

ALASKA STATE LEGISLATURE
SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE

March 12, 2018

1:30 p.m.

MEMBERS PRESENT

Senator David Wilson, Chair
Senator Natasha von Imhof, Vice Chair
Senator Cathy Giessel
Senator Peter Micciche
Senator Tom Begich

MEMBERS ABSENT

All members present

COMMITTEE CALENDAR

SENATE BILL NO. 193

"An Act requiring the Department of Health and Social Services to apply for a waiver to establish work requirements for certain adults who are eligible for the state medical assistance program."

- HEARD & HELD

PREVIOUS COMMITTEE ACTION

BILL: SB 193

SHORT TITLE: MED. ASSISTANCE WORK REQUIREMENT

SPONSOR(S): SENATOR(S) KELLY

02/19/18	(S)	READ THE FIRST TIME - REFERRALS
02/19/18	(S)	HSS, FIN
03/12/18	(S)	HSS AT 1:30 PM BUTROVICH 205

WITNESS REGISTER

SENATOR PETE KELLY
Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Sponsor of SB 193.

HEATHER CARPENTER, Staff
Senator Pete Kelly

Alaska State Legislature
Juneau, Alaska

POSITION STATEMENT: Presented the sectional for SB 193.

JON SHERWOOD, Deputy Commissioner
Medicaid & Health Care Policy
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Answered questions on SB 193.

MONICA WINDOM, Director
Division of Public Assistance
Department of Health and Social Services (DHSS)
Juneau, Alaska

POSITION STATEMENT: Answered questions on SB 193.

MIKE COONS, President
Alaska Chapter of Mature American Citizens (AMAC)
Palmer, Alaska

POSITION STATEMENT: Supported SB 193.

JESSICA CLER, Alaska Public Affairs Manager
Planned Parenthood Votes Northwest and Hawaii
Anchorage, Alaska

POSITION STATEMENT: Opposed SB 193.

JEREMY PRICE, Alaska State Director
Americans for Prosperity
Anchorage, Alaska

POSITION STATEMENT: Supported SB 193.

ACTION NARRATIVE

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CHAIR DAVID WILSON called the Senate Health and Social Services Standing Committee meeting to order at 1:30 p.m. Present at the call to order were Senators Giessel, von Imhof, Begich, and Chair Wilson. Senator Micciche joined shortly thereafter. He advised that the presentation regarding the "Behavioral Health Continuum of Care and the Alaska Psychiatric Institution" had been removed from the agenda.

SB 193-MED. ASSISTANCE WORK REQUIREMENT

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CHAIR WILSON announced the consideration of SB 193.

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SENATOR PETE KELLY, Alaska State Legislature, sponsor of SB 193 said the bill answers the question of whether Alaskans who receive Medicaid should be required to work or volunteer as a condition of their benefits. He said I believe the answer is yes and SB 193 is a simple and direct path to achieving that end. He clarified that SB 193 does not require the elderly, disabled, or new mothers to work. The exemptions are spelled out on page 2, lines 6-19. People who are not employed, volunteering, or otherwise exempt can receive exemptions if they are in an education or training program that will lead to work. The genesis for the bill was an announcement by CMS [Centers for Medicare & Medicaid Services] allowing work requirements through the structure of the Medicaid Section 1115 waivers. He explained that SB 193 applies to a narrow band of Medicaid users, those who can work but do not. It's not so much about saving money as encouraging people to get out and build their skills and reputation and work their way out of the welfare or Medicaid system. He described the bill as philosophical in that it should be the default position of Americans that those who can work should work. He opined that depending on government funds has frozen people in place and denied them the dignity of work and joining their fellow Alaskans who have a reason to get up in the morning and make this state a better place.

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HEATHER CARPENTER, Staff, Senator Pete Kelly, Alaska State Legislature, paraphrased the following sectional analysis for SB 193:

Section 1:

Amends AS 47.07.036 to direct the DHSS to apply for a section 1 115 waiver of the Social Security Act to establish a work requirement for adults in the Medicaid program who not meet the criteria to be exempted.

The waiver must include the following:

- (1) Requires an able-bodied Medicaid recipient to participate in work activities for a minimum of 20 hours each week. Actively seeking employment, participating in an education or training program, volunteering, or engaging in subsistence activities also are counted towards the 20-hour requirement.
- (2) If a Medicaid recipient is also receiving benefits under Alaska Temporary Assistance

Program and in compliance with the work requirements listed under AS 47.27.035, then they automatically meet the work requirement for Medicaid.

- (3) Exempt Medicaid recipients who are:
 - a.Children or elderly (Under 18 years old and over 65 years old)
 - b.The parent or caretaker of a dependent child of up to 12 months of age and the parent or caretaker is providing home care for the child
 - c.The parent or caretaker of a child experiencing a disability and the parent or caretaker is providing home care for the children
 - d.The caretaker of a relative who is experiencing a disability and requires 24-hour care
 - e.The parent or caretaker of a child under six years of age and the parent or caretaker demonstrated that appropriate child care is not available
 - f.Unable to work for medical reasons, as determined by a licensed medical professional
- (4) Ensure that the work requirement does not impact a Medicaid recipient from obtaining substance abuse treatment
- (5) A notification to all Medicaid receipts once the waiver is approved, and a 90 day notice of non-compliance with the work requirement before benefits are terminated.

MS. CARPENTER noted that pregnant women would need to be specifically added to the list in paragraph (3). The sponsor thought that referencing the Temporary Assistance for Needy Families (TANF) statutes was sufficient, but the deputy commissioner pointed out that not all pregnant women receive TANF.

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SENATOR GIESSEL asked why the sponsor chose to do this through the Section 1115 Medicaid waiver.

SENATOR KELLY said the CMS guidance letter directed doing it through that process.

SENATOR GIESSEL, noting that at least one state received approval, asked how that could have happened so quickly through an 1115 waiver process.

MS. CARPENTER said she did not know, but the CMS guidance letter said that applying through the waiver was the only avenue. She added that the bill tests the theory that work requirements will improve health outcomes of people on the Medicaid program.

SENATOR KELLY said it is an interesting point that the CMS requirement has nothing to do with the dignity of work, but the idea that people who work will be healthier.

SENATOR GIESSEL shared that her concern about using the Section 1115 Medicaid waiver was that it is a very ponderous process. For example, the regulations for the 2015 Medicaid reform for behavioral health were finally filed in January 2018 and will take two more years to implement.

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SENATOR BEGICH said the provision on page 2, line 20, "ensure that the work requirement does not prevent a recipient with a substance abuse disorder from obtaining appropriate treatment for the substance abuse disorder," was insightful. He asked whether there was a standard to determine whether someone is able-bodied.

MS. CARPENTER said the department is used to these terms and CMS puts out guidance on them. Someone able-bodied would not be enrolled in Medicaid through disability. They might have a disability, but it will not be the Social Security level of disability.

SENATOR BEGICH said he likes that the bill mirrors TANF requirements. He asked whether the sponsor would consider an amendment to allow a caseworker to suggest a modified work requirement of less than 20 hours a week.

SENATOR KELLY said he assumes it would be appropriate under the waiver. He would not object to giving the department the flexibility it needs. He added that volunteering is always an option when work is difficult to find.

MS. CARPENTER said the CMS letter lays out guidance for the department on how to work with people who will be affected by this requirement. The guidance addresses the Americans with Disabilities Act and Section 504 of the Rehabilitation Act. The letter says, "States should include, in their proposals, information regarding their plans for compliance with these requirements, including provision of reasonable modifications in work or community engagement requirements."

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SENATOR BEGICH said the bill might require a minor amendment to add that option.

MS. CARPENTER said she wanted to hear from the department because the allowance for medical exemptions might address that.

SENATOR BEGICH asked how many people the bill would affect and how many might be removed.

SENATOR KELLY said he has heard that as many as 25,000 might be affected, but that seems high since many of the people on Medicaid under the expansion do work.

CHAIR WILSON said the DHSS fiscal note provides answer.

SENATOR MICCICHE said he is a cosponsor who believes the bill has peripheral values that are more significant than the bill itself. Social programs have changed from something to relieve dire need to something of convenience. The 20 hours are extremely important because it shows people they have so much more potential to excel. People are afraid to succeed because they fear losing their benefits. He is sure they will hear about how many people now are working. The definitions used for working are generous. The expansion population has to be working, so he's not sure it includes them at all. He would like to see a table of all the costs, which are interesting and somewhat creative.

CHAIR WILSON said he also was going to ask the department for a memo to summarize all the expenditures and fiscal notes and how they interact.

SENATOR KELLY said the department representatives in the room are professional and hard-working people, but the large fiscal note reflects a philosophical difference. The discussion about the fiscal note is yet to come.

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SENATOR MICCICHE reiterated support for the bill and deferred discussion about the appropriateness of the fiscal note to Finance.

SENATOR VON IMHOF said the fiscal notes will be discussed in Finance, but it is the crux of the bill. She pointed out that Kentucky cited administrative burdens as one reason why they downgraded their work requirements. The tracking system and paperwork needed to demonstrate 20 hours of paid or volunteer work made the cost almost a wash. Philosophically there are many reasons to support the bill, but the question is whether an already over-taxed department can take this on.

SENATOR MICCICHE asked if the committee's only responsibility was a workload and money-saving question or if part of their responsibility was to put policies in place to break the cycle and help Alaskans succeed in this generation and in the future. He said he cannot isolate his consideration to today's cost and administrative burden. He has to look at the people who are not reaching their ultimate potential and the systems that have been set up to actually compromise success and potential.

CHAIR WILSON asked if the department could put together a memo to summarize all the costs and savings and how they interact.

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JON SHERWOOD, Deputy Commissioner, Department of Health and Social Services (DHSS), said they'd be happy to put together a table to summarize all the fiscal notes, both theirs and other departments, to explain the different pieces.

CHAIR WILSON said that would be helpful for the general public.

SENATOR BEGICH asked how many people DHSS determined might be affected by SB 193 and how they arrived at that number.

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MONICA WINDOM, Director, Division of Public Assistance, Department of Health and Social Services (DHSS), said they looked at the entire Medicaid caseload and removed children, the elderly, the disabled, and people receiving ATAP [Alaska Temporary Assistance Program] because it has a work requirement. That left about 25,000 people.

SENATOR BEGICH asked if the exemptions on page 2 of the bill were included.

MS. WINDOM said yes.

SENATOR MICCICHE noted that individuals on any DHSS program go through an eligibility analysis so the extra effort would likely amount to simply adding another column.

MS. WINDOM said the guidance from CMS is to follow ATAP rules and those case managers spend about 9.5 hours and \$5,500 per person per year. The fiscal note for SB 193 reflects their assumption that most of these people do not have children and will be easier to serve than someone on temporary assistance. They estimated case managers would spend between three and five hours a year per person.

SENATOR MICCICHE said it won't require an entirely new bureaucracy to account for work requirements. It is applying it to more people and more recipients of other programs.

MS. WINDOM said the basic concepts are the same, but DHSS does not have the staff to work with this large group of people. The ATAP caseload is 3,000 and the work services line for that is \$11 million. The estimate for this is for 25,000 people.

SENATOR MICCICHE said when he recently asked how many people of the Medicaid population were working, he got a very quick answer. He said he assumes the answer came quickly because the department understands the proportion of people who are already working.

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MR. SHERWOOD explained that an eligibility determination includes whether someone is working and has an earned income. The people that are covered by the fiscal notes do not have an earned income. They assumed that initially about 25,000 people would be on Medicaid and not covered by one of the exemptions. Over time some people will drop out of the program for noncompliance so the number will drop. Over three years, that number will probably stabilize at 18,000. He agreed with Director Windom's point that it would take a lot more people to do the work services for 18,000 than for the 3,000 people on ATAP. The CMS letter is clear that providing some level of supported services is expected if the loss of Medicaid is imposed as a result of noncompliance.

CHAIR WILSON asked whether the state could add this requirement to the work services it already contracts out.

MR. SHERWOOD confirmed that DHSS does a substantial amount of contracting. They do some in-house work with ATAP with their employment services. Something unusual about the State Medicaid Director Letter is that it states that work supports are not a Medicaid eligible expense. While states must make them available, there are no federal funds for that. DHSS thinks the argument can be made that if they keep the work in-house, they can claim it is part of the eligibility and program administration and they will claim the federal share for that staff. If DHSS puts it out for a contract, they would have to treat it all as work services and not claim any federal match. They would negotiate with the federal government about where to claim the federal match as appropriate. Their expectation is that work services itself is not eligible for a federal match. Over time, the total savings are substantial but mostly in areas of federal funds and the expenditures are in general funds.

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SENATOR VON IMHOF said it is important to fully understand the impact of this. She read an article that other states have discovered that when people are asked to go to work, the federal government does not cover job training, childcare assistance, transportation, and other services. The estimate is that the state will pay \$1,000 per enrollee, which is \$21 million each year. The fiscal note estimates 49 new DHSS employees to track this, plus the price of computers and cubicles. She expressed interest in leverage existing programs like TANF versus creating a new department.

CHAIR WILSON said the 2015 DHSS audit pointed out inefficiencies in the Division of Public Assistance that have been not addressed to date. Working on two systems instead of one, for example. He asked if the fiscal note reflects some of the same issues highlighted in the 2015 audit.

MS. WINDOM said the majority of staff request is for the work services piece, not the eligibility piece. They did ask for a few more eligibility technicians to implement penalties for noncompliance. DHSS is working to improve its system and hopes to be in one system within 3 years. Part of the fiscal note is to reprogram the system to put the work requirement in and provide a penalty for noncompliance.

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SENATOR MICCICHE said the CMS guide talks about their commitment to support state demonstrations that require eligible adult

beneficiaries to work or engage in community activities. He asked if they have published any other document to describe their commitment and what that support may look like.

MR. SHERWOOD said he is not aware of any other published guidance from CMS.

SENATOR MICCICHE said he would welcome any evidence of CMS's ability to support training programs.

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CHAIR WILSON opened public testimony.

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MIKE COONS, President, Alaska Chapter of Mature American Citizens (AMAC), supported SB 193. He said AMAC, which is a conservative organization for senior citizens in Alaska, has an Alaskan membership of 4,500. Those able-bodied people added to Medicaid in the Obama era and by the governor against the wishes of the majority in the House and Senate, as well as against the wishes of a large part of the population of Alaska, are part of the failed great society of the LBJ administration. Nationally the country has lost more than \$2 trillion since then and has generations of families that do not work yet eat better than most working Alaskans. He opined that Medicaid puts able-bodied people over those working or retired citizens who have Medicare. He has heard that adding able-bodied to Medicaid hurts those whom Medicaid was intended for, those with true needs. The American with Disabilities Act was passed to enable disabled people to work, but Medicaid removes the incentive to work. The value of work for self-esteem for anyone with a physical challenge is more helpful both physically and mentally than not working and living on government handouts. He said those who can work to work should be encouraged to do so. He said DHSS is trying to help people by spending more money, which he is not too happy about, but the minimum wage of \$9.86 per hour for 20 hours for 25,000 people is \$236,160,000 a year of increased income into people's wallets and into the economy.

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SENATOR BEGICH asked if he supports the exemptions.

MR. COONS said they are reasonable.

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JESSICA CLER, Alaska Public Affairs Manager, Planned Parenthood Votes Northwest and Hawaii, opposed SB 193. She said Planned

Parenthood is the nation's leading provider of sexual and reproductive health. In 2015, 26 percent of their patients were Medicaid beneficiaries. Planned Parenthood is committed to everyone in the state having access to the health care they need, regardless of their income or where they live. Enrollment restrictions like those proposed in SB 193 will decrease access to health care in Alaska and disproportionately impact women. Medicaid covers one of five women of reproductive age and is the source of coverage for nearly half of women giving birth. Many women face barriers to work such as transportation, housing, education, and abusive relationships. Research shows work requirements do not decrease poverty and, in some cases, push families deeper into poverty.

She said SB 193 would cut Alaskans off from the care they depend on without improving their economic stability. Burdensome work requirements are not the best way to improve the health and well-being of Alaskan women and families. To support the dignity and economic well-being of Alaskans, the state must preserve and expand access to Medicaid. Medicaid coverage makes it easier for women to secure and maintain employment, it provides treatment for conditions that may keep them from working, and its coverage of family planning allows women to pursue their educational and career goals. She urged the committee to focus on proven policies to improve women's health and economic security.

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JEREMY PRICE, Alaska State Director, Americans for Prosperity, supported SB 193. He said this is a fabulous step forward for Alaskans. The United Kingdom Department for Work and Pensions commissioned a study ten years ago entitled, "Is Work Good for Your Health and Well-being?" Doctors Gordon Waddell and Kim Burton concluded, "There is a strong evidence base showing that work is generally good for physical and mental health and well-being. Worklessness is associated with poorer physical and mental health. Work can be therapeutic and reverse the adverse health effect of unemployment. That is true for healthy people of working age, many disabled people, most people with common health problems, and social security beneficiaries." This legislation only impacts Medicaid recipients who are working age and able-bodied who can work but choose not to. In February Americans for Prosperity made the following statement:

Beginning with former Mayor Rudy Giuliani and continuing with Mayor Michael Bloomberg, New York City became a model for how work requirements for welfare applicants and recipients could contribute to a steep

drop in a city's welfare caseload. From 1995 to 2013, the number of welfare recipients in New York City shrank from almost 1.1 million to less than 347,000 – a drop of more than 700,000 men, women and children.

But while New York City may have undergone the most visible transformation, other states and localities across the country were seeing similar success.

Among the most promising examples of work requirements empowering able-bodied adults were the results of 2013 Kansas reforms to the food stamp program. Prior to instituting new food stamp work requirements, Kansas was spending nearly \$5.5 million per month on government assistance programs, while 93 percent of food stamp recipients were living in poverty. Few of the recipients claimed any income, with only 21 percent working at all, and 40 percent working fewer than 20 hours per week.

Soon after work requirements were implemented, thousands of food stamp recipients in Kansas moved into the workforce, resulting in a decrease in poverty, with 40 percent of former food stamp recipients finding a job within the first three months, and nearly 60 percent within a year. The people who moved off of food stamps and found a job weren't "punished," they lifted themselves out of poverty and improved their lives.

MR. PRICE said this bill is about improving the lives of Alaskans by providing incentives for them to be more self-sustaining and provide benefits for themselves instead of the government. This reform helps people, helps Alaskans better themselves, their situation, and their health outcomes will improve. Since his testimony is long, he will submit written testimony.

SENATOR MICCICHE asked Mr. Price to forward his data sources to the chair for distribution to the committee.

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CHAIR WILSON closed public testimony.

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SENATOR GIESSEL referenced a longitudinal study of Alaska's remote Arctic communities and the life expectancy since the

development of oil resources on the North Slope. The life expectancy of people living in the rural Arctic now exceeds that of major cities in the lower 48, attributable to the ability to have an income and work. She offered to provide a copy of the study to the committee.

CHAIR WILSON held SB 193 in committee.

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There being no further business to come before the committee, Chair Wilson adjourned the Senate Health and Social Services Committee at 2:21.