

SENATE FINANCE COMMITTEE

April 19, 2024

9:02 a.m.

9:02:28 AM

CALL TO ORDER

Co-Chair Stedman called the Senate Finance Committee meeting to order at 9:02 a.m.

MEMBERS PRESENT

Senator Bert Stedman, Co-Chair
Senator Click Bishop
Senator Jesse Kiehl
Senator Kelly Merrick
Senator David Wilson

MEMBERS ABSENT

Senator Lyman Hoffman, Co-Chair
Senator Donny Olson, Co-Chair

ALSO PRESENT

Nancy Merriman, CEO, Alaska Primary Care Association.

PRESENT VIA TELECONFERENCE

Emily Ricci, Deputy Commissioner, Department of Health;
Justin Kensinger, Partner, FORVIS; Lisa Aquino, CEO,
Anchorage Neighborhood Health Center.

SUMMARY

PRESENTATION: FEDERALLY QUALIFIED HEALTH CENTERS PAYMENT
METHODOLOGY

ALASKA DEPARTMENT OF HEALTH
ALASKA PRIMARY CARE ASSOCIATION

Co-Chair Stedman discussed the agenda. He noted that federally qualified health centers were potentially included in the operating budget process.

^PRESENTATION: FEDERALLY QUALIFIED HEALTH CENTERS PAYMENT
METHODOLOGY

ALASKA DEPARTMENT OF HEALTH
ALASKA PRIMARY CARE ASSOCIATION

[9:04:04 AM](#)

EMILY RICCI, DEPUTY COMMISSIONER, DEPARTMENT OF HEALTH (via teleconference), relayed that she would address the issue of how Medicaid reimbursed federally qualified health centers. One of the issues that had been raised in the subcommittee had involved freezing rates for all Medicaid providers for the fiscal years 2016, 2017, and 2018. She continued that the APCA had indicated that those rate freezes would negatively impact them by approximately \$15 million. She explained that DOH had not had the opportunity to review the rate calculations independently but had examined the impact they believed the rate freezes would have if applied in 2024. She stated that the issue was a complicated one, that explored the depths of how rate methodologies were established through a combination of federal statutes and regulations and state statutes and regulation.

Ms. Ricci continued that the department had not included the matter as a budget ask for DOH because they had a different perspective of the financial impact of the freezes along with 12 to 15 different issues the association was working through. She was happy to provide more detail on the inflationary adjustments.

Co-Chair Stedman thought it would be helpful to have an explanation of the background on the topic so the public could follow the conversation.

[9:06:56 AM](#)

Ms. Ricci explained that federally qualified health centers were healthcare providers that had certain federal requirements and distinctive payment mechanisms at the federal level. She mentioned payment mechanisms at the federal level that allowed for the clinics to serve underserved and rural populations across the country. She relayed that one way the providers received payment was through the Medicaid program, they also received payment through Medicare and other payers. She said that discussions with APCA had evolved over time and in August 2023 the department has outlined a letter listing the concerns raised by the APCA.

Ms. Ricci said some of the concerns were process related and some reflected outdated regulations. She addressed the issue of dual eligibility. She stated that the department was working with the Department of Law on the matter. She said that information sent to the committee had focused on rate freezes that had taken effect in fiscal years 2016, 2017, and 2018, to isolate from the department's perspective what the effect those inflationary increases would have been to federally qualified health centers.

[9:10:26 AM](#)

Co-Chair Stedman summarized that the department was not ready to conclude settlement of the issue, and the issue was in process.

Ms. Ricci affirmed that the department was continuing to work with APCA to address the concerns. She reiterated that DOH did not necessarily agree with the position of APCA.

Co-Chair Stedman asked how long the committee could expect until there was resolution of the issue.

Ms. Ricci thought the timeline depended upon the issue. She reiterated that numerous issues had been raised in August 2023. She thought that related to the inflationary freeze, DO planned to implement a rate increase in FY25 for facilities affected. She said that the rate increases would take into account what the rate increase would have been overtime if the rate freezes that occurred, what the forward-looking impact would have been. He said that the rating would be adjusted prospectively and not retrospectively.

Ms. Ricci mentioned that there was a series of meetings that would be scheduled from the present time through July, and it was hoped that the department could finalize a position by August 2024.

[9:13:41 AM](#)

Co-Chair Stedman asked whether the committee could expect a supplemental request in the FY26 Operating Budget.

Ms. Ricci explained that the calculations that DOH was looking at specific to the inflationary rate increases were very different than the numbers that APCA was using. She said

that DOH was hoping to absorb any additional expenses due to the inflationary rate increases. She mentioned items that needed working through such as Medicare dual coverage. She said that the department's position and fiscal impact surrounding some issues were yet unknown.

[9:14:51 AM](#)

Senator Kiehl acknowledged that the issue was complex. He referenced the going forward rate increase for FY26. He wondered about the timeframe the department anticipated for getting resolution for some of the identified issues.

Ms. Ricci relayed that DOH was working through the issues and currently scheduling meetings to have discussion. She relayed that it was difficult to estimate what action might be taken, particularly for the dual eligibility issue, and therefore could not estimate future actions or fiscal impacts. She hoped that more would be known by fall 2024. She emphasized that the letter she had authored to Co-Chair Stedman identified one issue of many.

Co-Chair Stedman summarized that the current legislative session would end in a month. He understood that resolution would not occur in the current budget cycle but possibly by submission of the governor's FY26 budget December 14, 2024.

Ms. Ricci agreed that resolution on all issues would not come before the end of the current session. She did not want to speculate whether DOH would have resolution on all issues by the release of the governor's next Operating Budget.

[9:18:15 AM](#)

Co-Chair Stedman asked Senator Wilson to speak on the issue as chairman of the Health and Social services subcommittee.

Senator Wilson relayed that APCA had brought forth what he thought was a valid concern to the legislature. He thought DOH was working to justify the numbers released by APCA. He considered the ten-year lookback, understood that the two parties were working in good faith. He said that without having justification for the payout he hoped that DOH would work the issues out. He noted that the state had never retroactively paid adjusted inflationary rates.

He reiterated that it had been his recommendation to allow DOH to continue working with APCS to find any mistakes that may have been made.

Co-Chair Stedman stressed that the legislature did not adjudicate these matters but only appropriated funds.

Senator Wilson agreed.

Co-Chair Stedman invited the representative from APCA to the table.

9:22:32 AM

AT EASE

9:23:01 AM

RECONVENED

NANCY MERRIMAN, CEO, ALASKA PRIMARY CARE ASSOCIATION, introduced herself. She read from a prepared statement:

To the Chair and members of the Senate Finance Committee, for the record, my name is Nancy Merriman and I am the CEO of the Alaska Primary Care Association (also referred to as APCA).

The Alaska Primary Care Association (APCA) supports the operations and development of Alaska's 29 Federally Qualified Health Centers - also known as Community Health Centers. Health Centers provide comprehensive whole person care, which includes medical, dental, behavioral, pharmacy and care coordination services to 1/6 Alaskans. Half of Alaska's FQHCs in Alaska are Tribally operated and half are non-Tribal.

On behalf of the Alaska Primary Care Association and the Federally Qualified Health Centers we work to support, I appreciate this opportunity to join you today, to discuss the Alaska Primary Care Association's legislative request of \$15M for interim support to begin to compensate Alaska FQHCs for Medicaid underpayment while we and the Department continue to work through a list of regulatory and procedural payment errors continuing to impact FQHCs. APCA has engaged with a top 10 national public accounting firm, FORVIS, to review significant

Medicaid reimbursement issues impacting Federally Qualified Health Centers in Alaska.

This legislative request to provide \$15M to the impacted FQHCs was informed by FORVIS' evaluation of two areas of improper payment:

1) The improper (lack of) application of inflationary adjuster (MEI) to FQHC rates for state fiscal years 2016, 2017, & 2018.

2) The improper payment for services rendered to Medicaid/Medicare dual eligible beneficiaries

Here joining me on the line this morning is Justin Kensinger, a CPA and Partner with FORVIS, who is available to answer questions from the committee related to these two issues, and their work to estimate the impact of these improper payments.

APCA began working closely with Alaska Health Center leaders on key payment concerns last spring, and following significant legal review and analysis, we shared our concerns with the Department of Health in writing in August of 2023. APCA has provided members of the committee with a copy of that correspondence.

As a result of the APCA Board of Directors' leadership, APCA worked with Health Center Leaders to establish a Task Force focused on securing accurate and legal FQHC Medicaid payment in Alaska.

Alongside this Task Force, APCA has worked diligently with the Department of Health to seek resolution to a list of issues where we believe the State is not acting in compliance with the federal laws that dictate how States must administer Medicaid payment to FQHCs.

APCA is committed to working closely with the Department to address multiple concerns that are now well documented in APCA's correspondence with Commissioner Hedberg and Deputy Commissioner Ricci. In addition to the August 2023 letter APCA sent the Department, APCA has also provided the committee with our latest letter to the Department, issued earlier this month.

Unfortunately, the State's response to these issues has been slow and protracted and insufficiently applied to only a portion of the harmed FQHCs, due to

capacity issues, staffing, and lack of expertise related to FQHC specific payment obligations.

While the Department of Health has asserted there are some areas where there are "differences in interpretation." I want to respectfully underscore this point with you today: For the two issues we are focused on this morning, related to this legislative request - these issues are not up for interpretation. These are cut and dry areas of improper payment. We asked FORVIS to formulate their estimate based on these two issues because they are clean cut, and easy to quantify.

I'm also joined today by Lisa Aquino, who is the CEO of Anchorage Neighborhood Health Center. Ms. Aquino also serves as Chair of the Task Force focused on these payment concerns. She is going to share some information about Federally Qualified Health Centers and their unique role in Alaska's Health Care System. Ms. Aquino will also help explain why there are special Federal rules in place to govern FQHC Medicaid Payment.

[9:27:29 AM](#)

Ms. Merriman continued that in addition to a letter from August 2023 (copy on file), APCA had provided a copy of a more recent letter to DOH dated April 1, 2024 (copy on file).

Senator Bishop asked whether his firm had encountered a similar situation with any other state.

[9:30:00 AM](#)

JUSTIN KENSINGER, PARTNER, FORVIS (via teleconference), responded in the affirmative. He said that the firm had worked with numerous other states to resolve similar issues.

Senator Wilson asked about the normal timeframe to have such situations resolved.

Mr. Kensinger indicated that the timeframes varied. He said that some states had taken several months to a year but if there were legal issue it could take longer.

Co-Chair Stedman asked whether Alaska was in the "normal" timeframe.

Mr. Kensinger estimated that the issue in Alaska had sustained for more than a year and had not made much progress.

[9:32:36 AM](#)

LISA AQUINO, CEO, ANCHORAGE NEIGHBORHOOD HEALTH CENTER (via teleconference), discussed the mission of serving those without medical insurance. She relayed that her clinic had a mission of removing barriers to healthcare, which meant that they admitted people who did not have health insurance.

Ms. Aquino relayed that through federal legislation, her facility received federal health center program funding, which was statutory funding comprised of federal annual appropriations and multi-year funding authorization. She shared that the grant guaranteed the resources to care for uninsured patients and those whose coverage did not pay for the full cost of care. She added that there were supplemental grants that covered capacity expansion and improved care. She explained that the prospective payment system (PPS) was one payment for a collection of services within a visit and included translation services, transportation, and many other support services. She said that centers like hers had been paid under the alternative payment methodology (APM) that was utilized by the state. She said that the ARM should result in a bundle payment equal to, or more, than the PPS rate. The PPS or APM ensured federal grant funds that were intended for uninsured or underinsured patients. She expounded on the difficult work of providing health care to uninsured and underinsured patients, particularly the elderly.

[9:36:39 AM](#)

Ms. Aquino spoke to dual eligibility. She said that the issue had been outlined and people were on the line to talk about the issue. She noted that further information was available in the Forvis letter, dated April 12, 2024 (copy on file).

[9:37:39 AM](#)

Senator Kiehl asked about the working group that was addressing the issue, and queried the steps that would be necessary if the group was unable to resolve the dispute.

Ms. Ricci anticipated that the group would be able to address all the issues that had been raised without having to engage in legal proceedings. She mentioned that Alaska was unique in that the payment rate for Medicaid was higher than that of Medicare, which complicated the issue of dual eligibility. She was confident that the issues could be resolved without legal action.

[9:39:47 AM](#)

Senator Kiehl agreed that negotiations and agreement were the best outcome. He asked Ms. Merriman what next steps could be if an agreement could not be made.

Ms. Merriman considered that errors had been made in payments for as long as 20 years, which had been a considerable hardship for federally qualified health centers.

Senator Kiehl asked Ms. Merriman to comment on the scale and scope of the issue.

Ms. Merriman thought Mr. Kensinger could better address questions about the financial impact. She commented that ongoing improper payment affected each independent, non-profit health center that had been rendering services in good faith.

[9:42:09 AM](#)

Senator Wilson disclosed that he had worked for the APCA. He did not think anyone was disputing the importance of what the centers provide to people. He thought that it was a conversation about process and language and tranches. He was not sure that the problem could be solved through budgetary appropriation. He thought that the department understood the gravity of the problem and hoped that a solution could be found without litigation.

Senator Wilson mentioned the comments regarding the department's timeline.

[9:46:01 AM](#)

Co-Chair Stedman reminded that the legislature was not the final step in the appropriation process, and any item included in the budget was subject to veto by the governor.

Co-Chair Stedman discussed housekeeping.

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ADJOURNMENT

9:48:32 AM

The meeting was adjourned at 9:48 a.m.