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366

STATE OF ALASKA  
THE LEGISLATURE

POUCH Y - STATE CAPITOL  
JUNEAU, ALASKA 99811  
907-465-3800

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May, 1988

Copies of minutes listed below were originally included in this file. The minutes are available on the STAIRS database CMPR. In order to save space copies of minutes have not been left in the files.

Mary Van Nimwegen

HSA	2-19-88	3:00 p.m.
H HESS	3-31-88	8:30 a.m.
H HESS	4-20-88	8:30 a.m.

# HOUSE COMMITTEE REPORT

(7)

Date referred: 2/22/88

FURTHER REFERRALS:

DATE: 4-20-88

The Health, Education and Social Services Committee has considered HB 366

"An Act relating to subrogation of medical benefits; and providing for an effective date."

**RECOMMENDS:**

- replace with \_\_\_\_\_  the same title
- attached amendment(s)  a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the \_\_\_\_\_ Committee

**ADOPTS:**  \_\_\_\_\_ letter of intent

**ATTACHES NEW FISCAL NOTE(S):**

- fiscal impact  same as previous fiscal note published \_\_\_\_\_
- zero fiscal note  same as previous zero fiscal note published \_\_\_\_\_
- zero with analysis

**SIGNING DO PASS:**

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**SIGNING OTHER RECOMMENDATIONS:**

*[Signature]* No Rec.  
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*[Signature]* - No Rec.  
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*[Signature]* - No Rec.  
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*[Signature]* none  
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*[Signature]*  
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 Co-Chairman's signature  
*[Signature]*

STATE OF ALASKA  
1988 LEGISLATIVE SESSION

BILL VERSION: \_\_\_\_\_  
PUBLISH DATE: \_\_\_\_\_

FISCAL NOTE

REQUEST:

Revision Date: \_\_\_\_\_  
Title: An Act relating to subrogation of  
medical benefits: efd.  
Sponsor: Governor  
Requestor: \_\_\_\_\_

Agency Affected: Health & Social Services  
BRU: Medical Assistance  
Components: Medicaid Facilities, Medicaid  
Non-facilities, General Relief Medical

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 88	FY 89	FY 90	FY 91	FY 92	FY 93
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING		0	0	0	0	0

CAPITAL		0	0	0	0	0
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REVENUE		0	0	0	0	0
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FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		0	0	0	0	0

POSITIONS:

FULL-TIME		0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Enactment of this legislation should increase the recovery of funds spent on behalf of recipients of Medicaid and General Relief Medical Assistance; however, estimates of such recoveries cannot be made with any validity at this time.

Prepared by: Kim Busch, Director *Kim Busch*  
Division: Medical Assistance

Phone: 465-3355  
Date: 12/21/87

(P) Approved by Commissioner: Myra M. Munson *Myra M. Munson*  
Agency: Health and Social Services

Date: 12/28/87

Distribution (by preparer):  
Legislative Finance  
Legislative Sponsor  
Requestor  
Office of Management and Budget  
Involved Agency(ies)

*Myra M. Munson*  
2-17-88

HR 366

"An Act relating to subrogation of medical benefits; and providing for an effective date."

I. Purpose of HB 366

The purpose of HB 366 is to enhance the states right to recover medical assistance payments made on behalf of recipients who file successful law suits, or receive out of court settlements, based on the accident or injury for which medical assistance was paid.

II. Sectional Analysis

Section 1 First, section 1 amends AS 47.05.070(b) by requiring a recipient of medical assistance to notify the Department of Health and Social Services in writing of any action or claim that the recipient has against a third party if the medical assistance was provided because of injury or illness for which the third party might be liable.

Secondly, section 1 amends AS 47.05.070(b) by requiring a medical provider to notify the Department of Health and Social Services in writing when the provider files a lien for unpaid medical assistance against a judgement, award, or settlement that is obtained by or on behalf of a recipient of medical assistance, and provides that the state's rights under AS 47.05.070 have priority over such a lien. This will ensure that the department is aware of such liens and can act in time to protect the state's rights under AS 47.05.070.

III. Summary

Federal Medicaid laws require states to pursue third party resources available to recipients, including recouping expenditures made on behalf of recipients for medical treatment for accidents or injuries caused by a liable third party. If enacted, this legislation would provide the department with additional tools for locating potential legal actions, and would allow the department undisputable first right of recovery in such actions.

IV. Recommendations

The Department strongly recommends passage of HB 366 to clearly establish the states first right to recovery of medical assistance payments.

Recommended By: Kim Busch  
Kim Busch, Director  
Division of Medical Assistance

Date: 2-17-88

Approved By: Myra M. Munson  
Myra M. Munson, Commissioner  
Department of Health and  
Social Services

Date: 2-17-88

STEVE COWPER  
GOVERNOR



STATE OF ALASKA  
OFFICE OF THE GOVERNOR  
JUNEAU

January 15, 1988

CC

The Honorable Ben Grussendorf  
Speaker of the House  
Alaska State Legislature  
P.O. Box V  
Juneau, AK 99811

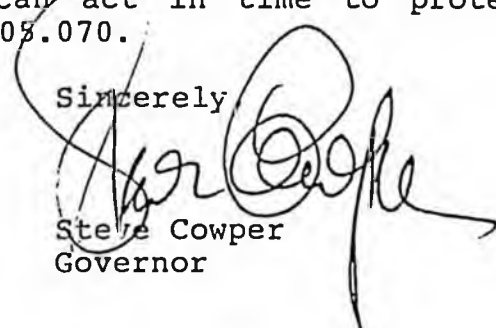
Dear Representative Grussendorf:

Under the authority of art. III, sec. 13, of the Alaska Constitution, I am transmitting a bill relating to the subrogation of medical benefits.

The bill amends AS 47.05.070(b) by requiring a recipient of medical assistance to notify the Department of Health and Social Services (department) in writing of any action or claim that the recipient has against a third party if the medical assistance was provided because of the injury or illness for which the third party might be liable. The notification should enhance the state's ability to recover some medical assistance payments.

The amendments to AS 47.05.070(b) also require a medical provider to notify the department in writing when the provider files a lien for unpaid medical assistance against a judgment, award, or settlement that is obtained by or on behalf of a recipient of medical assistance, and provide that the state's rights under AS 47.05.070 have priority over such a lien. This will ensure that the department is aware of such liens and can act in time to protect the state's rights under AS 47.05.070.

Sincerely,



Steve Cowper  
Governor

Good afternoon, Madam Chair, members of the committee. My name is Randy Super, I am the Administrative Officer of the Division of Medical Assistance.

The Governor requested HB 366 to enhance the states right to recover medical assistance payments made by the state on behalf of recipients who later file successful law suits, or receive out of court settlements, based on the accident or injury for which medical assistance was paid.

AS 47.05.070 was passed by the fourteenth legislature, as Chapter 105 SLA 1986. This statute requires: 1) the department not pay medical claims that are payable by a third party; in other words if the individual has insurance coverage, the insurance company pays before the state pays; 2) if the department pays someone's medical bills and the recipient files a claim against a third party, the department is subrogated to the rights of the recipient; 3) attorneys fees for recoveries are allocated in accordance with court rules; and 4) the department may enter into contracts for recoveries from third parties.

Passage of HB 366 would amend the statute to require a recipient of medical assistance to formally notify the Department of Health and Social Services of any action or claims against a third party by or on behalf of the recipient if medical assistance was provided for the injury or illness forming the basis of the action or claim against the third party.

Secondly, passage of HB 366 would amend the statute to require a medical provider to formally notify the Department when a provider files a lien for

unpaid medical assistance against a judgement, award or settlement that is obtained by or on behalf of a medical assistance recipient, and provides that the states right to recovery shall have priority over such a lien.

I would like to explain what prompted these requested amendments to the statute. The Division of Medical Assistance has identified 26 cases which were settled without the state's knowledge or participation resulting in approximately \$360,000 in paid claims which can no longer be pursued. It is very likely that even more such cases exist. This amendment will help the Department to identify these cases in advance and make recoveries for the state.

The second amendment resulted from a case identified by the contractor in which the recipient was hospitalized for a serious spleen injury. His medical costs totaled \$38,000. The state had paid \$23,500; and the remaining \$14,500 represented an unpaid outstanding bill at the hospital for treatment during a period when the recipient was ineligible for Medicaid. The recipients attorney recovered almost \$50,000 in settlement from the third party. \$32,000 represented the remaining balance available after deduction of attorney costs. The hospital had filed a lien for its unpaid bill. There is no clear guidelines in the statute on how to handle settlements of this nature. The state felt that the amount involved did not provide a basis upon which to legally proceed through the courts to interpret the statute. As a result the state lost \$3,684.

The Department has met with representatives of the Health Associations' Executive Board who have expressed their support for passage of this bill.

The Department has presented a zero fiscal note with this bill; because the amount of cost/savings is not quantifiable at this time. Additionally, because these recoveries are usually at least one year after payment of the medical assistance, the recoveries go to the general fund and do not impact the Departments budget.

I would be happy to answer any questions that members of the committee may have.

# HOUSE COMMITTEE REPORT

(7)

Date referred: 1/15/88

FURTHER REFERRALS: HESS

DATE: 2-19-88

The State Affairs Committee has considered HB 366

"An Act relating to subrogation of medical benefits; and providing for an effective date."

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**SIGNING DO PASS:**

*[Handwritten signatures]*

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**SIGNING OTHER RECOMMENDATIONS:**

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Chairman's signature