees are available to support them.

3:21:13 PM

REPRESENTATIVE JOHNSTON asked, regarding radiological fees, if there was federal oversight onsite.

MS. MONK replied that although she did not know all the details, it was how the device was licensed and accredited. She reported that the facility had to go through a process outlined at the federal level to ensure the safety and protection of the equipment. She said that there were people on site who inspected and operated the equipment, and their qualifications were part of the review process.

REPRESENTATIVE SULLIVAN-LEONARD asked if this created a duplicate oversite from both the state and the federal agencies.

MS. MONK explained that this could be a result should the state decide to charge a fee to license and inspect these devices that were already being accredited by a federal agency. She clarified that currently there was not any duplication. She suggested that as it was very complicated, there may not have been awareness of the existing regulations.

3:23:24 PM

REPRESENTATIVE EASTMAN asked if there were any specific proposals to change the current bill to address these concerns.

MS. MONK replied that she did not have any at this moment. She suggested that there could be a pre-regulation process, as once the regulation process began there was not any dialogue allowed.

CHAIR SPOHNHOLZ asked about state institutions which were being nationally accredited to receive compensation from Medicaid and whether this was covering all the radiologic equipment.

MS. MONK said that she did not know all the details but noted that there were a variety of different accreditation requirements depending on the provided services.

CHAIR SPOHNHOLZ reflected on earlier testimony that authority had been given some time ago for x-ray equipment. She expressed concern that there was imaging equipment that was not in accredited facilities. She acknowledged that members of ASHNHA were adhering to standards which were much higher to allow billing to Medicaid and Medicare. She suggested that exclusion of the authority to the department to do these inspections for a more targeted population may not be wise.

3:26:33 PM

MS. MONK clarified that she was not advocating to not do everything possible to ensure safe patient care. She suggested that the ability to charge fees should not drive this decision, it should be evidence-based practices. If there was equipment which was not being inspected adequately, then this should be addressed. She stated that the bigger concern was for these important conversations to occur prior to the regulation process, or there could be double regulations.

CHAIR SPOHNHOLZ expressed her concern that only those who could afford to pay for data analysis would be able to participate, and that Ms. Monk had indicated that there was difficulty getting data back from the department.

MS. MONK said that she had been referring to the Health Facilities Data Reporting Program, which mandates that all hospitals and nursing homes, ambulatory surgery centers, and imaging centers submit data on all their discharges. She said that this data was assembled into a large data set. She added that currently facilities could request the data set but that the cost was $2,000, which was more than many small facilities could afford to pay. She noted that as the small facilities would not have the analytical capabilities, ASHNHA had suggested a standard set of reports be available for access to the data, outside of paying for it. The smaller facilities needed a way to turn this large data set into some useful information.

3:30:23 PM

CHAIR SPOHNHOLZ asked about earlier comments that as an external stakeholder, there was not enough opportunity to participate in the regulatory process and to provide feedback during a time that it was really valuable.

MS. MONK reported that once the regulations were drafted, they were released with a 30-day public comment period. After that, the department could decide what to do with those comments. She pointed out that this was not a dialogue process. She reiterated that it was necessary to have dialogue prior to the regulations being drafted to help ensure they best meet the needs of all those impacted. She stated that it could be done, and she offered her belief that the current administration generally did this. She expressed her concern, however, that as general practices change, if this was not outlined as a requirement in legislation, it was not known what could happen in the future.

3:32:46 PM

MS. LEWIS clarified that the division was not looking to broaden its regulatory authority, offering her belief that the intent of the proposed bill was to work within the existing authority. She noted that this included oversight of the radiologic devices as the division already had the statutory authority but had not implemented the regulations as they did not yet have the commensurate fee authority. She stated that the division was

not anxious to charge fees, even as they recognized that with the current budget situation public health was not free health care. She declared that when there was an ability to pay and it did not undermine the public health mission, it was incumbent upon the division to be more self-sufficient. She reported that inspections were typically fee based in other states. She stated that they would review the overlap with federal accreditation, noting that they did not currently have the regulations for MRI and CT devices, and this process would include wrapping in the accreditation requirements from the Centers for Medicaid and Medicare Services. She pointed out that accreditation was periodic and tended to review whether the proper policies and procedures were in place and was not there to validate the compliance or do interim checks. She stated that it would not serve any purpose to duplicate those elements, but instead, to focus on the elements not being done. She said that the division was open for discussion to better improve the process and to discuss the cost benefit and the burden of fees on the various stakeholders. She pointed out that the fiscal note projected an extra year to allow time for meetings and discussion as to the best approach and reasonable fee. She spoke about the health facility discharge reporting, and explained that as they had moved into the Health Analytics and Vital Records Section, that branch of Public Health had the authority to institute a fee system and charge fees. She offered her belief that the division was not charging a fee to a facility to receive back its own data. She pointed out that any additional analysis and custom reporting was different. She expressed her agreement that mandatory reporters should have an expectation for something to be given back, including access to their own data and a set of baseline reports.

REPRESENTATIVE SULLIVAN-LEONARD asked if there was currently any federal oversight for the equipment in public facilities.

3:39:32 PM

MS. LEWIS offered her understanding that although this was not her area of expertise, accreditation was to accredit the facility and not the individual machines. She reported that there were safety elements in the accreditation process, and there were more general, set standards to comply with federal and state law. She explained that the state would do the actual inspection of the individual machines.

3:40:35 PM

REPRESENTATIVE SULLIVAN-LEONARD asked to clarify that the fees would be to get a health care specialist to oversee the radiological devices for compliance.

MS. LEWIS offered her belief that the specialist would check to ensure that policies and procedures were in place, but they were not going to test or calibrate the machines.

REPRESENTATIVE EASTMAN asked what the driving desire was to do this, specifically for the radiological devices, as it was not currently being done.

MS. LEWIS reported that as there had been a proliferation of these devices, in the Department of Health and Social Services effort to register, inspect, and certify these devices the department had discovered its lack of capacity for follow up. She said there would be a cursory, unofficial inspection of the CT machines, even though it was not part of the regulatory process.

REPRESENTATIVE EASTMAN opined that most, if not all, of these devices had associated service contracts for calibration on a periodic basis. He asked what about the federal certification process was not achieving the goal.

MS. LEWIS explained that the manufacturer could adjust the machine but would not be testing for compliance or validating the compliance. She suggested that there could be a conflict of interest for this work. She acknowledged that the department could review and address this for any future use.

REPRESENTATIVE SULLIVAN-LEONARD shared that the manufacturer would do any repairs, whereas a specialist would do the calibrations.

3:44:26 PM

CHAIR SPOHNHOLZ closed public testimony on HB 215.

3:44:47 PM

CHAIR SPOHNHOLZ reported that all the state departments had been asked to come up with creative new ways to diversify funding, while working within the regulatory limitations. She acknowledged that although this was a practical and constructive way, there were some clear sideboards regarding its authority. She noted that the department can't charge more than it cost to

provide a service and that safety was a concern. She expressed her concern that MRIs and other imaging equipment was not being tested in Alaska. She said that she was glad to see a proposal to advance this, although she acknowledged a concern by ASHNHA for enough collaboration in the process. She reiterated that the fee development process would not be a quick rush.

3:47:38 PM

REPRESENTATIVE EASTMAN suggested that the proposed bill could be evaluated at the beginning of the next session.

3:48:19 PM

REPRESENTATIVE EDGMON moved to report HB 215, as amended, out of committee with individual recommendations and the accompanying fiscal notes. There being no objection, CSHB 215(HSS) moved from the House Health and Social Services Standing Committee.

3:48:53 PM

ADJOURNMENT

There being no further business before the committee, the House Health and Social Services Standing Committee meeting was adjourned at 3:49 p.m.