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HOUSE COMMITTEE REPORT

File

(11)

Date Referred: May 1, 1990

FURTHER REFERRALS:

Date of Committee Action: 5/6/90

The FINANCE Committee considered:

CSSB 431 (FINANCE)

CS SB NO. 431 (Finance)

HEALTH FACILITY PAYMENT RATES

"An Act relating to health facility payment rates; and providing for an effective date."

RECOMMENDATIONS:

- be replaced with HCS CSSB 431 (HESS) the same title
- a new title
- have attached amendment(s)
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) 4/20/90/H.F.S.
- zero fiscal note(s) _____
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not Pass No Rec Amend

Phillips Phillips
 _____ BROWN
 _____ Hoffman
 _____ Swackhammer
 _____ Ulmer

		Do Not Pass	No Rec	Amend
<i>Phillips</i> Phillips	✓			
<i>Randolph J. Larson</i> Larson	X			
<i>J. Barnes</i> BARNES	X			

Randolph J. Larson Larson
 CO Chairman's Signature *Hoffman* Hoffman

FISCAL NOTE

REQUEST:

Revision Date: _____ Agency Affected: DHSS
 Title: An Act relating to health facility payment rates BRU: Administrative Services
 Sponsor: Senate HESS Components: Medicaid Rate Advisory Commission
 Requestor: Senate HESS

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY92	FY93	FY94	FY 95	FY 96
PERSONAL SERVICES	164.8	197.7	197.7	197.7	197.7	197.7
TRAVEL	7.6	7.6	7.6	7.6	7.6	7.6
CONTRACTUAL	16.0	15.4	15.4	15.4	15.4	15.4
SUPPLIES	3.2	3.2	3.2	3.2	3.2	3.2
EQUIPMENT	28.8	1.5	1.5	1.5	1.5	1.5
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	220.4	225.4	225.4	225.4	225.4	225.4
CAPITAL						
REVENUE						

FUNDING: (Thousands of Dollars)

GENERAL FUND	110.2	112.7	112.7	112.7	112.7	112.7
FEDERAL FUNDS	110.2	112.7	112.7	112.7	112.7	112.7
OTHER						
TOTAL	220.4	225.4	225.4	225.4	225.4	225.4

POSITIONS:

FULL-TIME	4	4	4	4	4	4
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

There is no effect on FY90. See attached analysis for effect on FY91 - FY96.

Prepared by: Jack Nielson, Executive Director
 Division: Medicaid Rate Advisory Commission
 Approved by Commissioner: *Kam Miller*
 Agency: Department of Health & Social Services

Phone: 562-1996
 Date: 04/19/90
 Date: 4/19/90

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

Facility reimbursement rates for medicaid and general relief medical are currently set by use of a consistent methodology. This bill will require the department to issue written findings and conclusions regarding the rate established by the department for each facility. The bill also provides that the Commission may review alternative rate setting methodologies and requires the Commissioner to appoint a technical advisory committee and to hold public hearings regarding rate setting regulations and the establishment of a new rate setting methodology.

The increased demand placed by the requirement of detailed findings and the legislative expectation of activity, including committee meetings and public hearings, to establish a new rate setting system will require at least two additional budget analysts. Without these positions, the requirements of the bill cannot be met without impairing the staff's capacity to meet the present demands placed on them, not only regarding rate rate setting, but also to fully protect the state's position in our relationship to the federal Health Care Financing Administration.

The bill also requires that a hearing concerning appeals of disputed rates be conducted within 120 days. Two positions are required to satisfy this provision: An appeals specialist (Budget Analyst III), and a secretary. The appeals specialist will answer discovery requests and requests for information, participate in depositions, serve as an expert witness, and perform other technical analysis. The secretary will provide critical word processing support to the current hearings examiner.

SUMMARY of FUNDING REQUIREMENTS CSSB431 (FIN)

	FY91	FY92 - FY96
Line 100		
Department Rate Setting Staff		
Program Budget Analysts III		
2 PFT @ Range 19A 10 months		
71100 Salary	66,720	80,064
71600 Benefits	24,707	29,649
Department Appeals Staff		
Program Budget Analyst III		
1 PFT @ Range 19A 10 months		
71100 Salary	33,360	40,032
71600 Benefits	12,354	14,824

	FY91	FY92 - FY96
Secretary I		
1 PFT @ Range 10B 10 months		
71100 Salary	18,930	22,716
71600 Benefits	<u>8,683</u>	<u>10,419</u>
TOTAL LINE 100	164,754	197,704
Line 200		
72240 Field Travel	4,000	4,000
72250 Per Diem	<u>3,600</u>	<u>3,600</u>
TOTAL LINE 200	7,600	7,600
Line 300		
73300 Communications	4,160	4,160
73323 Install 4 new phones	670	
73500 Printing, Binding	1,600	1,600
73850 Office Space 4 new pos.	<u>9,600</u>	<u>9,600</u>
TOTAL LINE 300	16,030	15,360
Line 400		
74200 Office Supplies	1,600	1,600
74560 DP Supplies	<u>1,600</u>	<u>1,600</u>
TOTAL LINE 400	3,200	3,200
Line 500		
75790 Telephones 4 new pos.	720	
75830 3 Enhanced PCs w/ Peripherals @ 6.3 ea	18,900	
75830 1 Std PC w/Peripherals	4,000	
76055 Office furn. 4 new pos.	5,200	
75690 Replacement Equipment		<u>1,500</u>
TOTAL LINE 500	<u>28,820</u>	<u>1,500</u>
GRAND TOTAL	\$220,404	\$225,364

Original sponsor(s): HESS Committee

1 IN THE SENATE BY THE HESS COMMITTEE

2 HOUSE CS FOR CS FOR SENATE BILL NO. 431 (HESS)

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 SIXTEENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to health facility payment rates."

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

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

9 (a) The [COMMISSION SHALL ADVISE THE] department shall set [ON]
10 the prospective rate of payment to a health facility under this chap-
11 ter and AS 47.25.120 - 47.25.300 based on a fair rate for reasonable
12 costs incurred by the facility. The department may not set a rate
13 until after a public hearing before the Medicaid Rate Advisory Commis-
14 sion except that this hearing requirement is not applicable if a new
15 rate is immediately necessary to afford exceptional relief to a
16 facility as determined under regulations adopted by the department.
17 [THE DEPARTMENT SHALL SET THE RATES OF PAYMENT TO A HEALTH FACILITY.]
18 The department shall by regulation list the factors it considers in
19 making its rate determinations under this section. A rate set under
20 this section does not take effect until it is approved in writing by
21 the commissioner of health and social services or the agency assigned
22 by the commissioner to perform this function. The written determina-
23 tion of a rate set by the department after a hearing must include a
24 statement of the department's findings, a description of the basis of
25 the findings and conclusions, a citation to the regulations supporting
26 the findings and conclusions, and a statement of the decision [, AFTER
27 CONSIDERATION OF ANY RECOMMENDATIONS MADE BY THE COMMISSION].

28 * Sec. 2. AS 47.07.070 is amended by adding a new subsection to read:

29 (f) The commissioner of health and social services shall appoint

1 a technical advisory committee and hold public hearings on the depart-
2 ment's rate setting regulations, rate setting methodology, and alter-
3 native payment systems.

4 * Sec. 3. AS 47.07.075 is amended to read:

5 Sec. 47.07.075. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.
6 Actions of the department regarding health facility payment rates
7 under this chapter and AS 47.25.120 - 47.25.300 are subject to the
8 provisions of the Administrative Procedure Act (AS 44.62) except as
9 provided in (b) of this section.

10 * Sec. 4. AS 47.07.075 is amended by adding a new subsection to read:

11 (b) The commissioner shall, by regulation, establish time limits
12 applicable to the various phases of an administrative appeal process
13 involving an appeal of the amount of a payment rate set by the depart-
14 ment for a facility. The time limits set under the regulations super-
15 sede conflicting time limits in AS 44.62.330 - 44.62.630. The regu-
16 lations must provide that

17 (1) a hearing for an appeal described in this subsection
18 must be scheduled under AS 44.62.410 to occur no more than 120 days
19 after written notice of rate appeal has been received by the depart-
20 ment from a facility unless the facility requests a delay or good
21 cause for the delay is demonstrated to the satisfaction of the hearing
22 officer;

23 (2) the commissioner must, within 30 days after receiving
24 the recommendation of the hearing officer, either render a decision in
25 the case or refer the case back to a hearing officer for additional
26 findings;

27 (3) if either time limit set under (1) or (2) of this
28 subsection is not met, the department shall report the noncompliance
29 to the legislature and the governor by the following January 20 with

1 an explanation of the length of delay, reasons for the delay, and
2 proposed corrective action by the department to ameliorate the causes
3 of delay.

4 * Sec. 5. AS 47.07.180(a) is amended to read:

5 (a) The commission shall [REVIEW PROPOSED PAYMENT RATES OF
6 HEALTH FACILITIES AND] advise the department on policies relating to
7 payment rates for health facilities under this chapter and AS 47.25.-
8 120 - 47.25.300. The commission may also review the department's
9 regulations on payment rates and recommend an alternative rate-setting
10 system if it determines that the department's system is inadequate.

11 * Sec. 6. AS 47.07.180(c) is repealed.

Carol Collins

Alaska State Legislature

SENATOR PAUL FISCHER, Chairman
SENATOR JIM DUNCAN, Vice Chairman
SENATOR AL ADAMS
SENATOR LLOYD JONES
SENATOR TIM KELLY



P.O. BOX V
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(907) 465-3762

Senate Committee on Health, Education and Social Services

M E M O R A N D U M

To: Representative Ron Larson and Representative Lyman Hoffman, Co-Chairmen, House Finance Committee

From: Senator Paul A. Fischer, Chairman, Senate Health, Education and Social Services Committee. *PF.*

Re: CS SB 431 (Finance)

Date: April 26, 1990

CS SB 431 (Finance) is legislation that is intended to clarify the medicaid rate setting process. Many facilities from around the state have expressed concerns over the medicaid rate setting process since Executive Order 72 took effect last March.

This bill establishes that a rate set by the department take effect only after it is approved in writing by the Commissioner of Health and Social Services. Rates set by the department must include a statement of the department's findings, a description of the basis of the findings, a citation to the regulation supporting the findings, and a statement of the decision.

This bill requires the commissioner to also establish time limits applicable to the various phases of an administrative appeal. A time limit of 120 days is required of the department to schedule an appeal unless there is a delay for good cause, or at the request of the facility. Also, after receiving the recommendation of the hearing office, the department is required to render a decision on the appeal after 30 days.

If either of these time limits are not met, the department must submit a report to the legislature with an explanation of the delay and proposed corrective actions by January 20.

This bill is not opposed by the department, and is the product of many hours of work by the Senate HESS Committee. I would ask for your support for this legislation.

HEALTH ASSOCIATION OF ALASKA

STATEMENT OF SUPPORT

CSSB 431 - Amendments Medicaid Rate Setting Process

April 19, 1990

SB 431, amending the Medicaid rate setting process for health facilities was introduced by the Senate HESS Committee. This, following public hearings on the implementation of Executive Order #72 (Effective March 11, 1989). That order transferred the rate and regulating authority of the Medicaid Rate Commission to the Department of Health & Social Services, and placed the Commission in an advisory capacity to the Department.

The Purpose of SB 431 is to clarify "confusion," created by the implementation of Executive Order #72.

The Finance Subcommittee bill will:

1. Establish that the Medicaid Rate Advisory Committee will hold public hearings on health facility Medicaid rates. A hearing may be waived by the Department if a facility is applying for new rates under "exceptional relief" regulations. Page 1, Section 1, Line 13.
2. Writes into law that the Department will set the Medicaid rate for health facilities, and that a written determination of the rate set must include a written statement of the Department's findings. Page 1, Section 1, Line 20.
3. Directs the Commissioner to appoint technical advisory committees and hold public hearings on the Department's rate setting regulations, methodology, and alternative payment systems. Page 2, Section 2, Line 1.
4. Requires that a hearing for an appeal must be scheduled within 120 days after written notice is received by the Department. The Department, after showing good cause, and with the approval of the hearing officer, may request a delay in scheduling the hearing. Page 2, Section 4, Line 19.
5. Requires the Commissioner to render a decision on appeals within 30 days. Page 2, Section 4, Line 24.
6. Requires the Commissioner to report noncompliance of meeting appeal deadlines to the Governor. Page 2, Section 4, Line 28.
7. Authorizes Advisory Commission to review the Department's regulations and recommend alternative payment systems. Page 3, Section 5, Line 9.

FOR MORE INFORMATION CONTACT:

Harlan Knudson - 586-1790 Health Association of Alaska

Jerry Reinwand - 586-8966

* * *



Fairbanks Memorial Hospital

1650 Cowles Street
Fairbanks AK 99701
(907) 452-8181 FAX (907) 452-5776

March 7, 1990

Senator Paul Fischer
P O Box V (MS 3100)
Juneau, Alaska 99811

Dear Senator Fischer:

Please take time from your busy schedule to consider some important health bills pending before the State Senate. Your help is needed.

SB 326 - SUPPORT - Provides grants to assist communities or regions within state to maximize use of their health dollar.

Substance abuse, mental health, and fetal alcohol syndrome programs would greatly benefit natives in Fairbanks and the northern region if such a grant could be provided.

SB 431 - SUPPORT Clarifies Medicaid Rate Setting Process for hospitals and nursing homes.

SB 319 - SUPPORT - Authorizes general obligation bonds for construction for hospitals in Ketchikan, Seward, and Kodiak, plus help for Unalaska, Juneau, and Kenai.

SB 451 - SUPPORT - Major tort reform bill with provision to correct negative State Supreme Court decision (Jackson v. Power).

SB 304 - SUPPORT - Creates state subsidized insurance pool for the uninsurable.

If you have any questions, please call me or in Juneau call Harlan Knudson, the Health Association president, at 586-1790, or Jerry Reinwand at 586-8966.

Sincerely,


James H. Gingerich
Administrator

JHG/js

attorney as the hearing officer. She continued to explain the process.

Commissioner Munson said that during the first year that she was commissioner the commission and commission staff asked that a hearing officer be hired to work in the department in order that the hearing process could be speeded up because private counseling is too slow and they didn't know enough about the cases. She said the commission did the hiring in that instance. She continued to explain how the person was chosen. Commissioner Munson said whoever the hearing officer was and is now makes the rate decisions. If it is appealed, it goes to the hearing officer.

Senator Kelly asked how long the hearing officer has been employed full-time. Commissioner Munson said it has been about a year. She noted she signs the hearing officer's evaluation which was a glowing positive evaluation.

An unidentified speaker said there are twenty-six appeals which are currently outstanding. Commissioner Munson added that approximately 1/3 of the appeals have a pending request.

Senator Fischer asked who prioritizes the cases. Mr. Nielson said the hearing officer prioritizes the the cases.

Senator Kelly asked the commissioner if she keeps track of what the hearing officer is working on. Commissioner Munson said she regularly receives a report of the pending appeals. She noted she has allowed him a lot of latitude.

Senator Fischer said he would like an average number of the cases that have been appealed this year. Senator Jones asked what the liability would be if the appeals came down on the side of the facility. Commissioner Munson said there was 14 appeals in 1989. She referred to Senator Jones' question and said apparently no one has added it up. Mr. Campbell said his appeal amounts to \$344 thousand.

Senator Jones asked what the percentage of wins were for the facilities. Mr. Campbell said his impression is that in the early years there was a fair amount of give and take. An analysis can be obtained from the Rate Commission. After the first couple of years there were rapid changes of regulation. Every time there was a new ceiling from the state budgeting factor, there was a new set of regulations.

TAPE 2, SIDE 2

Commissioner Munson discussed one of the cases that had come back from the hearing officer and noted she had

adopted his decision. She said she stands by the decision for the cases she remanded.

Commissioner Munson explained that when Mr. Nielson makes a decision on an administrative appeal, it goes to the hearing officer. Mr. Nielson and an attorney general present their side. The facility then presents their side. The hearing officer then makes a legal decision on the kinds of issues. He prepares a written decision. The point where facilities no longer have input is after it leaves the hearing officer's desk. She explained that in September, she remanded three cases which had identical issues with the same instructions. Those are now pending further fact finding if the facilities request it. She said she is not aware of any cases where the commission didn't accept the hearing officer's decision as written. There was continued discussion regarding the process of appeals. Commissioner Munson said she would forward to Senator Kelly, Jones, and Fischer, a copy of instructions on remand decisions.

Emmit Wilson, Humana Hospital, asked Commissioner Munson how many decisions have been made under her regime. Commissioner Munson said she believes it is six. One was adopted and four had identical legal issues which were remanded. She said she has been told that there is one more on the way to her desk.

Senator Kelly asked how she came to the decision to remand the four cases. Commissioner Munson said she read the decisions very closely and was alarmed and concerned about the outcome. She said the state had the burden of proof even in approving the need for a rate to be reduced or held at a certain level. Commissioner Munson said in the past, the commission had violated its own regulation that at the point at which it chooses to come into compliance and recognizes that problem, the burden of proving that you should act somehow otherwise should remain on the appealing part, not on the state. She noted there has been six decisions since March and she received the first of them in April. The rate of reporting out a decision has increased.

Senator Jones asked how much it costs facilities to keep up with Medicaid appeals. He said he is sure they charge the users for it. Mr. Stokes referred to SB 166 and said they had in excess of \$15 thousand in airline tickets. He said the appeals process is expensive not only to the facilities but to the state. Commissioner Munson said those costs are built in that derive the Medicaid rate. The costs of preparing rates and coming to hearings are built into the base of the rate, win or lose. There is talk at the federal level of not permitting the state to include the match, that which is used to sue the Federal Government.

Munson noted he would like to give Commissioner Munson a lot of credit. During the last year there has been a number of situations where they felt that the long-term care facilities were in serious jeopardy and the commissioner had met with the board after midnight. He said he would like the committee to revisit this issue when session convenes.

Mr. Emmet Wilson said there were six appeals and four of them were remanded, one was still on her desk, so there has been one conclusion. Commissioner Munson said there has been two conclusions and one of them was to remand four cases.

Mr. Stokes said there are two major of acute care hospitals in the State of Alaska and both are located in Anchorage and they service the whole state. The reason they are in Anchorage is because of the medivac system and both hospitals have in excess of 360 positions which include neuro surgeons, etc. He referred to the patients and said sometimes it takes six months or more to put them back together so they can have a quality of life. He said there are going to be patients with fees in excess of \$50 thousand where the other facilities will never have those except in some cases where the patients may have cancer.

Dennis Murray, Heritage Place Nursing Home, said there has been a lot of talk about costs. He said the costs are really people. Every administrator's budget is the people that it takes to provide health services. The health care facilities is one of the largest employers in the communities. Mr. Murray said a decision has been made that there is four classes of providers and the system has created rates based upon inadequate decisions. He said when it comes to the legislature they give a budgetary item which says "medicaid." He said it is so hard to unbundle that to figure out who these people are. He continued to discuss expenditures of facilities.

Commissioner Munson said issues have been raised and she would report back on them. She continued to give her closing statement [PARTS OF THIS TESTIMONY WAS INDISCERNIBLE].

Mr. Murray said what if it boils down to the Federal Government deciding what they believe, under Medicare, is reasonable and that upper limit for his facility is \$92 per day for routine services which includes the nurses, nurse assistants, secretaries, dietary people, social workers, etc. Mr. Murray said they have given Alaska an adjustment of 58 percent to get to the \$92. The Federal Government and Medicare considers it a 50 percent differential between the State of California and Alaska in wages. He continued to discuss the wages of people in Alaska.