

HB

348

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

January 11, 1988

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. 18, of the Alaska Constitution, I am transmitting a bill that would change the composition of the Medicaid Rate Commission, which was established in the Department of Health and Social Services in 1983.

Currently, the Medicaid Rate Commission has four public or provider representatives and one state government representative. The latter is either the commissioner of health and social services or the commissioner of administration (or the appointed designee of either). The purpose of the Medicaid Rate Commission is to establish the rates for payments made to hospitals, nursing homes, and a variety of other health care facilities for services provided to Medicaid and general relief medical assistance recipients. The commission currently commits the state to a distribution of over \$80,000,000 yearly. With the present composition of the commission, the state lacks budgetary control because it cannot contain the growth of the rates approved by the commission.

Historically, boards with the authority to commit the state to some level of expenditure or indebtedness have had a voting majority of cabinet or top-level administrative officials. This bill brings the composition of the commission into conformance with other rate-setting bodies by placing a total of three department heads (or, in place of the third department head, one of the division directors of the office of management and budget) on that rate-setting body. Two other governor-appointed members would represent health care providers and consumers, respectively. The commission would, of course, continue to make its decisions based upon presentations made to it by health care providers.

POSITION PAPER

CS FOR HOUSE BILL NO. 348

"An Act relating to payment rates for health facilities and to the Medicaid Rate Advisory Commission."

EFFECT OF THE BILL

CSHB 348 changes the relationship between the Medicaid Rate Commission (MRC) and the Department of Health and Social Services by making the MRC advisory to the Department with regard to the setting of reimbursement rates for facilities providing health care through the Medicaid program. Currently, the MRC acts independently of the Department even though the rates which the MRC sets are binding on the Department.

DISCUSSION

The MRC currently sets medical facility rates by adopting regulations over which the executive or legislative branch have no approval or disapproval authority. The rates set by the MRC are binding on the State; the Medicaid program must reimburse facilities at the rate established by the Commission. This creates the situation in which the State has the obligations, without the needed authority, to (1) manage within its budget, (2) meet all federal Medicaid standards concerning maximum allowable rates, (3) ensure the greatest access to health care within our appropriation, and (4) try to manage the ever escalating costs of health care.

Each year, the legislature appropriates general fund dollars to fund the Medicaid program. This appropriation is based on projections of utilization (the degree to which each individual requires medical services), the number of eligible individuals who require service, the benefit or particular service which the State chooses to provide each eligible individual and the price of services. When the combination of utilization, eligibles and price require the expenditure of more funds than appropriated, the Department requests supplemental appropriations to maintain the program.

If the supplemental appropriation is not forthcoming, the program must, by statute, eliminate services such as dental care and care for the developmentally disabled, and reduce the number of eligible individuals to the extent necessary to meet budget limitations. For example, a proposed \$3 million regulation change currently being considered by the MRC is not budgeted in the FY 89 request. If the regulations go into effect and the money is not provided by the legislature through a supplemental, services would have to be eliminated.

As the above scenario indicates, the MRC, in addition to obligating the State to payments to providers also has the potential to effect the provision of all Medicaid services to eligible recipients. As an independent agency, the MRC does this without significant consideration for the overall health policy of the State.

DEPARTMENT POSITION

This legislation would authorize the Department of Health and Social Services to set Medicaid reimbursement rates for facilities after consultation with the MRC. In addition to the recommendations of the Commission, the department, prior to setting rates, would be required to consider the factors pertaining to rate setting which are currently identified in statute. The composition of the Rate Commission would not be affected by CSHB 348.

The Department of Health and Social Services supports CSHB 348 as a balanced approach to rate setting. With the passage of this bill, the health provider industry would retain its representation on the MRC and communicate rate recommendations directly to the Commissioner. While affording health care providers access to the rate setting process, the changes proposed in CSHB 348 provide the executive and legislative branches of government the authority they need to efficiently manage State general funds.

Approved by:

Myra M. Munson
Myra M. Munson
Commissioner
Department of Health
and Social Services

Date:

3-29-88

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: An Act Relating to Payment
Rates for Health Facilities...
Sponsor: _____
Requestor: Governor

Agency Affected: Health and Social Services
BRU: Medicaid Rate Commission
Components: Medicaid Rate Commission

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-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL						

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

Prepared by: Kim Busch, Director *Kim Busch*
Division: Medical Assistance
Approved by Commissioner: Nyra Nunson *Nyra Nuunson*
Agency: Health and Social Services

Phone: 465-3355
Date: 3/28/88
Date: 3/29/88

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



Official Business

Alaska State Legislature

House of Representatives

Al Adams

Chairman

Committee on Finance

WHILE IN SESSION
P.O. Box V
State Capitol
Juneau, Alaska 99801
(907) 465-3706

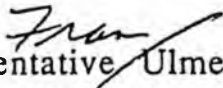
OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3320

1024 W. 6th
Anchorage, Alaska 99501
(907) 274-0615

March 2, 1988

Representative Fran Ulmer
Chairman
House State Affairs Committee
P.O. Box V
Juneau, AK 99811

Re: HB 348

Dear Representative  Ulmer:

I would like to take this opportunity to voice my support for House Bill 348 "An Act relating to the composition of the Medicaid Rate Commission."

As I am sure you are aware, the entitlement programs in general and the Medicaid budget in particular represent an ever increasing portion of the Department of Health & Social Services Budget. From FY 86 - FY 88, a period when the vast majority of state funded programs were sustaining double-digit percentage budget reductions, state general funds for Medicaid increased by 12.2%. If you add the FY 88 request for supplemental funding pending before the House Finance Committee, the increase is approximately 37.1%. I have attached a spreadsheet which more clearly demonstrates the growth in this program during this period.

While some of these increased costs can be attributed to expansion of services and increased caseloads, it is also true that a significant

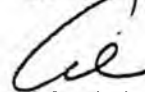
portion of the increased costs are directly related to the rate increases awarded to Medicaid eligible facilities by the Medicaid Rate Commission.

Under current law, the rate commission operates outside the normal policy/budget process and the composition of the commission further aggravates the problems inherent in this situation. House Bill 348 would provide for a majority of the members of the commission to be state policy-makers and presumably more sensitive to the overall policy and budget priorities of the state.

To illustrate just how out of step with the normal budget process the current commission appears to be, I have attached a copy of a notice of proposed changes in the regulations of the Medicaid Rate Commission which came across my desk last week. If the commission adopts these regulations as written, the state will be obligated for an additional \$2.9 million for FY 89 with further increases in succeeding years. These funds are not in the current Governor's FY 89 budget request nor will the regulations likely be approved in time for submission as a budget amendment. As a practical matter what we have here is a FY 89 supplemental request. We are set-up for a FY 89 Medicaid supplemental before we have even approved the original FY 89 budget!

In conclusion, I urge the State Affairs Committee to give favorable consideration to HB 348. I am under no illusions that this will solve all our Medicaid funding problems; but I am convinced it is a worthwhile step in the right direction. In the absence of additional cost containment measures in this area, I fear that further erosion in funds for other vital health & social services programs is inevitable.

Sincerely,



Al Adams
Chairman

House Finance Committee

cc Rep. Mark Boyer
Chairman
House Finance HESS Budget Subcommittee

ATTACHMENT A MEDICAID BUDGET FY 87 ACTUAL-FY 89 (GENERAL FUNDS ONLY)

	A	B	C	D	E	F	G	H	I	J
1	COMPONENT	FY 87 ACT	FY 88 AUTH	FY 88 SUPP	FY 88 TOTAL	FY 89 GOV	FY 89 REGS	FY 89 TOTAL	FY 89 V FY 87	FY 89 V FY 87
2									AMOUNT	%
3										
4	MEDICAID-NON FACILITY	12,556.1	10,972.6	4,970.0	15,942.6	17,213.2	0.0	17,213.2	4,657.1	37.1%
5	MEDICAID-FACILITY	22,822.4	26,598.2	3,375.0	29,973.2	33,112.1	2,900.0	36,012.1	13,189.7	57.8%
6										
7	TOTAL	35,378.5	37,570.8	8,345.0	45,915.8	50,325.3	2,900.0	53,225.3	17,846.8	50.4%

FY 88 TOTAL=AUTHORIZED PLUS PROPOSED SUPPLEMENTAL; FY 89 TOTAL=FY 89 GOVERNOR PLUS PROPOSED NEW REGULATIONS

EL

NOTICE OF PROPOSED CHANGES
IN THE REGULATIONS
OF THE MEDICAID RATE COMMISSION

Notice is given that the Medicaid Rate Commission, under authority vested by AS 47.07.070 and AS 47.07.073, proposes to amend regulations in Title 7 AAC 43 of the Alaska Administrative Code, dealing with establishment of a rate setting process for payment of services for Medical Assistance programs to facilities, to implement AS 47.07, as follows:

1. 7 AAC 43.685(b)(2) is proposed to be amended by identifying capital and various insurance and employee benefits costs as passthrough costs.
2. 7 AAC 43.685(b)(3) is proposed to be amended by adding various insurance and employee benefits costs as facility budgeted costs for rate setting.
3. 7 AAC 43.691(a)(1) is proposed to be amended to substitute actual passthrough costs for budgeted passthrough costs when calculating year end conformance.

Notice is also given that any person interested may present oral or written statements or arguments relevant to the proposed action at a hearing to be held in Room 336 of the Frontier Building, 3601 "C" Street, Anchorage, Alaska at 1:30 p.m. on March 18, 1988.

This action is expected to require an increased general fund appropriation of \$2,900,000 in fiscal year 1989, \$3,500,000 in fiscal year 1990, and \$4,300,000 in fiscal year 1991.

STATEMENT
HEALTH ASSOCIATION OF ALASKA

March 15, 1988

House Committee on State Affairs
HB 348 - MEDICAID RATE COMMISSION

The Health Association of Alaska, representing acute and long term health care facilities, is opposed to H.B. 348, an act relating to the composition of the Medicaid Rate Commission.

Purpose of Medicaid Rate Commission:

The purpose of the Commission is to establish a fair rate of payment to health facilities for services rendered to Medicaid and General Relief Medical (GRM) beneficiaries.

The major activities of the Commission are to develop and implement a new rate setting system, audit facility data, prepare and negotiate the State Plans with the Federal Government for federal funding, and report proposed Medical Assistance expenditures for current and subsequent state fiscal years. The rate setting is a public process wherein the Commission deliberates the proposed rates and sets the rates.

Current Composition of Medicaid Rate Commission:

1. Licensed Health Facility CEO
2. Commissioner of Administration or Commissioner of Health and Social Services or their designee
3. Licensed physician
4. Certified Public Accountant
5. Consumer

Intent of HB 348:

Replace licensed health facility CEO, physician, and CPA with a health care provider, Commissioner of Administration, Commissioner of Health and Social Services, and/or a third Commissioner or a director of a division of the Office of Management and Budget.

Reasons Why Health Association of Alaska Opposes HB 348:

1. The intent of HB 348 is to control health care facility costs by having three of the five members of the Commission represent state government.

That is contrary to legislative intent. Hospital and long term health care facility rates established by the Commission should not be budget driven, but should reflect a fair rate of payment for services rendered.

State government and the public need to have the data compiled by the Commission, and know that fair and equitable rates are established by utilizing that data.

(MORE)

Concern is that needed rate increases will be denied solely for the reason that the Department of Health and Social Services will be required to seek additional funding from the Legislature to underwrite such increases. The fact that health facility costs, generated by people in need, must compete with other health and social service programs is recognized, but it does not negate the fact that hospitals cannot subsidize state programs.

It should be noted that a recent survey (by Providence Hospital) showed that hospital uncompensated care (bad debt/charity) costs increased from \$5,339,000 in 1982 to \$10,368,000 in 1986. Medicaid paid hospitals only \$20,978.00 in 1986. Liability insurance premium costs increased from \$3,147,000 in 1986 to \$5,377,000 in 1988. (Data from Medicaid Rate Commission.)

2. The Certified Public Accountant, physician, and licensed health facility CEO are needed on the Commission, as is the consumer and the representative of the Department of Health and Social Services.

Establishing health facility costs is extremely complex, and the involvement of individuals who are in the everyday business of providing health services and cost accounting contribute significantly to the deliberations of the Commission.

#

FOR: Harlan Knudson
Health Association of Alaska
319 Seward Street, #11
Juneau, AK 99801
586-1790

STATE OF ALASKA
THE LEGISLATURE

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

LEGISLATIVE AFFAIRS AGENCY
LEGISLATIVE REFERENCE LIBRARY

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

H. JUD.

3-29-88

1:30 p.m.

EXPLANATION OF COMMITTEE SUBSTITUTES FOR HB 348

CS #1 - Changes to the Medicaid Rate Commission to Advising the Department on Medicaid Facility Rates.

CS #2 - Links Medicaid Rate Commission Set Facility Rates to Approval of Federal State Plan to Ensure Continued Federal Funding.

CS #3 - Eliminates the Medicaid Rate Commission

CS #1

HOB
348

Changing the Medicaid Rate Commission to Advising the Department of
Medicaid Facility Rates.

file
H.
JP

Purpose

~~This proposed amendment would change the focus of the Medicaid Rate Commission from a rate setting body to one giving advice to the Department of Health and Social Services. Upon consideration of that advice and review of available funding, the department adopts fair facility rates for Medicaid based on federal requirements and state statutes.~~

Section 1. AS 47.07.040 is amended to read:

Sec. 47.07.040. State plan for provision of medical assistance. The department shall prepare a state plan in accordance with the provisions of 42 U.S.C. 1396 - 1396p (Title XIX, Social Security Act, Medical Assistance) and submit it for approval to the United States Department of Health and Human Services. The plan shall designate that the Department of Health and Social Services is the single state agency to administer this plan. The department shall act for the state in any negotiations relative to the submission and approval of the plan, The department [,INCLUDING THE MEDICAID RATE COMMISSION,] may make those arrangements or regulatory changes, not inconsistent with law, as may be required under federal law to obtain and retain approval of the United State Department of Health and Human Services to secure for the state the optimum federal payment under the provisions of 42 U.S.C. 1396-1396p (Title XIX, Social Security Act, Medical Assistance). In addition, the department shall provide a report to the legislature no later than March 15 of each year concerning the status

of this program and recommendations, with supporting fiscal data, as to any changes in the coverage of eligible persons or services to be provided.

* Sec. 2. AS 47.07.070 is amended to read:

Sec. 47.07.070 Payment to Health Facilities. (a) The commission shall advise the department on the prospective [DETERMINE PROSPECTIVELY THE] rate of payment to a health facility under this chapter and AS 47.25.120-47.25.300 based on a fair rate for reasonable costs incurred by the facility. The department shall set the rates of payment to a health facility. The department [COMMISSION] shall by regulation list the factors it considers in making its rate determination under this section, after consultation with the commission.

(b) In determining a rate of payment to a health facility under this section, the department [COMMISSION] shall consider the proportionate share of the facility's financial requirements for patient care for

(1) cost of current operations, including salaries and wages, purchased services, supplies, insurance, leases, depreciation, taxes, interest expense, maintenance and other health facility operating expenses; and

(2) education, research, and appropriate capital development.

(c) In determining a rate of payment to a health facility under this section, the department [COMMISSION] may consider whether the rate of utilization of the facility has been reduced because of improvident or careless development of the facility.

(d) In determining a rate of payment to a health facility under this section, the department [COMMISSION] shall consider the appropriation limit set by the legislature for the department's programs under this chapter and under AS 47.25.120-47.25.300, and available federal revenue.

* Sec. 3. AS 47.07.073 is amended to read:

Sec. 47.07.073 Uniform Accounting, Budgeting, and Financing Reporting.

(a) The department [COMMISSION] by regulation shall require a uniform system of accounting, budgeting, and financial reporting for health facilities receiving prospective payments under this chapter. The regulations shall provide for reporting revenues, expenses, assets, liabilities, and units of service. The department [COMMISSION] shall specify the date the system become effective for each health facility.

(b) In adopting regulations as under this section, the department [COMMISSION] shall consider

(1) accounting, budgeting, and financial reporting procedures used by health facilities;

(2) variations among health facilities in the types of health care services provided by health facilities;

(3) the size and organizational structure of health facilities;

(4) the methods used by health facilities to obtain payments; [AND]

(5) other factors the department [COMMISSION] considers relevant, and [.]

(6) the recommendations of the commission.

(c) The department [COMMISSION] may waive or modify a requirement for accounting, budgeting, or financial reporting for a health facility if waiver or modification is

(1) necessary to avoid excessive costs to the facility; and

(2) consistent with the policies of this chapter.

(d) Notwithstanding other provisions of this section, the department [COMMISSION] may, by regulation, modify the system of accounting, budgeting and financial reporting required under this section for a health facility having fewer than 25 acute care beds in order to reduce the operating costs of that facility.

Sec. 4. AS 47.07.075 is amended to read:

Sec. 47.07.075. Application of Administrative Procedure Act. Action of the department [COMMISSION] under AS 47.07 and AS 47.25.120-AS 25.300 are subject to the provisions of the Administrative Procedure Act (AS 44.62).

Sec. 5. AS 47.07.110 is amended to read:

Sec. 47.07.110. Medicaid Rate Advisory Commission established. The Medicaid Rate Advisory Commission is established in the Department of Health and Social Services.

Sec. 6. AS 47.07.180 is amended to read:

Sec. 47.07.180. Duties. (a) The commission shall review proposed payment rates [AND MAY REVIEW BUDGETS] of health facilities and advise the department on [ESTABLISH] payment rates for health facilities under this chapter and AS 47.25.120-47.25.300.

(b) The commission shall advise [CONSULT WITH] the department on the state plan as it relates to health facilities. [THE COMMISSION MAY NOT CHANGE THE UNIT OF PAYMENT WITHOUT THE WRITTEN CONSENT OF THE DEPARTMENT.]

(c) When the department enters into a substantially revised state plan under AS 47.07.040, and when, as part of the the revised state plan, the department [COMMISSION] adopts regulations which substantially change

the methods used or the factors considered in determining the prospective payment rates, the commission may, at its discretion, recommend the department redetermine the prospective payment rates for all facilities from the effective date of the new regulations forward. Each redetermined rate will be effective from the date of the department's [COMMISSION'S] new order as to each facility.

[(D) BY MARCH 1 OF EACH YEAR, THE COMMISSION SHALL DEVELOP FOR THE FISCAL YEAR STARTING THE NEXT JULY 1 AN ANNUAL ESTIMATE OF MEDICAL ASSISTANCE PROGRAM EXPENDITURES IN HEALTH FACILITIES UNDER THE JURISDICTION OF THE COMMISSION. THE ESTIMATE SHALL CONSIDER ANTICIPATED UTILIZATION AND PAYMENT RATES FOR EACH FACILITY. THE METHODOLOGY USED BY THE COMMISSION TO DEVELOP THE ESTIMATE SHALL BE CONSISTENT WITH THE REGULATIONS GOVERNING THE COMMISSION'S RATE-SETTING PROCESS.]

Sec. 7. AS 47.07.190 is amended to read:

Sec. 47.07.190. Employment of personnel. The department [COMMISSION] may employ and determine the salary of an executive director, who shall provide staff assistance to the commission. With the approval of the department [COMMISSION], the executive director may select and employ additional staff. The commission shall be assisted by the officers and personnel of the department as the commissioner of health and social services shall direct. The executive director of the commission is in the exempt service under AS 39.25.

Sec. 8. AS 47.07.900(4) is amended to read:

(4) "commission" means the Medicaid Rate Advisory Commission;

~~Sec. 9. Sections 1-7 of this Act take effect immediately under AS
01.10.070(c).~~

POSITION PAPER

HOUSE BILL 348

"Relating to the Composition of the Medicaid Rate Commission"

Purpose

HB 348 would modify the membership of the Medicaid Rate Commission (MRC). Currently, AS 47.07.120 requires the following membership on the MRC:

1. The chief executive officer of a health facility licensed by the state but not owned or operated by the State or federal government and that is subject to the budget review process of the Commission.
2. The Commissioner of Administration, Commissioner of Health and Social Services or the appointed designee of either commissioner.
3. A physician licensed to practice medicine in the State who is actively engaged in the practice of medicine and who is not employed by the State.
4. A certified public accountant with relevant experience.
5. A person representing consumers of health services who does not have a direct or indirect interest in any entity that provides health care services.

HB 348 changes the membership of the MRC to the following:

1. Commissioner of Administration or designee;
2. Commissioner of Health and Social Services or designee;
3. A third Commissioner or designee or director of a division or office of management and budget designated by the governor;
4. A representative of the health care provider community appointed by the governor;
5. A representative of health care consumers appointed by the governor.

Discussion

The MRC which was created by the legislature in 1984 is nearly unique in the nation in its rate setting authority. The MRC sets all the rates for inpatient care in hospitals and nursing homes

and for some other kinds of care provided in facilities. The total medicaid funds paid to providers through the MRC exceeded \$65 million last year.

The MRC sets rates by adopting regulations over which the executive or legislative branch have no approval or disapproval authority. This creates a situation in which the State has the obligations, without the needed authority, to (1) manage within its budget, (2) meet all Federal medicaid standards concerning maximum rates, (3) ensure the greatest access to health care within our appropriation, and (4) try to manage ever escalating costs of health care. This is impossible to do without authority over the activities of the MRC.

AS 47.07.070 requires the Medicaid Rate Commission to determine prospectively the rate of payment that the medicaid program will apply to health care facilities as reimbursement for the treatment of medicaid eligible individuals. Principles used in determining this rate are provided in statute while specific factors which are considered in determining the rate are adopted in regulation. HB 348 will neither change the scope of the MRC's authority to set rates nor alter the statutory basis upon which rates are determined.

However, HB 348 will (1) associate the MRC more closely to the development of health policy by the legislature and the executive branch and (2) provide more administrative control over an agency which has the authority to obligate the state to expenditures of over \$65 million per year.

The MRC has the authority to control the amount of general funds which are paid to health facilities. The rates which are established by the MRC have the force of law; once established, they must be paid by the medicaid program as the health services are provided. The MRC obligates the State to pay these rates, and because Medicaid is an entitlement program, the State must pay for all eligible individuals who receive service, based on the service priority as established by law.

It is unique in Alaska to invest a body composed of a majority of non-State members with the authority to indebt the State. Boards with similar or comparable powers, such as the Alaska Housing Finance Corporation (AHFC), the Alaska Power Authority and the Alaska Public Utilities Commission, contain majority representation from the executive branch. The five member AHFC board, for example, has two public members and three cabinet officials.

The State's incurs obligations as a result of MRC decisions even though only one of the members of the MRC is a representative of State government (four are public members). The MRC, as currently established, sets rates, and consequently expends general

funds, independently from either the legislature or the executive branch. HB 348 would alter the composition of the MRC so that a majority of the members of the Commission would be representatives of the executive branch, thereby providing more policy control over the Commission's decisions, and, bringing the Commission's membership more in line with other State boards of comparable responsibility.

Although the MRC obligates the State to payments which exceed 50 percent of the State's medicaid budget of \$121 million, the MRC is not charged with making rate decisions within the context of health care policy. The MRC establishes rates within the context of a methodology which considers facility cost data but not the impact of the rate and subsequent expenditure on other health programs. However, by not considering the impact of the rate on the overall health care policy, and by virtue of the amount of medicaid dollars obligated by the commission, the MRC is implicitly involved in establishing priorities for the provision of medicaid services.

For example, the MRC is currently considering adoption of new regulations to allow budgeted costs of certain expenses to be included in the rate, even when the budgeted amount exceeds inflation and, may have been, or be, driven by management practice or decision. This rate change, which could cost the State up to \$3 million, is proposed even though the State is currently in jeopardy of having the Federal government reject the current State medicaid plan because rates exceeds the federal upper limits.

Each year, the legislature appropriates general fund dollars to fund the medicaid program. This appropriation is based on projections of utilization (the degree to which each individual requires medical services), the number of eligible individuals who require service, the benefit or particular service which the State chooses to provide each eligible individual and the price of services. Should the combination of utilization, eligibles and price require the expenditure of more funds than appropriated, the department may request supplemental appropriations to maintain the program.

If the supplemental appropriation is not forthcoming, the program must, by statute, eliminate services such as dental care and care for the developmentally disabled, and reduce the number of eligible individuals to the extent necessary to meet budget limitations. The proposed \$3 million regulation change currently being considered is not budgeted in the FY 89 request. If the regulations go into effect and the money is not provided by the legislature through a supplemental, services would have to be eliminated.

As the cost and quantity of institutional care continues to increase, health care policy choices which require favoring one set of services over another become more complex and difficult for legislators and other policy makers to make. If prevention services are to be reduced, or new community services which enhance life outside institutions cannot be developed because of institutional costs, then policy makers will be unable to formulate health policies which respond to the needs of the society as a whole. The restructuring of the MRC as proposed by HB 348 will integrate the decisions of the MRC with other aspects of health care policy.

Position

The Department strongly supports the passage of HB 348 as an effective means of integrating the MRC into state policy and as a way for the State to gain control of an agency which has the authority to obligate state general fund dollars.

Approved by:

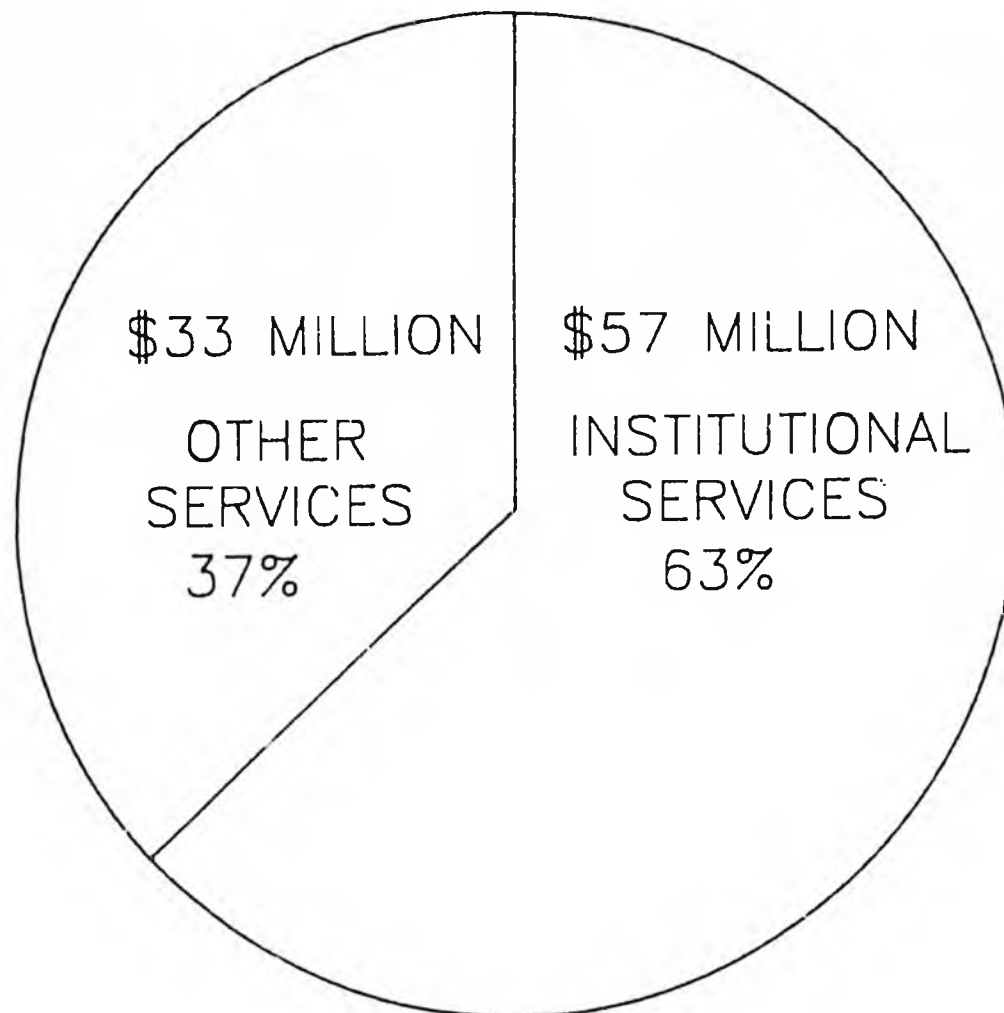
Myrle Munson
Myrle Munson,
Commissioner

Date:

March 2, 1988

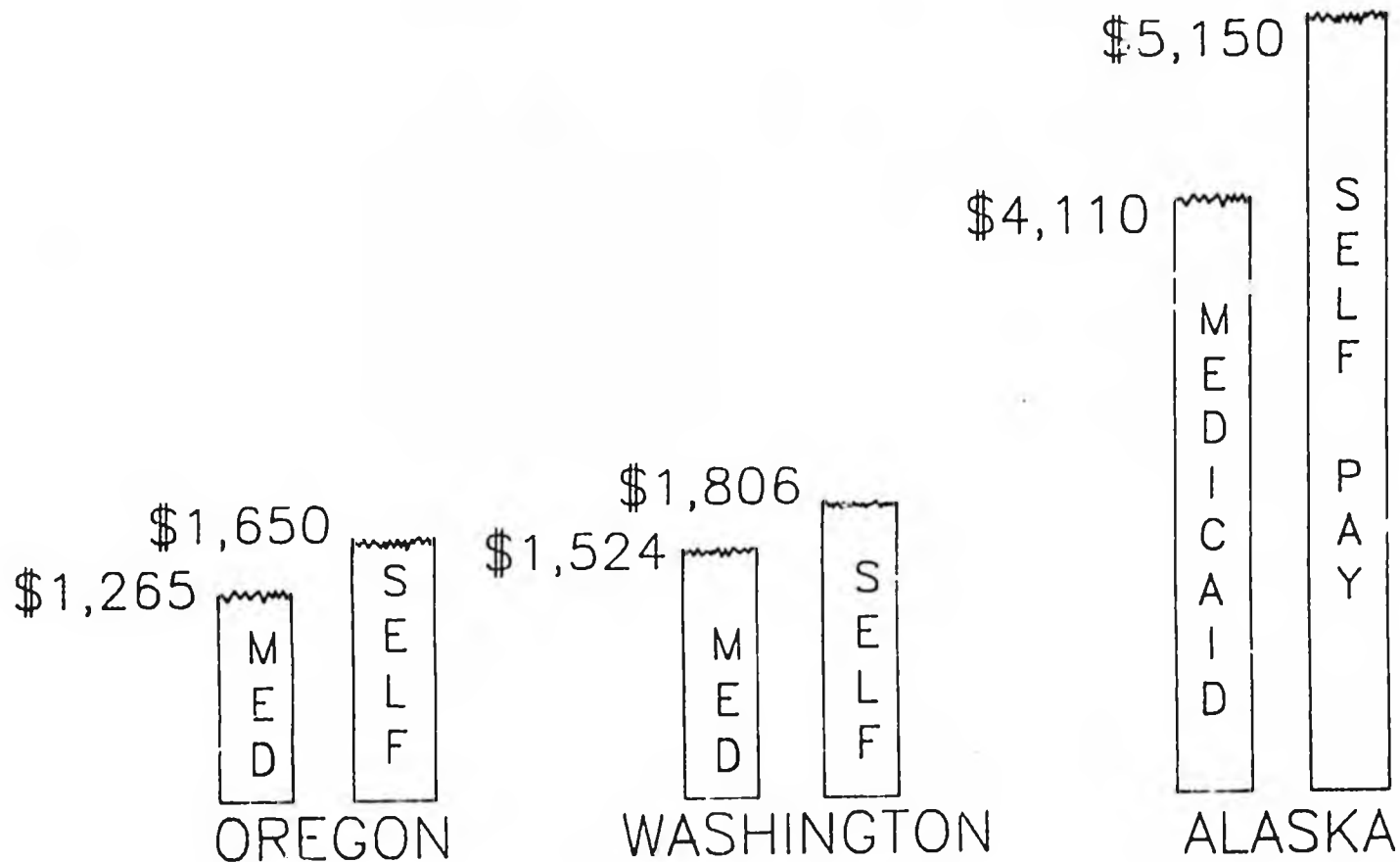
A

MEDICAID EXPENDITURES
BY TYPE OF SERVICE
FISCAL YEAR 1987



B

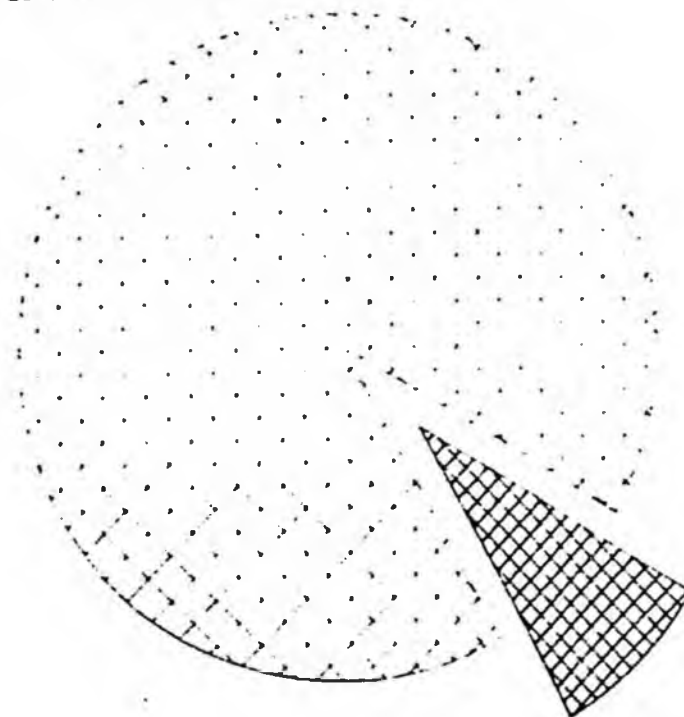
NURSING HOME CARE TYPICAL MONTHLY COST TO MEDICAID AND SELF-PAYING PATIENTS



C

PERCENTAGE OF PATIENTS
 MEDICAID AND NON-MEDICAID
 INTERMEDIATE AND SKILLED NURSING
 1982 THROUGH JUNE, 1987

91.4% MEDICAID PATIENTS



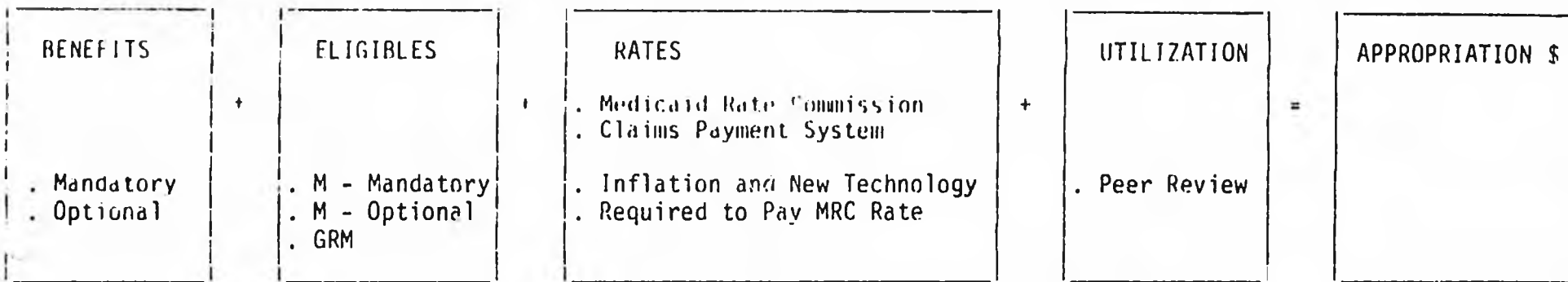
8.6% NON-MEDICAID PATIENTS

CALENDAR YEAR	ANNUAL AVERAGES		PERCENT MEDICAID	
	OCCUPIED	MEDICAID		NON-MEDICAID
1981	476	450.7	25.2	94.7%
1982	469	439.4	29.5	93.7%
1983	474	442.8	30.8	93.5%
1984	492	444.4	47.8	90.3%
1985	507	454.4	52.6	89.6%
1986	508	449.7	58.1	88.6%
1987	530	469.8	60.5	88.6%

ONLY THE FIRST SIX MONTHS AVERAGE IS GIVEN FOR 1987

D

FY89 MEDICAL ASSISTANCE



PROGRAM INCREMENTS:

- . No new benefits/services
 - . 4.2% in Medicaid Facilities
 - . 4.5% in all other programs
 - . Healthy baby bill implement SOBRA option
- . 3.8% for all programs

. No adjustment for Change in Utilization Patterns

. Base Adjustment for Unmet Need

ADMINISTRATIVE INCREMENTS FOR COST MANAGEMENT

- . Hearing Officer 2.0
- . Auditors 94.6

- . Physicians Services 99.5
- . Pharmacists Services 103.5
- . Continue Pre-Admission Screening 211.8
- . Continued Third Party Liability Recoveries

Implementation of the Medicaid Management Information System impacts each of the four areas above.

COMPARISON OF OREGON TO ALASKA

	ALL DEPTS -----	ALL DEPTS- NO NURSING -----	NURSING -----
AVERAGE WAGE PER HOUR			
ALASKA FACILITIES	\$10.85	\$10.98	\$10.75
OREGON FACILITIES	\$7.18	\$7.56	\$7.03
ALASKA RATIO TO OREGON	1.51	1.45	1.53

AVERAGE HOURS PER PATIENT DAY

ALASKA FACILITIES	6.95	3.08	3.86
OREGON FACILITIES	5.01	1.42	3.59
ALASKA RATIO TO OREGON	1.39	2.17	1.08

COMPARISON OF OREGON'S HIGHEST COST FACILITIES TO ALASKA'S
AVERAGE PER PATIENT DAY COSTS

FACILITY	WAGE PER HOUR	ALL- HRS. PER DAY	NURSING WAGE PER HR.	NURSING - HRS. PER DAY	NON-NURSING WAGE PER HR.	NON-NURSING HRS. PER DAY
ALASKA FACILITIES						
DEFOLI	\$10.91	7.32	\$11.27	4.12	\$10.45	3.20
HERITAGE	\$11.40	6.85	\$11.63	3.53	\$11.16	3.32
OUR LADY	\$10.55	7.56	\$10.20	4.25	\$11.00	3.31
ST. ANN	\$10.22	7.90	\$9.55	4.43	\$11.08	3.47
WESLEYAN	\$11.17	5.10	\$11.12	2.99	\$11.24	2.11
AVERAGE	\$10.85	6.95	\$10.75	3.86	\$10.98	3.08
OREGON FACILITIES						
CAPITOL VIEW	\$6.70	4.74	\$7.12	3.46	\$5.56	1.28
FRIENDSHIP	\$8.10	6.66	\$6.81	4.70	\$11.19	1.96
MT. VIEW CONV. CTR.	\$6.60	3.72	\$6.78	2.63	\$6.17	1.09
PORTLAND ADVENTIST	\$7.14	4.56	\$6.99	3.63	\$7.73	0.93
ROBISON	\$7.34	5.39	\$7.44	3.54	\$7.15	1.85
AVERAGE	\$7.18	5.01	\$7.03	3.59	\$7.56	1.42

Linking Medicaid Rate Commission Set Facility Rates to Approval of Federal State Plan to Ensure Continued Federal Funding

Purpose

This proposed amendment would require any rate set by the Medicaid Rate Commission to comply with federal Medicaid program requirements. The amendment links the effect dates of changes in regulations to the approval of the Medicaid state plan by federal funding authorities. If the rates do not meet with federal requirements and the state plan is not approved, federal funding for the Medicaid program is jeopardized. If the rates for hospitals and other facilities go into effect prior to the federal approval of the plan, the state Medicaid program is at risk whether the federal government will participate in federal funding for these facilities.

* Section 1. AS 47.07.070(a) is amended to read:

The commission shall determine prospectively the rate of payment to a health facility under this chapter and AS 47.25.120-47.25.300 based on a fair rate for reasonable costs incurred by the facility. The rates of payment must be in accordance with provisions of 42 U.S.C. 1396p(Title XIX, Social Security Act, Medical Assistance). The commission shall by regulation list the factors it considers in making its rate determinations under this section. Regulations that require modification of the state plan become effective only after federal approval of the state plan or the amended state plan, except with the prior written approval of the department.

* Sec. 2. AS 47.07.180(c) is amended to read:

When the department enters into a federally approved substantially revised state plan under AS 47.07.040, and when, as part of the federally approval revised state plan, the commission adopts regulations which substantially change the methods used or the factors considered in determining the prospective payment rates, the commission may, at its discretion, redetermine the prospective payment rates for all facilities from the beginning of the first quarter in which the federally approved revised state plan is in effect [THE EFFECTIVE DATE OF THE NEW REGULATIONS FORWARD]. Each redetermined rate will be effective from the date of the commission's new order as to each facility.

* Sec. 3. Sections 1 and 2 of this Act take effect immediately under AS 01.10.070(c).

Original sponsor: Rules/Governor

1 IN THE HOUSE

2 CS FOR HOUSE BILL NO. 348 ()

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 FIFTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to the Medicaid Rate Commission and
7 prospective payments to health facilities for certain
8 medical services; and providing for an effective
9 date."

10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

11 * Section 1. AS 39.25.120(c) is amended by adding a new paragraph to
12 read:

13 (21) executive director for prospective payments to health
14 facilities in the Department of Health and Social Services.

15 * Sec. 2. AS 47.07.040 is amended to read:

16 Sec. 47.07.040. STATE PLAN FOR PROVISION OF MEDICAL ASSISTANCE.
17 The department shall prepare a state plan under [IN ACCORDANCE WITH]
18 the provisions of 42 U.S.C. 1396 - 1396p (Title XIX, Social Security
19 Act, Medical Assistance) and submit it for approval to the United
20 States Department of Health and Human Services. The plan shall desig-
21 nate [THAT] the Department of Health and Social Services as [IS] the
22 single state agency to administer this plan. The department shall act
23 for the state in [ANY] negotiations relative to the submission and
24 approval of the plan. The department [, INCLUDING THE MEDICAID RATE
25 COMMISSION,] may make those arrangements or regulatory changes, not
26 inconsistent with law, as may be required under federal law to obtain
27 and retain approval of the United States Department of Health and
28 Human Services to secure for the state the optimum federal payment
29 under the provisions of 42 U.S.C. 1396 - 1396p (Title XIX, Social

1 Security Act, Medical Assistance). In addition, the department shall
2 provide a report to the legislature by [NO LATER THAN] March 15 of
3 each year concerning the status of this program and recommendations,
4 with supporting fiscal data, as to [ANY] changes in the coverage of
5 eligible persons or services to be provided.

6 * Sec. 3. AS 47.07 is amended by adding a new section to read:

7 Sec. 47.07.065. PROSPECTIVE PAYMENT SYSTEM. The department
8 shall adopt regulations necessary to implement a system of prospective
9 payments to health facilities under this chapter.

10 * Sec. 4. AS 47.07.071 is amended to read:

11 Sec. 47.07.071. REPORTS BY HEALTH FACILITIES. Not later than
12 120 days after the end of the [EACH] fiscal year of a health facility,
13 the facility shall submit to the department [COMMISSION] a report on
14 the facility's financial performance during the fiscal year.

15 * Sec. 5. AS 47.07.072 is amended to read:

16 Sec. 47.07.072. REPORT BY THE DEPARTMENT [COMMISSION]. Not
17 later than September 30 of each year, the department [COMMISSION]
18 shall submit to the governor a report on the prospective payments made
19 under this chapter during the current fiscal year and an estimate of
20 the prospective payments that will be made during the remainder of the
21 current fiscal year and the next fiscal year. The report shall state
22 the assumptions that are used as a basis for the estimates.

23 * Sec. 6. AS 47.07.190 is amended to read:

24 Sec. 47.07.190. EMPLOYMENT OF PERSONNEL. The commissioner
25 [COMMISSION] may employ and determine the salary of an executive
26 director for prospective payments to health facilities. With the
27 approval of the commissioner [COMMISSION], the executive director may
28 select and employ additional staff. [THE COMMISSION SHALL BE ASSISTED
29 BY THE OFFICERS OR PERSONNEL OF THE DEPARTMENT AS THE COMMISSIONER OF

1 HEALTH AND SOCIAL SERVICES SHALL DIRECT.] The executive director [OF
2 THE COMMISSION] is in the partially exempt service under AS 39.25.120
3 [AS 39.25].

4 * Sec. 7. AS 47.07.900 is amended by adding a new paragraph to read:

5 (11) "commissioner" means the commissioner of health and
6 social services.

7 * Sec. 8. AS 47.25.195(b) is amended to read:

8 (b) A health facility receiving a payment under this chapter is
9 subject to the requirements of AS 47.07 [AS 47.07.070 - 47.07.075].

10 * Sec. 9. AS 47.25.195(d) is amended to read:

11 (d) If insufficient money is appropriated to fund medical assis-
12 tance under AS 47.25.120 - 47.25.300 when taking into consideration
13 projected use and the health facility payment rates established under
14 AS 47.07 [IN ACCORDANCE WITH (b) OF THIS SECTION], the department may,
15 by regulation, establish at any time in the fiscal year a prospective
16 pro rata reduction of the facilities' established payment rates that
17 will be paid by the department for services provided by facilities
18 under AS 47.25.120 - 47.25.300;

19 * Sec. 10. AS 47.25.195(e) is amended to read:

20 (e) Notwithstanding (a) - (d) of this section, the department
21 may enter into agreements with any facility to provide services at a
22 payment rate lower than the rate established under AS 47.07 [IN ACCOR-
23 DANCE WITH (b) OF THIS SECTION].

24 * Sec. 11. AS 39.25.110(23); AS 47.07.070, 47.07.073, 47.07.074, 47.-
25 07.075, 47.07.110, 47.07.120, 47.07.130, 47.07.140, 47.07.150, 47.07.160,
26 47.07.170, 47.07.180, and 47.07.900(4) are repealed.

27 * Sec. 12. This Act takes effect immediately under AS 01.10.070(c).
28
29

Sund

MAR 20 1988

ALASKA CODE REVISION COMMISSION
LEGISLATIVE AFFAIRS AGENCY
POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811

March 27, 1988

The Honorable John Sund
Chairman, House Judiciary Committee
Room C-122 State Capitol Building
Juneau, Alaska 99811

Re: HB 322; An Act revising the corporations code.

Dear Representative Sund:

This letter is in response to your recent request for information about HB 322, the corporations code bill.

Existing AS 10.05.010 et seq., Alaska's corporation code, was adopted from Oregon law in 1957. Oregon had previously passed its version of the American Bar Association Model Act, adopted by the ABA in 1953. As such, Alaska's corporation code is approximately 35 years old, having been amended to a small degree in 1976 and 1980. Most of the amendments dealt with specific sections of the code and no attempt was made to overhaul the entire code.

The existing Title 10 is poorly organized and horribly out of date. In order to locate all sections of the code dealing with a specific corporation matter, it is necessary to review the entire title to insure that no provisions have been overlooked. The index provides little guidance to anyone seeking to determine rights and obligations, as well as corporate procedures, under the existing law. It is written in language that makes the code difficult to use by the lay person.

In response to the great need to update and organize the corporation code, the Alaska Code Revision Commission undertook a complete rewrite of the code beginning in about 1980. In furtherance of this effort, the Commission engaged the services of Professor Daniel Wm. Fessler to serve as the reporter for the code revision project. Professor Fessler teaches corporate and business organization law at the University of California, Davis law school. He is presently the reporter for Corbin On Contracts and his texts on corporations and business associations are used

HON. JOHN SUND
HB 322; CORPORATIONS CODE
PAGE 1

in law schools throughout the United States. The Alaska Code Revision Commission is a legislatively created commission with representatives from all three branches of government as well as public members. Work on the corporations code continued through the period 1980 to the present, with the greatest emphasis on the period from 1981 to 1984. The Commission has spent more than \$350,000.00 in consulting fees, has spent literally thousands of man hours in drafting and research, has conducted more than 30 public meetings on the code, has made several presentations to the Alaska Bar Association and attorney groups, and has had a commissioner or its consultant testify before a number of legislative committees. The draft bill has drawn the most articulate statements of corporation law from Alaska, California, New York, Oregon, Washington and Delaware. It is a "middle of the road" bill, meaning that there is a balance between a strong management or strong shareholder corporation model. By using the optional incorporation provisions found in the draft, an incorporator can easily create either a strong management or strong shareholder corporation.

The most controversial provision of the draft bill, Section 488, has been removed from the draft. This provision dealt with secondary liability of officers and directors in the event the corporation became insolvent. Other criticisms of the bill have focused upon provisions of the draft which are only restatements or inclusions of existing Alaska law. While the "financial" provisions of the draft will certainly remove some flexibility from the manner in which corporations declare dividends, they have not been the subject of much attention by businesses or attorneys.

To summarize, the following features of the draft strongly argue in favor of its adoption by the Legislature as a new code for Alaskan corporations:

1. The code uses a "cookbook" approach to organization. All general topics are included in sections dealing only with those topics. One need only look to one section to determine how to incorporate or to dissolve. Under the existing code, it is necessary to review the entire code to make sure that no provision has been overlooked.

2. The topic headings are informative as to the area of substantive law that is covered in each section. The code is written in lay language whenever possible. The design of the format and its organization has been accomplished so that the lay person can easily discover how to incorporate and how to carry on business in the corporate form, thus minimizing the need to have an attorney guide you through simple incorporation matters.

3. The draft bill contains important incorporation and reporting requirements needed by the Division of Corporations. The Commission worked closely with the Division in the drafting of its corporations bill so as to insure that the Division's needs would be addressed.

4. The draft bill addresses important needs and unique problems of Alaska native corporations. The Commission worked closely with a special subcommittee of the Alaska Federation Of Natives in the drafting of the bill.

5. Much of existing Alaska law is continued in the present draft, although the language has been rewritten in many instances to make it more understandable to the lay person.

6. Because the language is concisely drafted, internal inconsistencies existing in present Alaska law have been resolved, and because of its superior organization and lengthy commentary indicating the source of its provisions, the draft should reduce considerably the need for litigation over the meaning of the language contained in HB 322.

7. The draft contains important new sections not currently found in Title 10. They include:

a. A new section dealing with corporation financial activities, specifically defining the conditions when a distribution is appropriate;

b. A new section dealing with shareholder derivative actions, an area only minimally covered by rules of the Alaska Supreme Court under existing law;

c. A new, expanded section dealing with all matters involved in corporation dissolution;

d. New sections dealing with conflicts of interest by directors, minority shareholder rights, rights and obligations of various classes of shares, and the purchase of shares of a deceased shareholder.

e. A number of optional provisions for the Articles that will determine corporate bias for management or shareholders. These provisions can be easily selected and inserted by the incorporator depending upon what type of corporation is desired.

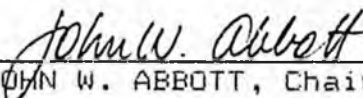
8. While drawing heavily from the best laws of other states, the draft has been carefully crafted to address corporate problems unique to Alaska. The draft can be truly characterized as an Alaska drafted code. Additionally, the draft incorporates a great many of the substantive provisions found in the recently adopted ABA revised model business corporations act.

No attempt has been made by the Commission to address the extremely complex problem of corporate takeovers. Because of the radical and rapid changes that have taken place in the past 5 or 6 years, such an undertaking would require much study and a considerable expenditure of time in order to even formulate a policy for dealing with takeovers.

The existing Title 10 is woefully outdated and poorly organized. It is difficult for the lay person and even the practitioner to use. It is full of anachronistic provisions and internal inconsistencies. It does not reflect changes in corporation law that have occurred over the past 35 years. It doesn't even contain much needed sections dealing with shareholder derivative actions, conflict of interest, indemnification of officers and directors or financial accountability. The draft has previously been approved by the Division of Corporations, the Alaska Federation of Natives and Alaska Airlines, the largest private (non-native) corporation in Alaska. It is organized and written so that it can be easily used by the lay person, but contains all of the features needed by the practitioner to advise a corporate client on sophisticated matters. There is nothing in the draft that would discourage outside business from choosing Alaska as a domicile for incorporation because the corporation can be tailored to the needs of any business. It should encourage businesses to locate in Alaska because the rights and obligations of the corporation are so clearly spelled out in the draft. Finally, the code should greatly decrease the need for litigation because of the lengthy and comprehensive commentary accompanying the draft.

If you have any questions concerning the draft, please contact me and I will attempt to answer those questions.

Very truly yours,



JOHN W. ABBOTT, Chairman

ALASKA CODE REVISION COMMISSION
LEGISLATIVE AFFAIRS AGENCY
POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811

March 27, 1988

The Honorable John Sund
Chairman, House Judiciary Committee
Room C-122 State Capitol Building
Juneau, Alaska 99811

Re: HB 322; An Act revising the corporations code; Amendment
to Section 10.06.678

Dear Representative Sund:

Recently, I have had brought to my attention a problem involving inconsistency between two sections of the corporations code. These sections were taken directly, without any language change, from existing Alaska law. The sections deal with the ability of a corporation to initiate an action in Alaskan courts. The sections are as follows:

Sec. 10.06.678. CONTINUED EXISTENCE OF DISSOLVED CORPORATIONS; PURPOSES; ABATEMENT OF ACTIONS; DISTRIBUTION OF OMITTED ASSETS.

(a) A corporation that is dissolved voluntarily or involuntarily continues to exist for the purpose of winding up its affairs, prosecuting and defending actions by or against it, and enabling it to collect and discharge obligations, dispose of and convey its property, and collect and divide its assets. A dissolved corporation does not continue to exist for the purpose of continuing business except so far as necessary for winding up the business.
(emphasis supplied)

...

Sec. 10.06.848. FAILURE TO PAY TAX OR MAKE REPORT AS PRECLUDING SUIT BY CORPORATION. A domestic or foreign corporation may not commence or maintain a suit, action, or proceeding in

a court in this state without alleging and proving that it has paid its biennial corporation tax last due and has filed its biennial report for the last reporting period. . . .

As you can see, Sec. 10.06.678 allows a dissolved or dissolving corporation to initiate an action as a plaintiff while Section 10.06.848 specifically prohibits the bringing of an action if the corporation has not filed its biennial report or paid its fees - one of the most common reasons for involuntary dissolution.

Since Sec. 10.06.678 implements a good policy requiring corporations to be in good standing if they wish to avail themselves of Alaskan courts, it is preferable that this section be left intact. The only real sanction that the state has over a corporation after it dissolves is to deny it the use of the courts as a plaintiff. Nothing in the language would prohibit the dissolved corporation from defending an action brought against it. While Section 10.06.648 thoughtfully allows actions for the purpose of marshaling assets of the corporation, it is my belief that a better approach would be to disallow the corporation access to the courts while involuntarily dissolved. The corporation will have a two-year period in which to seek reinstatement by curing the non-compliance. The only bad result that can occur is if a statute of limitations period runs prior to the reinstatement. On balance, it seems preferable to require that a corporation be in good standing if it desires to bring an action. Of course, in any judicial supervised dissolution, this question could be easily addressed. When the dissolution is involuntarily, however, a problem is created.

In summary, it is my recommendation that Section 10.06.648 be amended to delete any reference to the corporation's ability to initiate an action, thus leaving in place the proscription of Section 10.06.848. The net result will be in all cases that a corporation not in good standing will be unable to initiate an action and the internal inconsistency between the two sections will be resolved.

Please let me know if you have any questions concerning these two sections or the proposed reconciliation.

Very truly yours,


JOHN W. ABBOTT, Chairman

JOHN SUND, REPRESENTATIVE

2504 2nd Avenue
Ketchikan, Alaska 99901
(907) 225-5552

While in Juneau
P. O. Box V
Juneau, Alaska 99811
(907) 465-4919

February 8, 1988

File on
File HB 348

Mr. Gary Grandy
P.O. Box 1111
Petersburg, Alaska 99833

Dear Mr. Grandy:

Thank you for your recent public opinion messages regarding Senate Bill 211 and House Bill 348.

Your message on SB 211 requested that we move the bill out of the House Judiciary Committee as soon as possible. I must explain, however, that the bill is not presently in my committee. It is awaiting hearings in the Senate Judiciary Committee.

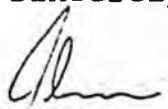
I assure you that if the bill ever makes it to my committee I will give it my attention. Meanwhile, I suggest that you contact Senator Jay Kerttula who chairs the Senate Judiciary Committee.

Regarding HB 348, I agree with you that three state commissioners on the five-member Medicaid Rate Commission would be "stacking the deck," and I oppose the bill. The most qualified people for Medicaid rate setting are those who are working in the field.

The bill is now under consideration in the House State Affairs Committee with further referrals to the House Health, Education and Social Services Committee and House Judiciary Committee. If it makes its way to my committee, I will seriously question the need for the bill.

Thanks again for your input. Please feel free to contact me in the future.

Sincerely,


John Sund
Representative

PUBLIC OPINION MESSAGE

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE SUND

DEAR: REPRESENTATIVE SUND

NAME: O.W. BILL & JEANETTE LOWE

NAME: GARY W. GRANDY

TITLE: RAMBLER ROAD

TITLE:

ADDRESS: HC 80 BOX 7180

ADDRESS: BOX1111

CITY: CHUGIAK

ZIP: 99567

CITY: PETERSBURG

ZIP: 99833

PHONE: 688-2212

PHONE: 772-4291

BILL NO:

BILL NO: SB 211

SUBJECT: INVESTMENT OF PEPM. FUNDS

SUBJECT: CIVIL LIABILITY

MESSAGE: WE OPPOSE STATE INVESTMENT IN ANCHORAGE REAL ESTATE OR ACQUISITION OF COMMERCIAL PROPERTY WITH EARNINGS FOR DEMOLITION. EXPENDITURES WILL NOT BENEFIT STATE OR GENERAL PUBLIC.

MESSAGE: IMPORTANT LEGISLATION SHOULD NOT BE RETAINED IN COMMITTEE. TO DO SO IS POLITICALLY UNSOUND, AS THE MAJORITY OF CITIZENS IN A DEMOCRATIC SOCIETY WANT ISSUES DEBATED AND VOTED UPON. THEREFORE, I SUGGEST THAT SB211 SHOULD BE ACTED UPON AND MOVED FROM YOUR JUDICIARY COMMITTEE. PLEASE SEE THAT THIS HAPPENS.

POMID: 03121056

POMID: 15141418

DATE: 01/25/88

DATE: 01/25/88

TIME: 12:10:56

TIME: 14:14:18

LIONAME: ANCHORAGE LIO

LIONAME: PETERSBURG LIO

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TAYLOR

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BOUCHER	BOYER	BINKLEY
BROWN	CAIO	COGHILL
COLLINS	COTTEN	DUNCAN
DAVIDSON	PAVIS	ELIASON
DONLEY	ELLIS	FAHRENKAMP
FRANK	FURNACE	FAIKS
GOLL	GRUENBERG	FANNING
GRUSSENDORF	HANLEY	FISCHER
HERRMANN	HOFFMAN	HALFORD
HUDSON	KOPONEN	HENSLEY
LARSON	MARTIN	JONES
MENARD	MILLER	JOSEPHSON
NAVARRE	PEARCE	KELLY
PETTYJOHN	PHILLIPS	KERTTULA
POURCHOT	RIEGER	RODEY
SHULTZ	SPRINGER	STURGULEWSKI
SWACKHAMMER	TAYLOR	SZYMANSKI
ULMER	WALLIS	UEHLING
ZAWACKI		ZHAROFF

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE SUND

NAME: LISA PEGER
TITLE:
ADDRESS: 3903 PEGER RD.
CITY: FAIRBANKS ZIP: 99701
PHONE: 452-8397
BILL NO: HB 359
SUBJECT: CHILD SUPPORT; NOTICE OF PROPERTY SEIZURE
MESSAGE: AND SB117. I AM IN FAVOR OF THE TWO BILLS COMING UP AND HOPE
YOU'LL PASS THEM.

POMID: 07111858
DATE: 01/25/88
TIME: 11:18:58
LIONAME: FAIRBANKS LIO

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BOYER
DAVIS
FRANK
KOPONEN
MILLER
BARNES
COTTEN
GRUENBERG
NAVARRE
TAYLOR
ULMER
COGHILL
FAHRENKAMP
FANNING

PUBLIC OPINION MESSAGE

DEAR: REPRESENTATIVE SUND

NAME: GARY W. GRANDY
TITLE:
ADDRESS: BOX 589
CITY: PETERSBURG ZIP: 99833
PHONE: 772-4291
BILL NO: HB 348
SUBJECT: MEMBERSHIP OF MEDICAID RATE COMMISSION
MESSAGE: CHANGING THE COMPOSITION OF THE MEDICAID RATE COMMISSION TO INCLUDE THREE STATE COMMISSIONERS ON THE FIVE PERSON BOARD IS STACKING THE DECK, IN MY OPINION. PLEASE OPPOSE SB 348. THANK YOU.

POMID: 15140901
DATE: 01/25/88
TIME: 14:09:01
LIONAME: PETERSBURG LIO

COPIES: REPRESENTATIVE

TAYLOR

NO RESPONSE REQUIRED



Central Peninsula General Hospital

Operated by Lutheran Hospitals and Homes Society

250 HOSPITAL PLACE • SOLDOTNA, ALASKA 99669

(907) 262-4404

March 23, 1988

Ms. Sharon Jean
Chairperson
Governor's Interim
Commission on Health Care
P.O. Box H
Juneau, Alaska 99811-0601

Dear Ms. Jean:

I have just reviewed the recommendation to the Interim Commission on Facility rate setting. I have serious concerns about some of the statements and language in this document.

I have been the Administrator of Central Peninsula since October, 1981, and can give both a personal prospective and factual historical prospective on the Rate commission.

The Alaska State Hospital Association was approached by the Department of Health and Social Services to help develop a payment system that would meet both the States needs and the Providers needs for adequate and fair funding. This proposal was looked at carefully by both parties and it was evident that facility rates would increase drastically during the first two years of operations and then flatten. Later it was recognized by some providers and by Mary Benson, Executive Director of the rate commission that this system was not the best for long term care. The system was modeled after the rate setting process in Washington which doesn't include nursing homes.

The attachment 1, from the Interim commission certainly holds that true. During the first two years of the commissions function rates increased 29.31 percent, an average of 14.66 percent per year. Since that period rates have averaged only 3.58 percent per year increase. The lowest was a decrease of 3.09 percent per year and the highest an increase 16.17 percent.

I also have some concerns on methodology used in the paper. Average rates are figured by weighing each facilities rate by the number of patient days. This is the acceptable method used by both the federal government and many states. This system is used to set the rate paid rural facilities for their swing beds (long term beds in acute facilities). The current swing bed rate for

*Medicaid
rate
commission
HB348*

*Put in file
my bill file
currently in
Judicial. mm*

Ms. Sharon Jean
March 24, 1988
Page 2

Alaska, i.e., the average medicaid cost per patient day, is \$162.57. Considerably less than the \$212.00 quoted in the recommendation. You should also be aware that the Medicaid in Alaska includes ancillary costs where the rates outside have separate payments for these services as shown by the spread sheet titled "Medicaid Rate Commission, Data for Graphs" dated March 9, 1988. Ancillary costs are listed for Alaska facilities and not listed for Oregon. Other costs vary in Oregon compared to Alaska besides wages. Supplies, food, utilities, travel for staff education, legal, dues, and fuel all are significantly higher.

It is interesting that Alaska Psychiatric Institute and Harbor View, both State run facilities, have some of the highest Medicaid costs with minimal Capital costs.

I must agree that a large number of Seniors are not served through the Medicaid funds paid to facilities. What you must consider is that the level of care is the most intense of all other services. As an example, if home health care visited a client at home three times daily for nursing care, provided a homemaker service for meals and cleaning, and also provide one physical therapy treatment daily along with medications its rate would exceed the highest long term care rate in the state.

Of other interest is the Medicaid upper limit issue. In Mr. Albert J. Benz's letter dated March 17, 1988, to Commissioner Munson it is indeed identified that there may be an upper limits problem as described by Mary Benson of the Medicaid Rate Commission. But Ms. Benson also states in a letter dated March 11, 1988, to Norma Lundy of the Governor's Interim Health Care Commission that the state "Will prevail or partially prevail" and that they do not agree with the federal finding.

I also object to some of the language that I consider inflammatory, and some obvious jumps in logic in the section of the document that is labeled historical. If the writer wishes to make personal statements based on his own values, it should be listed as editorial in nature. Some of his statements are misleading at best. In 1983, when the medicaid rate commission came into effect this facility was receiving 100 percent of charges from both Medicaid and Medicare. Now we are receiving 100 percent of charges for Medicare and only 98 percent from Medicaid. It doesn't sound like my facility is ripping off the state.

Ms. Sharon Jean
March 24, 1988
Page 3

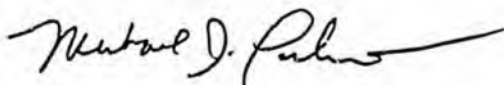
I do agree with the writer that the purpose of medicaid is not the survival of facilities but the care of patients. If you have been to some facilities in Oregon or Washington and smell the stench of stale urine, or tasted their food, or evaluated their State licensing surveys you would see the major issues.

We need to provide adequate care not substandard care to our patients. The issue is not the Medicaid Rate Commission. In fact, I personally feel we could do without the Commission. The issue is a payment system that will reward efficiencies in areas that do not affect quality care. Yet, on the other hand, will reward industry advances that improve the quality of life for our elderly. Similar to payment systems currently used in Maryland.

I understand the concerns both for the budget and equal access to health care for our elderly. My only hope is that short sighted solutions of dissolving or changing one entity without having a solution doesn't dismantle care for all our elderly.

I would request that the Interim commission reconsider their position on the Medicaid Rate Commission. I am not asking that it remain forever unchanged but that the time be allowed to develop a system that will replace it appropriately.

Sincerely,



Michael J. Lockwood
Administrator

cc:

The Honorable Steve Cowper
Governor, State of Alaska

Representative Mike Navarre
Alaska State Legislature

Representative C. E. Swackhammer
Alaska State Legislature

Representative Niilo Coponen
Alaska State Legislature

Representative Johnny Ellis
Alaska State Legislature

Ms. Sharon Jean
March 24, 1988
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cc:

Representative Max F. Gruenberg, Jr.
Alaska State Legislature

Representative Bill Hudson
Alaska State Legislature

Representative Randy Phillips
Alaska State Legislature

Representative Alyce Hanley
Alaska State Legislature

Representative H. A. (Red) Boucher
Alaska State Legislature

Representative Cliff Davidson
Alaska State Legislature

Representative Terrie Martin
Alaska State Legislature

Representative Curt Menard
Alaska State Legislature

Senator Paul Fischer
Alaska State Legislature

Commissioner Hugh Malone
Department of Revenue

Commissioner Myra M. Munson
Department of Health and Social Services

Commissioner Barbara Haase
Medicaid Rate Commission

Commissioner Marianne Burke
Medicaid Rate Commission

Commissioner Frank Hickey
Medicaid Rate Commission

Commissioner Roger Harding
Medicaid Rate Commission

Commissioner Mark Regan
Medicaid Rate Commission

Ms. Sharon Jean
March 24, 1988
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Mr. John Vowell
Health Association of Alaska

Mr. Harlan R. Knudson
Health Association of Alaska

Ms. Mary Benson
Medicaid Rate Commission

Mr. Bob Evans
Legislative Liaison

ICF/SNF

COMPARISON OF 5 HIGHEST MIXED FACILITIES IN OREGON
TO 5 FREE STANDING FACILITIES IN ALASKA
AVERAGE PER PATIENT DAY COSTS

HB 348
JA

FACILITY	NURSING NURSING	SUPP SUPP	PROPERTY	SHELTER	LAUNDRY	HOUSE KEEPING	DIETARY	ADMIN.	EMPLOYEE BENEFITS & PAYROLL TAXES	TOTALS

AVERAGE COSTS PER DAY										
ALASKA FACILITIES	\$53.15	\$6.21	\$29.46	\$6.58	\$2.71	\$5.69	\$14.65	\$21.12	\$16.21	\$155.78
OREGON FACILITIES	\$27.69	\$3.29	\$6.02	\$4.13	\$1.45	\$2.38	\$6.66	\$5.81	\$9.89	\$67.32
RATIO OF ALASKA TO OREGON	1.92	1.89	4.89	1.59	1.87	2.39	2.20	3.63	1.64	2.31

ALASKA FACILITIES	\$53.15	\$6.21	\$29.46	\$6.58	\$2.71	\$5.69	\$14.65	\$21.12	\$16.21	\$155.78
OREGON FACILITIES AT ALASKA'S AVERAGE HOURLY WAGE RATE	\$40.75	\$3.29	\$6.02	\$4.80	\$2.23	\$3.88	\$9.59	\$8.90	\$13.54	\$93.00
RATIO OF ALASKA TO OREGON	1.30	1.89	4.89	1.37	1.22	1.47	1.53	2.37	1.20	1.68

	FACILITY CAPACITY	TOTAL DAYS	% OF OCCUPANCY

ALASKA FACILITIES	175565	149209	84.99%
OREGON FACILITIES	152019	136692	89.92%

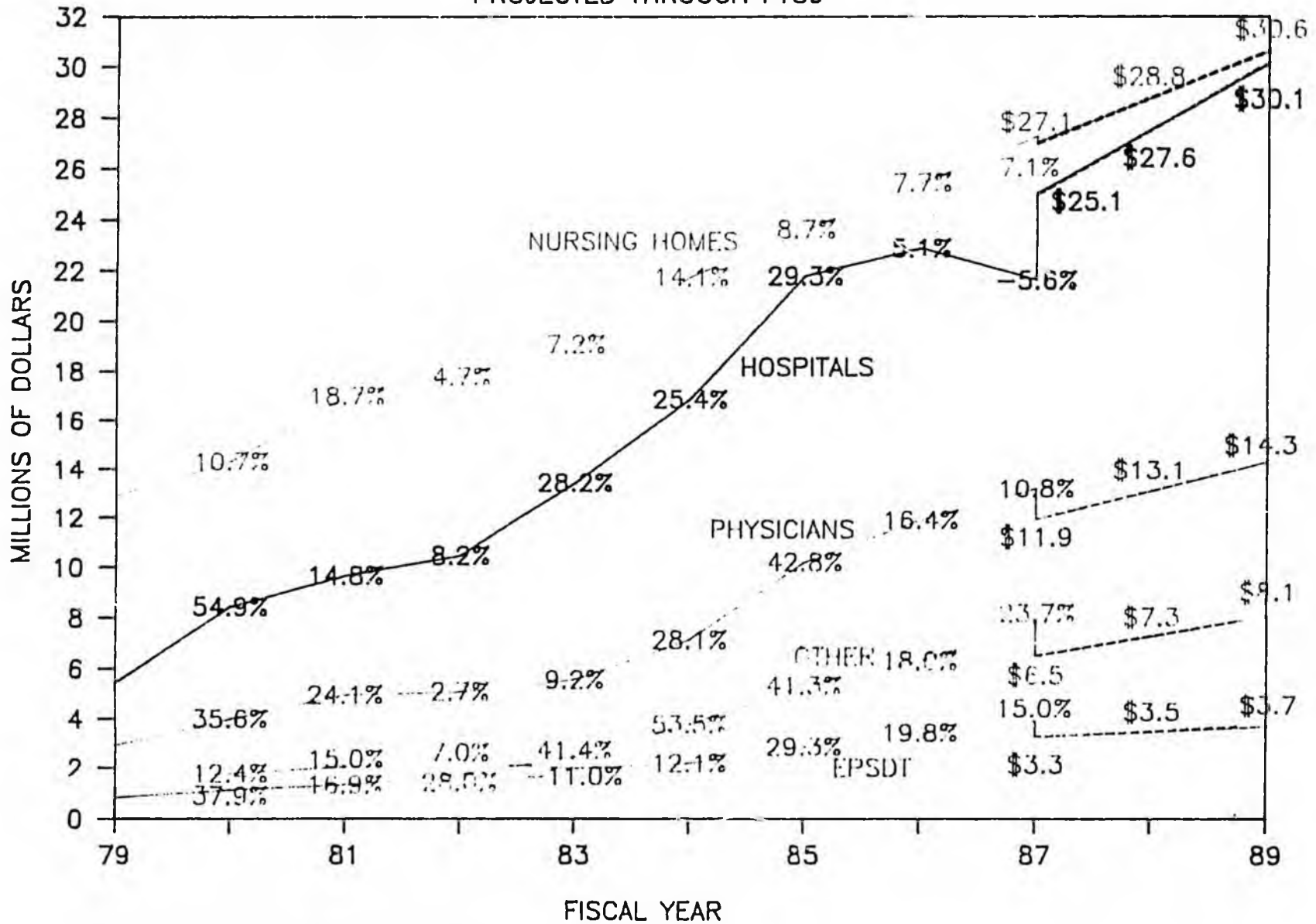
COMPARISON OF OREGON'S HIGHEST COST FACILITIES TO ALASKA'S
AVERAGE PER PATIENT DAY COSTS

FACILITY	NURSING	NURSING SUPP	PROPERTY	SHELTER	LAUNDRY	HOUSE KEEPING	DIETARY	ADMIN.	EMPLOYEE BENEFITS & PAYROLL TAXES	TOTALS
ALASKA FACILITIES										
DENALI	\$62.63	\$7.97	\$11.84	\$6.97	\$3.15	\$5.35	\$14.95	\$19.81	\$13.65	\$146.32
HERITAGE	\$55.29	\$4.97	\$86.26	\$13.21	\$1.59	\$7.29	\$13.76	\$26.17	\$17.70	\$226.24
OUR LADY	\$55.28	\$6.49	\$25.59	\$4.30	\$1.99	\$4.68	\$15.55	\$16.32	\$16.76	\$146.96
ST. ANN	\$54.29	\$8.26	\$20.85	\$3.72	\$3.49	\$7.20	\$14.76	\$28.38	\$19.31	\$160.26
WESLEYAN	\$38.24	\$3.37	\$2.76	\$4.69	\$3.33	\$3.94	\$14.23	\$14.94	\$13.62	\$99.12
AVE. COSTS PER DAY	\$53.15	\$6.21	\$29.46	\$6.58	\$2.71	\$5.69	\$14.65	\$21.12	\$16.21	\$155.78
OREGON FACILITIES										
CAPITOL VIEW	\$24.63	\$3.83	\$3.32	\$4.08	\$1.26	\$1.21	\$5.36	\$6.28	\$10.92	\$60.89
FRIENDSHIP	\$32.25	\$4.43	\$4.08	\$0.75	\$0.53	\$4.55	\$6.65	\$6.74	\$9.75	\$69.73
MT. VIEW CONV.CTR.	\$28.64	\$2.45	\$11.07	\$3.68	\$1.11	\$1.41	\$5.48	\$5.41	\$5.15	\$64.42
PORTLAND ADVENTIST	\$26.63	\$3.00	\$7.98	\$4.59	\$3.11	\$2.38	\$6.38	\$4.61	\$10.23	\$68.91
ROBISON	\$26.30	\$2.72	\$3.65	\$7.56	\$1.22	\$2.35	\$9.42	\$6.02	\$13.40	\$72.64
AVE. COSTS PER DAY	\$27.69	\$3.29	\$6.02	\$4.13	\$1.45	\$2.38	\$6.66	\$5.81	\$9.88	\$67.32

	FACILITY CAPACITY	TOTAL DAYS	% OF OCCUPANCY
	-----	-----	-----
ALASKA FACILITIES			
DENALI	36865	27403	74.33%
HERITAGE	16425	6617	40.29%
OUR LADY	81760	78941	96.55%
ST. ANN	16425	13606	82.84%
WESLEYAN	24090	22642	93.99%
	-----	-----	-----
TOTALS	175565	149209	84.99%
	-----	-----	-----
OREGON FACILITIES			
CAPITOL VIEW	12696	11908	93.79%
FRIENDSHIP	9200	8440	91.74%
MT. VIEW CONV. CTR.	22448	19232	85.67%
PORTLAND ADVENTIST	63875	57425	89.90%
ROBISON	43800	39687	90.61%
	-----	-----	-----
TOTALS	152019	136692	89.92%
	-----	-----	-----

MEDICAID EXPENDITURES

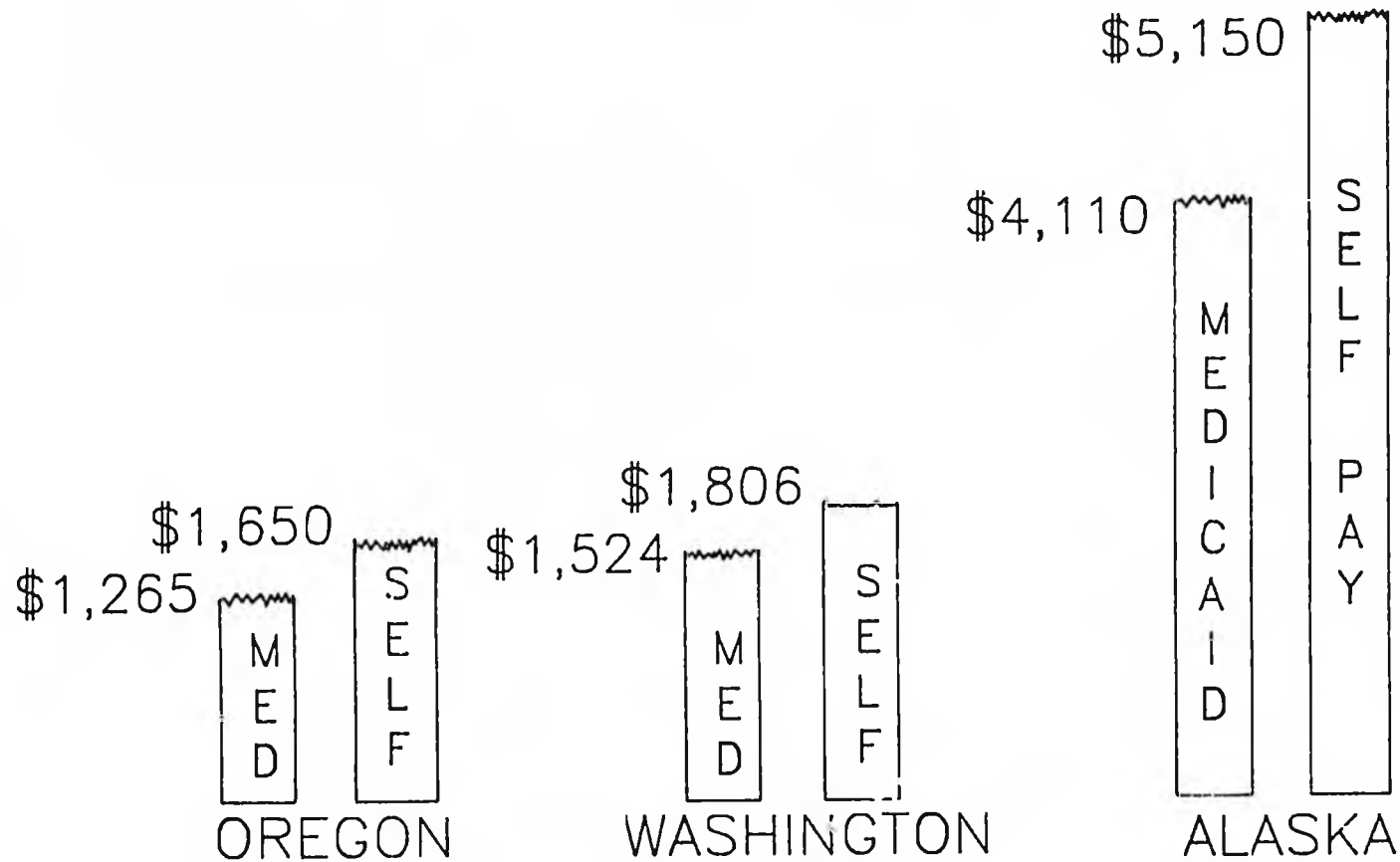
PROJECTED THROUGH FY89



Expenditures by date of service.
 Projections 87 - 89 made using straight line method using
 79 through 86 as base years.

NURSING HOME CARE

TYPICAL MONTHLY COST TO MEDICAID AND SELF-PAYING PATIENTS



Alaska State Legislature

House of Representatives

Al Adams

Chairman

Committee on Finance

MAR 22 1988

WHILE IN SESSION

P.O. Box V

State Capitol

Juneau, Alaska 99811

(907) 465-3706

OUT OF SESSION

P.O. Box 333

Kotzebue, Alaska 99752

(907) 442-3320

1024 W. 6th

Anchorage, Alaska 99501

(907) 274-0615

Official Business

March 22, 1988

Representative John Sund
Chairman
House Judiciary Committee
P.O. Box V
Juneau, AK 99811

Re: CS HB 348 (HESS)

Dear Representative Sund:

I would like to take this opportunity to voice my support for CS House Bill 348 (HESS) "An Act relating to payment rates for health facilities and to the Medicaid Rate Advisory Commission."

As I am sure you are aware, the entitlement programs in general and the Medicaid budget in particular represent an ever increasing portion of the Department of Health & Social Services Budget. From FY 86 - FY 88, a period when the majority of state funded programs were sustaining double-digit percentage budget reductions, state general funds for Medicaid increased by 12.2%. If you add the FY 88 request for supplemental funding pending before the House Finance Committee, the increase is approximately 37.1%. I have attached a spreadsheet which more clearly demonstrates the growth in this program during this period.

While some of these increased costs can be attributed to expansion of services and increased caseloads, it is also true that a significant

portion of the increased costs are directly related to the rate increases awarded to Medicaid eligible facilities by the existing Medicaid Rate Commission.

Under current law, the rate commission operates outside the normal policy/budget process and the composition of the commission further aggravates the problems inherent in this situation. CS House Bill 348 (HFSS) would provide for the commission to act in an advisory capacity only with actual rate setting authority placed within the Department of Health & Social Services and therefore presumably more sensitive to the overall policy and budget priorities of the state.

To illustrate just how out of step with the normal budget process the current commission appears to be, I have attached a copy of a notice of proposed changes in the regulations of the Medicaid Rate Commission which came across my desk last month. If the commission adopts these regulations as written, the state will be obligated for an additional \$2.9 million for FY 89 with further increases in succeeding years. These funds are not in the current Governor's FY 89 budget request nor will the regulations likely be approved in time for consideration by the legislature this year. As a practical matter what we have here is a FY 89 supplemental request. We are set-up for a FY 89 Medicaid supplemental before we have even approved the original FY 89 budget!

In addition, I have grave concerns that the proposed regulation currently before the Medicaid Rate Commission will result in the federal government making a determination that we are out of compliance with our state plan for medical assistance. At worst, this could result in the federal government withdrawing all financial support for our Medicaid program. At best, we will be obligated to pay all costs associated with the new regulation. For your information, FY 89 federal receipts associated with the Medicaid facility and Medicaid non-facility budgets are estimated to be \$49.8 million. By way of comparison this is equivalent to 18.5% of the general fund budget for the entire Department of Health & Social Services and is greater than the entire general fund budget for the Department of Fish & Game.

In conclusion, I urge the Judiciary Committee to give favorable consideration to CS HB 348 (HESS). I am under no illusions that this will solve all our Medicaid funding problems; but I am convinced it is a worthwhile step in the right direction. In the absence of additional

Representative John Sund

Page 3

cost containment measures in this area, I fear that further erosion in funds for other vital health & social services programs is inevitable.

Sincerely,



Al Adams

Chairman

House Finance Committee

cc Rep. Mark Boyer
Chairman
House Finance HESS Budget Subcommittee

ATTACHMENT A MEDICAID BUDGET FY 87 ACTUAL-FY 89 (GENERAL FUNDS ONLY)

COMPONENT	FY 87 ACT	FY 88 AUTH	FY 88 SUPP	FY 88 TOTAL	FY 89 GCV	FY 89 REGS	FY 89 TOTAL	FY 89 V FY 87	FY 89 V FY 87
								AMOUNT	%
MEDICAID-NON FACILITY	12,556.1	10,972.6	4,970.0	15,942.6	17,213.2	0.0	17,213.2	4,657.1	37.1%
MEDICAID-FACILITY	22,822.4	26,598.2	3,375.0	29,973.2	33,112.1	2,900.0	36,012.1	13,189.7	57.8%
TOTAL	35,378.5	37,570.8	8,345.0	45,915.8	50,325.3	2,900.0	53,225.3	17,846.8	50.4%

FY 88 TOTAL=AUTHORIZED PLUS PROPOSED SUPPLEMENTAL; FY 89 TOTAL=FY 89 GOVERNOR PLUS PROPOSED NEW REGULATIONS

DRAFT

FACILITY RATE SETTING

ISSUE

Facility rate setting. Alaska's system for setting medicaid reimbursement rates for private health care facilities is unique. It is the only state that entrusts the rate setting process to a volunteer commission that is wholly outside the control of the executive or legislative branches. The Medicaid Rate Commission (MRC) thus has no legislative mandate to keep facility rates within amounts budgeted by the Department of Health and Social Services and appropriated by the legislature. Aspects of this issue include: mechanisms utilized for rate setting; policies that drive the rates; and potential sanctions by the federal government, which participates in funding through Title XIX of the Social Security Act (medicaid).

HISTORY

The Medicaid Rate Commission was established by the Alaska Legislature in 1984. AS 47.07.110. It consists of five members, including: the chief executive officer of an health facility licensed by the state but not owned or operated by the state or federal government; either the commissioner of administration or health and social services or a designee of either commissioner; a physician licensed to practice and actively practicing medicine in Alaska and not employed by the state; a certified public accountant with relevant experience; and a representative of health services consumers who does not have a direct or indirect interest in an entity providing health care services. *Id.* The members are appointed by the governor and serve at his or her pleasure for three-year terms, which are staggered. AS 47.07.130-140. The commission's duties are to "review proposed payment rates and budgets of health facilities and establish payment rates for health facilities...." AS 47.07.180. The commission is required by statute to "determine prospectively the rate of payment to a health facility...based on a fair rate for reasonable costs incurred by the facility." AS 47.07.070. The statutes detail various factors which must be considered in determining the rate. *Id.*

Since its inception, the Medicaid Rate Commission has set rates at ever-increasing levels. In FY 84, \$21.7632 million was expended by the Department of Health and Social Services in medicaid payments to long-term care facilities. In FY 88 the projected expenditure for long-term facilities medicaid payments is \$29.6313 million, which is 30.1% of the entire medicaid budget. Percentage increases in rates paid to long-term care facilities between FY 83 and FY 88 are provided in the attachment. The lowest percentage increase in that period is 12.93%; the highest is 131.05%. The average increase is 42.45% in that period. *Id.* The average daily rate paid to private long-term care facilities in FY 1988 is \$212.11. *Id.*

The dramatic increase in medicaid rates has not resulted in large numbers of seniors being served by medicaid-funded long-term care. In FY 86, the total general fund medicaid expenditures for seniors (age 65 or over) were \$14,823,000. Of that total, \$3,823,000 was expended for non-long term facilities, which served 2,123 seniors at an average expenditure of \$1,801 per recipient. A total of \$11,000,000 was expended for medicaid long term care, which served 539 seniors at an average expenditure of \$20,408 per recipient. *See Halterman Report, Table 1.*

The increased rates authorized by the MRC are due to a combination of factors. The prospective rate setting system is based on costs incurred by the facilities during

a base year, which in practice has meant their previous fiscal year plus an inflation factor. The statutes set out the costs to be considered in setting rates and the MRC has, at the legislature's direction, promulgated regulations enumerating the rate-setting factors. In formulating rates, the MRC evaluates various components of facility costs during their base year, including: costs of current operation, including salaries and wages, purchased services, supplies, insurance, leases, depreciation, taxes, interest expense, maintenance and other operating expenses; education; research; and appropriate capital development. AS 47.07.070; 7 AAC 43.685. In practice, the rate has been based on the actual historical costs of operating facilities. Alaska, unlike most states, does not impose an upper limit on reimbursement amounts to facilities.

The only statutorily-imposed standards require that the rate of payment be based on a fair rate for reasonable costs incurred by the facility. AS 47.07.070(a). Additionally, the MRC, in determining a rate, "may consider whether the rate of utilization of the facility has been reduced because of improvident or careless development of the facility." AS 47.07.070(c). Other than the generic cost items specified in the statute creating the MRC, the "fair rate for reasonable costs" language, and a statutory directive that the MRC "consider the appropriation limit set by the legislature for the department's programs under [portions of Title 47] and available federal revenue" (AS 47.07.070(d)), there are no statutorily-imposed restrictions on what rates the MRC sets. However, the purpose section of the statute authorizing the Department of Health and Social Services to participate in the medicaid program is instructive. It provides that: "It is declared as a matter of public concern that the needy persons of this state receive uniform and high quality medical care, regardless of race, age, national origin, or economic standing." AS 47.07.010.

Ninety percent (90%) of residents in long-term care facilities received medicaid coverage in April 1987, which is a typical month. *See Halterman Report* at 6. Since medicaid is a system which reimburses providers directly, every dollar of the approved rate flows directly to the institutions rendering the long-term care services. The national average cost of long-term care is \$56 per day; the average daily rate in Alaska as of FY 88 is \$212 *Id.* at 13-14; attachment. Thus, Alaska's daily rate is almost 400% of the national average. The higher cost of living in Alaska has been alluded to numerous times by the health care industry. *See A Study of Factors Influencing Acute and Long Term Care Costs in Alaska*. However, the 400% differential in daily rates is well above the increased cost of living in Alaska. The justification that it costs more because it costs more is no justification at all.

The overriding factor identified in the exorbitant rates paid to facilities in Alaska is the rates set by the MRC, which reimburse for almost all costs, no matter how inefficient a facility may be. The current rate structure does not reward thrift and ingenuity in administering a facility nor does it consider the fact that many of the co-located and long-term facilities were originally constructed with state grants. The MRC's rates thus allow facilities to obtain reimbursement for capital costs and depreciation, both of which were originally funded from state dollars. In essence, the rates reward higher and higher expenditures and does not provide an offset for capital costs originally incurred by the state. The medical industry knows full well that whatever it spends, it will likely be reimbursed through the medicaid rate. The medical industry's response has been that there is a higher level of service in Alaska. One doubts that any level of service could justify such a cost differential in daily rates.

DRAFT

Has the MRC, through its prospective rate setting process, in effect discriminated against non long-term medicaid eligible Alaskans by setting rates so high that funding for other needy Alaskans is greatly reduced? Have the high medicaid payment rates resulted in high rates being charged to people ineligible for medicaid, so that retired persons living on modest retirement incomes are unable to afford institutional care? It appears so. The next question is, why? If the true purpose of Alaska's participation in the medicaid program is to ensure all needy recipients of access to medical care, why does the legislature continue to permit the MRC to operate as an independent body with no external and only few internal controls? If, instead, Alaska's public policy is to use the medicaid program to subsidize long-term care facilities which have small occupancy rates and inversely high daily rates, it should be so stated.

The MRC, viewed in a historical context, has operated quite well to insure facility survival. However, such is not the purpose of the federal medicaid statute, which was enacted by Congress to ensure that all categories of eligible needy persons receive needed medical care. The effect of the MRC prospective rate setting system is becoming clear to not only Alaskans, but to the federal government, which currently matches Alaska's medicaid contribution. The federal government has recently advised the Division of Medical Assistance that although there is no upper limit on reimbursements in state law, there is an upper limit under federal criteria, which the state is exceeding. Thus, there very well may come a time, and soon, when the federal government refuses to match the State of Alaska's facility medicaid costs or matches only the 50% it deems reasonable. The state would then be liable to use general fund monies to make up the difference. Loss of federal dollars would be a heavy price to sustain an unstated policy of ensuring facility survival no matter how cost ineffective the facility may be.

POPULATION AFFECTED

All Alaskans are potentially affected by this issue. Eligible medicaid populations may not receive funding for their medical needs if facility reimbursements continue not only to soak up the largest share of the DMA's total budget, but to require large annual increases in that budget. The Legislature has already signaled its unwillingness to fund DMA at requested levels. Two years ago, the state was forced to eliminate many services previously funded through the general relief medical program, which is solely a state funded medical program for the truly needy. In addition, no funds have been appropriated for the catastrophic illness program for the past two fiscal years. The Department of Health and Social Services has recently submitted a supplemental request of \$18.3 million for the remainder of FY 88, basically to cover the ever-increasing costs of payments to facilities. Medical assistance for the needy cannot continue to depend on ever-increasing emergency requests to the Legislature.

Everyone is suffering during these times of fiscal austerity. As the economy continues to bottom out, many Alaskans are finding themselves in need of medical care. However, due to decreasing funding, those needs could go unmet. It is against this backdrop that the fundamental unfairness of the current medicaid reimbursement system must be viewed. Should the state, as a conscious or unconscious public policy decision, fund ever-increasing private facility costs while the medical needs of other deserving Alaskans go unmet?

DRAFT

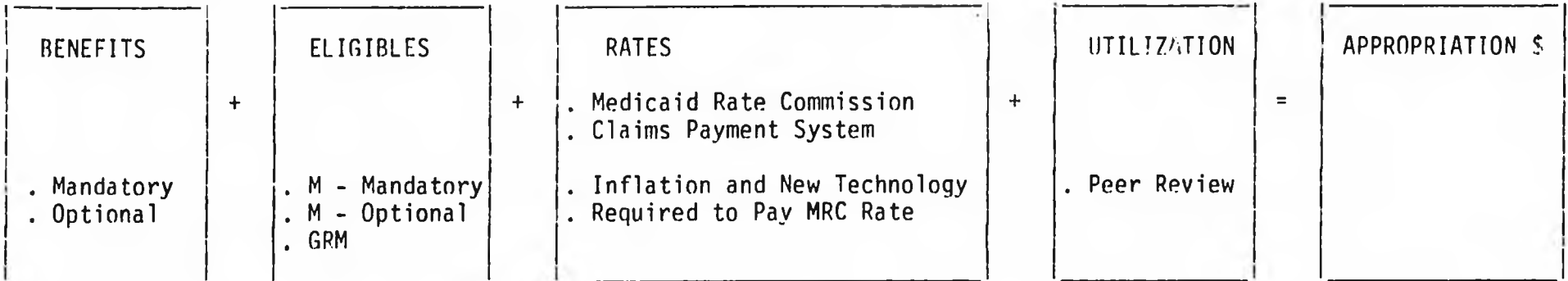
DRAFT

OPTIONS TO ADDRESS THE ISSUE

The following are three ^{Recommendations} ~~options~~ to consider:

1. Abolish the MRC and authorize the DHSS to perform the rate setting function; the DHSS could therefore ensure that the total facility reimbursement rate does not drive its entire budget and could ensure that the rate paid is not a subsidy to the facilities at the expense of all other classes of medical consumers served by DHSS. Staff of the MRC should be left in place and become employees of the Department of Health and Social Services.
2. Continue the MRC within the Department of Health and Social Services in an advisory capacity to the Commissioner. The Department would enact regulations providing the policies under which the MRC would propose rate setting regulations.
3. If the MRC continues to exist in statute, there must be statutory criteria to limit facility reimbursement, including authority to impose a ceiling on reimbursement rates.

FY89 MEDICAL ASSISTANCE



PROGRAM INCREMENTS:

- . No new benefits/services
 - . 4.2% in Medicaid Facilities
 - . 4.5% in all other programs
 - . Healthy baby bill implement SOBRA option
 - . 3.8% for all programs
- . No adjustment for Change in Utilization Patterns
- . Base Adjustment for Unmet Need

ADMINISTRATIVE INCREMENTS FOR COST MANAGEMENT

- | | |
|--|--|
| <ul style="list-style-type: none"> . Hearing Officer 2.0 . Auditors 94.6 | <ul style="list-style-type: none"> . Physicians Services 99.5 . Pharmacists Services 103.5 . Continue Pre-Admission Screening 211.8 . Continued Third Party Liability Recoveries 0 |
|--|--|

Implementation of the Medicaid Management Information System impacts each of the four areas above.

TABLE OF MEDICAID PRIORITIES - AS 47.07.035

112

(Lowest to Highest)

Service	Recipients	FY88 Annual Amount		
1. Chiropractic	600	410.0	BENEFIT	
2. Adult Dental	2,032	571.2	}	
3. Emergency Hospital Services	-0-	-0-		
4. Speech, Hearing & Language Disorders	298	113.0		
5. Optometrists Services & Eyeglasses	4,543	984.0		
6. Occupational Therapy	36	53.4		
7. Prosthetic Devices	198	679.8		
8. Medical Supplies & Equipment	330			
9. Clinic Services Includes Mental Health Clinics	1,384	3,979.2		
10. Physical Therapy	224	255.4		
11. Personal Care	96	526.8		
12. Non-Institutional Long Term Care	-0-	-0-		
13. Inpatient Psychiatric Services	69	5,570.5		
14. Intermediate Care for the Mentally Retarded	116	10,566.1		
15. Intermediate Care Services	400	17,108.6		40,81
16. Individuals Under 21 Not Eligible for AFDC (RIBICCF KIDS)	1,500	1,785.0		Eligible Group
17. Skilled Nursing Services for Individuals under 21	14	786.3		}
18. Aged, Blind and Disabled Individuals <i>IN AN INSTITUTION</i>	2,766	19,824.8		
19. Individuals in a Hospital, Skilled or Intermediate Care Under 300% SSI level	49	2,800.2		
20. Individuals Under 21 Under Supervision of the Department - <i>FOSTER CARE</i>	500	595.0		
		<u>\$66,609.3</u>		

13 Includes Alaska Psychiatric Institute
 14 Includes Harborview Developmental Center
 16-20 Are Eligibility Groups. The costs shown are included in the above optional services as well as the mandatory Medicaid services.

STATE OF ALASKA
THE LEGISLATURE

POUCH Y STATE CAPITOL
JUNEAU, ALASKA 99811
907 465 3800

LEGISLATIVE AFFAIRS AGENCY

M E M O R A N D U M

March 21, 1988

SUBJECT: HB 348; Relating to the Medicaid Rate
Commission

TO: Representative John Sund, Chair
House Judiciary Committee

FROM: George Utermohle *GU*
Legislative Counsel

HB 348, relating to the Medicaid Rate Commission, has been referred to the House Judiciary Committee.

If the Judiciary Committee takes action on the HESS Committee Substitute for HB 348, I would recommend a technical, clean-up amendment to the bill. A new section should be added to the bill to amend the reference in AS 39.25.110(23) to the Medicaid Rate Commission to read, "Medicaid Rate Advisory Commission."

GU
GU:bb
b4/030

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

MEDICAID RATE COMMISSION

STEVE COWPER GOVERNOR

PO BOX 242149
300 C STREET SUITE 59.
ANCHORAGE ALASKA 99524-0249
PHONE (907) 562-1996

February 17, 1988

The Honorable Myra Munson
Commissioner
Department of Health & Social Services
Pouch H-01
Juneau, AK 99811

Dear Myra:

Today, I received correspondence from Region X concerning the upper limits issues for our FY84 and FY85 fiscal years.

I want to keep you fully informed of the potential liability the state faces with this and other issues. While the state needs to require federal participation based on our approved State Plan, the upper limit issue is a problem for the state of Alaska.

Currently, we have approved State Plans through June 30, 1987. The 1988 State Plan is not approved. Our aggregate calculations for hospital services indicate the approved rates are under the upper limit for FY87 and FY88.

The long term care rates continue to be the major issue for state. I am listing an estimate of the contingent liability the state faces on several issues including the federal upper limit, regulations pending before the Medicaid Rate Commission, and appeals in process. All the issues listed below will likely be all general state funds. The appeals from providers request payments for expenses not included in the State Plan. While I do not believe the facilities will prevail, it is important to consider the appeals as contingent liabilities against General state funds. The outstanding issues are as follows:

FY87 Long Term Care Upper Limit	\$ 2,055,000
FY88 Long Term Care Upper Limit	\$ 2,515,000
FY89 Long Term Care Upper Limit	<u>\$ 2,800,000</u>
Potential Federal Claim	\$ 7,370,000

FY89 Proposed Regulation	\$ 2,900,000
Outstanding Appeals	<u>\$ 7,000,000</u>
Total Contingent Liability	\$17,270,000

RECEIVED

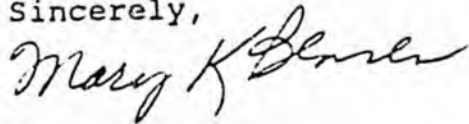
FEB 19 1988

Budget & Finance
Director's Office

If any of the contingencies become a reality, the impact will be in the FY89 appropriation. As you consider the appropriation request for FY89, you may want to consider requesting funding for some of the contingencies. As a note, the federal upper limit issue and the chart above reflect only the federal portion. I estimate excess above the upper limit for the 3 three years is approximately \$14,645,000 in actual payments to the health care facilities or just under 20% of the rate.

If you wish to discuss any of these issues or I can be of any assistance, please do not hesitate to contact me.

Sincerely,



Mary K. Bensen
Executive Director

cc: -Commission Members, Medicaid Rate Commission
Karen Perdue, Deputy Commissioner DHSS
Kim Busch, Medical Assistance
Harlan Knudson, Health Association of Alaska
Robert Bilden, Legislative Audit

MEMORANDUM

State of Alaska

TO: Norma Lundy
Governor's Interim Health
Care Commission

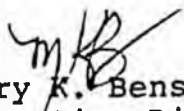
DATE: March 11, 1988

FILE NO:

TELEPHONE NO:

THRU:

SUBJECT: State's Potential
Liability to Federal
Government on Medicaid


FROM: Mary K. Bensen
Executive Director
Medicaid Rate Commission

In response to your Committee's questions concerning the state's potential liability to the federal government on Medicaid, I have prepared the following summary.

The state has a variety of issues concerning Medicaid payments to hospitals and long term care facilities. Attached is a memorandum outlining issues as of February 17, 1988. Since that time several other issues have developed increasing the state's potential liability.

In late February, the federal government identified an upper limit issue with acute care services for 1984, 1985, and 1986. We have been notified approximately \$2.0 million will be requested back from the state. It appears this argument will continue into 1987 and 1988. I estimate we will be arguing another \$2.0 million in 1987 and \$1.0 million in 1988. The state does not agree with the federal finding. We anticipate we will prevail or partially prevail.

The second issue involves litigation with Cordova Hospital challenging the Medicaid Rate Commission's ability to apply audit findings prior to August 1986. The facility's contention is the state could only audit prior to that time but had no ability to recoup funds based on audits. I was notified Monday, the Alaska Health Association is planning to join the suit on behalf of all members facilities. Regardless of who prevails, the federal government will take its half from the state. Based on current audit findings, it appears there will be at least \$1.0 million in audit findings for 1985 and 1986. This will result in \$500,000 in payments to the federal government. We feel the state will prevail.

The outstanding issues are recapped as follows:

FY 87 Long Term Care Upper Limit	\$ 2,055,000
FY 88 Long Term Care Upper Limit	2,515,000
FY 89 Long Term Care Upper Limit	<u>2,800,000</u>
Potential Federal Claim	\$ 7,370,000
FY 89 Proposed Regulation	\$ 2,900,000
Outstanding Appeals	<u>7,000,000</u>
Total Contingent Liability	\$17,270,000
1984/5/6 Hospital Upper Limit	\$ 2,000,000
1987 Hospital Upper Limit	2,000,000
1988 Hospital Upper Limit	1,000,000
Audit Finding	<u>500,000</u>
Total	\$22,770,000

Attachment

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

MEDICAID RATE COMMISSION

STEVE COMPER, GOVERNOR

PC BOX 240245
360 C STREET SUITE 597
ANCHORAGE ALASKA 99524-0245
PHONE (907) 567 1956

February 17, 1988

The Honorable Myra Munson
Commissioner
Department of Health & Social Services
Pouch H-01
Juneau, AK 99811

Dear Myra:

Today, I received correspondence from Region X concerning the upper limits issues for our FY84 and FY85 fiscal years.

I want to keep you fully informed of the potential liability the state faces with this and other issues. While the state needs to require federal participation based on our approved State Plan, the upper limit issue is a problem for the state of Alaska.

Currently, we have approved State Plans through June 30, 1987. The 1988 State Plan is not approved. Our aggregate calculations for hospital services indicate the approved rates are under the upper limit for FY87 and FY88.

The long term care rates continue to be the major issue for state. I am listing an estimate of the contingent liability the state faces on several issues including the federal upper limit, regulations pending before the Medicaid Rate Commission, and appeals in process. All the issues listed below will likely be all general state funds. The appeals from providers request payments for expenses not included in the State Plan. While I do not believe the facilities will prevail, it is important to consider the appeals as contingent liabilities against General state funds. The outstanding issues are as follows:

FY87 Long Term Care Upper Limit	\$ 2,055,000
FY88 Long Term Care Upper Limit	\$ 2,515,000
FY89 Long Term Care Upper Limit	\$ 2,800,000
Potential Federal Claim	\$ 7,370,000

FY89 Proposed Regulation	\$ 2,900,000
Outstanding Appeals	\$ 7,000,000
Total Contingent Liability	\$17,270,000

Medicaid Cost
Appeals
RECEIVED


FFB 19 1988

Budget & Finance
Director's Office

If any of the contingencies become a reality, the impact will be in the FY89 appropriation. As you consider the appropriation request for FY89, you may want to consider requesting funding for some of the contingencies. As a note, the federal upper limit issue and the chart above reflect only the federal portion. I estimate excess above the upper limit for the 3 three years is approximately \$14,645,000 in actual payments to the health care facilities or just under 20% of the rate.

If you wish to discuss any of these issues or I can be of any assistance, please do not hesitate to contact me.

Sincerely,



Mary K. Bensen
Executive Director

cc: -Commission Members, Medicaid Rate Commission
Karen Perdue, Deputy Commissioner DHSS
Kim Busch, Medical Assistance
Harlan Knudson, Health Association of Alaska
Robert Bilden, Legislative Audit

Myra A. Munson, Commissioner
Department of Health and Social Services
P. O. Box 11-07
Juneau, Alaska 99811

Dear Ms. Munson:

During a recent meeting, members of your staff requested an explanation of how the disapproval of a state plan amendment would affect Alaska's Medicaid program. They also expressed an interest in learning what actions HCFA would take if the State chose to implement the changes contained in the disapproved amendment.

A state electing to receive payments under Title XIX of the Social Security Act must submit and receive approval of its state plan for medical assistance. Once the Medicaid state plan has been approved, it can only be changed via the state plan amendment process. This process requires the state to thoroughly describe the proposed change in the form of a state plan amendment and submit the document to HCFA for approval. If the amendment is approved, it becomes part of the approved Medicaid state plan and the change is effectuated. If HCFA disapproves the amendment, the proposed change cannot be implemented and the state plan remains unchanged.

A state may choose to ignore HCFA's disapproval and implement the proposed change. This course of action would result in the state being out of compliance with the approved state plan and could have significant financial ramifications. The exact extent of the financial consequences would depend on the substantiality of the non-compliance but could range from the disallowance or deferral of the FFP associated with the disapproved change to the termination of FFP for the state's entire Medicaid program.

If you have any questions concerning this matter, our contact person is Bob Grauman. Bob can be reached at (206) 442-0445.

Sincerely,

Norman V. Meyer
Associate Regional Administrator
for Program Operations

cc: Kim Beach

BG 1138k

File Code: SMO-1

DIVISION OF MEDICAL ASSISTANCE

BUDGET INCREASE FACTORS

	<u>Dept. Request</u>	<u>FY87 Authorized</u>	<u>Actual</u>	<u>National CPI</u>	<u>Dept. Request</u>	<u>FY88 Authorized</u>	<u>Projected</u>	<u>FY89 Dept. Request</u>
Medicaid Facility								
Price	3.7%	0.0%	5.0%	15.7%	3.5%	2.5%	5.5%	3.8%
Utilization	3.1%	3.1%	7.5%		0.0%	0.0%	6.5%	0.0%
Eligibles	8.5%	8.5%	6.0%		6.3%	6.3%	6.0%	4.2%
Medicaid Non-Facility								
Price	3.7%	0.0%	15.7%	15.7%	2.8%	0.0%	5.5%	3.8%
Utilization	3.1%	3.1%	Unk.		0.0%	0.0%	6.5%	0.0%
Eligibles	10.4%	10.4%	6.0%		6.3%	6.3%	6.0%	4.5%

**STATE OF ALASKA 1988 LEGISLATIVE SESSION
FISCAL NOTE**

NO. 1

BILL VERSION: HB 348
PUBLISH DATE: HOUSE 1/11/88

REQUEST

Bill Resolution No. : _____
 Title : An Act Relating to the Membership
 of the Medicaid Rate Commission
 Sponsor : Rules Committee
 Requestor : Governor
 Date of Request : _____

FISCAL DETAIL

Agency Affected: Health & Social Services
 BRU: Medicaid Rate Commission
 Components: Medicaid Rate Commission

EXPENDITURES/REVENUES : (Thousands of Dollars)

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

CAPITAL						
----------------	--	--	--	--	--	--

REVENUE						
----------------	--	--	--	--	--	--

FUNDING : (Thousands of Dollars)

GENERAL FUND						
FEDERAL FUNDS						
OTHER						
TOTAL		-0-	-0-	-0-	-0-	-0-

POSITIONS :

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS : Attach a separate page if necessary

The proposed language changing the membership of the Medicaid Rate Commission would have a net zero impact on the Medicaid Rate Commission budget.

Prepared by: Randy Super *For: Kim Busha* Phone: 465-3355
 Division: Medical Assistance Date: 12/8/87

Approved by Commissioner: [Signature] *Health & Social Services* Date: 12/8/87
 Agency: _____

Distribution (by Agency preparing fiscal note):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

HOUSE COMMITTEE REPORT

(11)

Date referred: 3/14/88

FURTHER REFERRALS:

Judiciary

DATE: 3-17-88

The Health, Education and Social Services Committee has considered HB 348

"An Act relating to the composition of the Medicaid Rate Commission."

RECOMMENDS:

- replace with CS HB 348 (HESS) 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:

[Signature]
[Signature]
[Signature]
[Signature]

SIGNING OTHER RECOMMENDATIONS:

[Signature]

[Signature]
 Co-Chairman's signature
[Signature]

