

SB

431

# HOUSE COMMITTEE REPORT

(7)

Date Referred: April 25, 1990

FURTHER REFERRALS:

FINANCE

Date of Committee Action: 4/30/90

The HESS Committee considered:

CSSB 431 (FINANCE)

CS SB NO. 431 (Fin)

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
- have 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):  
(Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact \_\_\_\_\_
- zero fiscal note \_\_\_\_\_
- zero with analysis \_\_\_\_\_

- fiscal note(s) 4/29/90 / DHS
- zero fiscal note(s) \_\_\_\_\_
- zero fn/analysis \_\_\_\_\_

SIGNING DO PASS:

J. Ellis  
\_\_\_\_\_  
Mark Murphy  
W. Arnold  
Cheri Davis  
Mark Bayler  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

SIGNING:

(Check approp. column)

Do Not  
Pass      No Rec      Amend



J. Ellis  
Chairman's Signature

# FISCAL NOTE

**REQUEST:**

Revision Date: \_\_\_\_\_ Agency Affected: DHSS  
 Title: An Act relating to health facility payment BRU: Administrative Services  
           rates  
 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						
<b>TOTAL OPERATING</b>	<b>220.4</b>	<b>225.4</b>	<b>225.4</b>	<b>225.4</b>	<b>225.4</b>	<b>225.4</b>
<b>CAPITAL</b>						
<b>REVENUE</b>						

**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						
<b>TOTAL</b>	<b>220.4</b>	<b>225.4</b>	<b>225.4</b>	<b>225.4</b>	<b>225.4</b>	<b>225.4</b>

**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

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

Approved by Commissioner: *Kae Ouellet, Actg*  
 Agency: Department of Health & Social Services

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	30,064
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

# Alaska State Legislature

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



PO BOX V  
ROOM 508  
STATE CAPITOL  
(907) 465-3762

## Senate Committee on Health, Education and Social Services

### M E M O R A N D U M

**To:** Representative Johnny Ellis, Chairman, House Health, Education and Social Services Committee.

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

**Re:** CS SB 431 (Finance)

**Date:** April 26, 1990

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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.

Thank You.

## **Sectional Analysis For CS SB 431 (Finance)**

### **Section 1.**

Establishes that a rate set under this section does not take effect until it is approved in writing by the commissioner of Health and Social Services, or the agency assigned by the commissioner to perform this function. Written determinations by the department must include a statement of the department's findings, and a description of the basis of the findings and conclusions, a citation to the regulation supporting the findings and conclusions, and a statement of the decision.

### **Section 2.**

The commissioner of Health and Social Services shall appoint a technical Advisory Committee to hold hearings on the department's rate setting regulations.

### **Section 3.**

Places actions of the department regarding health facility payment rates under the provisions of the Administrative Procedure Act, except as provided in section 4.

### **Section 4.**

Requires the Commissioner to establish time limits applicable to various phases of an administrative appeal.

A hearing appeal described in this section must be scheduled to occur no more than 120 days after written notice of rate appeal has been received by the department from a facility unless the facility requests a delay or good cause for the delay is demonstrated to the satisfaction of the hearing officer.

The commissioner must, within 30 days after receiving a recommendation of the hearing officer, either render a decision in the case or refer the case to a hearing officer for additional findings.

If either time limit is not met, the commissioner must report to the legislature and the governor with an explanation of the length of delay, reasons for the delay and proposed corrective action by the following January 20 .

### **Section 5.**

Establishes that the commission shall advise the department on policies relating to payment rates for health facilities. The commission may also review the department's regulations on payment rates and recommend alternative rate-setting system if it determines that the department's system is inadequate.

# 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	201.2	234.1	234.1	234.1	234.1	234.1
TRAVEL	9.0	9.0	9.0	9.0	9.0	9.0
CONTRACTUAL	20.2	19.2	19.2	19.2	19.2	19.2
SUPPLIES	4.0	4.0	4.0	4.0	4.0	4.0
EQUIPMENT	36.6	1.5	1.5	1.5	1.5	1.5
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
<b>TOTAL OPERATING</b>	<b>271.0</b>	<b>267.8</b>	<b>267.8</b>	<b>267.8</b>	<b>267.8</b>	<b>267.8</b>

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

GENERAL FUND	135.5	133.9	133.9	133.9	133.9	133.9
FEDERAL FUNDS	135.5	133.9	133.9	133.9	133.9	133.9
OTHER						
<b>TOTAL</b>	<b>271.0</b>	<b>267.8</b>	<b>267.8</b>	<b>267.8</b>	<b>267.8</b>	<b>267.8</b>

**POSITIONS:**

FULL-TIME	4	4	4	4	4	4
PART-TIME	1	1	1	1	1	1
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

Phone: 562-1996  
 Date: 04/06/90

Approved by Commissioner: Mark M. Munson  
 Agency: Department of Health & Social Services

Date: 4/6/90

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agencies

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 finding 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. Three positions are required to satisfy this provision: An appeals specialist (Budget Analyst III), a half-time hearing examiner 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 half-time hearing officer is required to conduct the appeals hearing within the 120 day deadline. The secretary will provide word processing support to the hearings examiners.

SUMMARY of FUNDING REQUIREMENTS SB431

	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

April 6, 1990

Fiscal Note

Hearing Examiner		
1 PPT @ Range 24A	6 months	
71100 Salary	28,122	28,122
71600 Benefits	8,314	8,314
	FY91	FY92 - FY96
Secretary I		
1 PPT @ Range 10B	10 months	
71100 Salary	18,930	22,716
71600 Benefits	<u>8,683</u>	<u>10,419</u>
TOTAL LINE 100	201,190	234,140
Line 200		
72240 Field Travel	5,000	5,000
72250 Per Diem	<u>4,000</u>	<u>4,000</u>
TOTAL LINE 200	9,000	9,000
Line 300		
73300 Communications	5,200	5,200
73323 Install 5 new phones	1,000	
73500 Printing, Binding	2,000	2,000
73850 Office Space 5 new pos.	<u>12,000</u>	<u>12,000</u>
TOTAL LINE 300	20,200	19,200
Line 400		
74200 Office Supplies	2,000	2,000
74560 DP Supplies	<u>2,000</u>	<u>2,000</u>
TOTAL LINE 400	4,000	4,000
Line 500		
75790 Telephones 5 new pos.	900	
75830 4 Enhanced PCs w/ Peripherals @ 6.3 ea	25,200	
75830 1 Std PC w/Peripherals	4,000	
76055 Office furn. 5 new pos.	6,500	
75690 Replacement Equipment		<u>1,500</u>
TOTAL LINE 500	<u>36,600</u>	<u>1,500</u>
GRAND TOTAL	\$270,990	\$267,840

Sec. 47.07.070. Payment to health facilities. (a) The commission shall advise the department on the prospective 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 shall by regulation list the factors it considers in making its rate determinations under this section, after consideration of any recommendations made by the commission.

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

(1) costs 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 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 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.

(e) When an actual rate paid by the department is reviewed at the end of the year for which the approved rate was established and the review is conducted to determine whether the actual rate paid was in conformance with the approved rate under this section, all or part of an adjustment for year-end conformance may be waived for the facility if the facility provides proof of manifest injustice resulting from application of the adjustment for year-end conformance. When the adjustment for year-end conformance of the base year is waived, in whole or part, for a facility under this subsection, the amount waived may not be included as part of the base upon which the prospective rate is determined if the nonconformity affects both costs and charges. When the adjustment for year-end conformance of the base year is waived, in whole or part, for a facility under this subsection, the amount waived shall be included as part of the base upon which the prospective rate is determined if the nonconformity affects only charges. (§ 1 ch 182 SLA 1972; am § 3 ch 95 SLA 1983; am § 7 ch 105 SLA 1986; am § 1 ch 9 SLA 1989; am E.O. No. 72 § 4 (1989))

Effect of amendments. — The 1986 amendment added subsection (d).  
The first 1989 amendment, effective March 31, 1989, added subsection (e).  
The second 1989 amendment, effective

March 1, 1989, substituted "department" for "commission" where the word appears throughout the section; and in subsection (a), substituted "advise the department on the prospective" for "determine prospec-

tively the" in the present second consideration made by the commission in the present third section.  
Editor's note: 1989, provides VISION. (a) For or after January prospective payment facility for fiscal conformance report for fiscal year 1 as if the provision enacted by section. at the time of prospective payment period. If the results in a high rate for a health facility had previously

Sec. 47.07 days after the shall submit performance 72 § 5 (1989)

Effect of amendment, effective substituted "department"

Sec. 47.07 tember 30 of report on the current fiscal that will be reported the next fiscal used as a basis § 6 (1989))

Effect of amendment, effective

Sec. 47.07 reporting. (a) system of accreditation facilities regulations shall ties, and uniform system become

tively the" in the first sentence, added the present second sentence, and added "after consideration of any recommendations made by the commission" at the end of the present third sentence.

Editor's notes. — Section 2, ch. 9, SLA 1989, provides: "TRANSITIONAL PROVISION. (a) For the services provided on or after January 1, 1989, an approved prospective payment rate determined for a facility for fiscal year 1989, based on a conformance review of that facility's rate for fiscal year 1987 shall be recalculated as if the provisions of AS 47.07.070(e), as enacted by sec. 1 of this Act, were in effect at the time of the determination of the prospective payment rate in effect for the period. If the application of this section results in a higher prospective payment rate for a health facility than that which had previously been calculated for the fa-

cility, the difference shall be promptly remitted to the health facility. If the application of this section results in a lower prospective payment rate for a health facility for fiscal year 1989 than had previously been calculated for the facility, this section may not be applied to decrease a rate to a facility for fiscal year 1989 for any part of year-end conformance waived.

(b) In this section, "conformance review" means the review undertaken after the end of the year for which a facility's approved rate has been set to determine whether actual payments made to a health facility under AS 47.07 and AS 47.25.120—47.25.300 conformed to the payment rate approved for that health facility under AS 47.07 and to determine whether the prospective payment rate for that facility should be adjusted for the next rate-setting year."

**Sec. 47.07.071. Reports by health facilities.** Not later than 120 days after the end of each fiscal year of a health facility, the facility shall submit to the department a report on the facility's financial performance during the fiscal year. (§ 4 ch 95 SLA 1983; am E.O. No. 72 § 5 (1989))

*Effect of amendments.* — The 1989 amendment, effective March 1, 1989, substituted "department" for "commission."

**Sec. 47.07.072. Report by the department.** Not later than September 30 of each year, the department shall submit to the governor a report on the prospective payments made under this chapter during the current fiscal year and an estimate of the prospective payments that will be made during the remainder of the current fiscal year and the next fiscal year. The report shall state the assumptions that are used as a basis for the estimates. (§ 4 ch 95 SLA 1983; am E.O. No. 72 § 6 (1989))

*Effect of amendments.* — The 1989 amendment, effective March 1, 1989, substituted "department" for "commission" in the first sentence.

**Sec. 47.07.073. Uniform accounting, budgeting, and financial reporting.** (a) The department 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 shall specify the date the system becomes effective for each health facility.

(b) In adopting regulations under this section, the department 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;
- (5) other factors the department considers relevant; and
- (6) the recommendations of the commission.

(c) The department 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 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. (§ 4 ch 95 SLA 1983; am E.O. No. 72 § 7 (1989))

**Effect of amendments.** — The 1989 amendment, effective March 1, 1989, substituted "department" for "commission" throughout the section and added paragraph (b)(6), making related grammatical changes.

**Sec. 47.07.075. Application of administrative procedure act.** Actions of the department regarding health facility payment rates under this chapter and AS 47.25.120 — 47.25.300 are subject to the provisions of the Administrative Procedure Act (AS 44.62). (§ 4 ch 95 SLA 1983; am E.O. No. 72 § 8 (1989))

**Effect of amendments.** — The 1989 amendment, effective March 1, 1989, substituted "department regarding health facility payment rates under this chapter" for "commission under AS 47.07."

**Sec. 47.07.110. Medicaid rate advisory commission established.** The Medicaid Rate Advisory Commission is established in the Department of Health and Social Services. (§ 6 ch 95 SLA 1983; am E.O. No. 72 § 9 (1989))

**Effect of amendments.** — The 1989 amendment, effective March 1, 1989, inserted "Advisory."

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**Effect of amendment**  
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**Sec. 47.07.180. Duties.** (a) The commission shall review proposed payment rates of health facilities and advise the department on payment rates for health facilities under this chapter and AS 47.25.120 — 47.25.300.

(b) The commission shall advise the department on the state plan as it relates to health facilities.

(c) When the department enters into a substantially revised state plan under AS 47.07.040, and when, as part of the revised state plan, the department adopts regulations that substantially change the methods used or the factors considered in determining the prospective payment rates, the commission may, at its discretion, recommend that 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 new order as to each facility.

(d) By March 1 of each year, the department 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 department under this chapter and AS 47.25.120 — 47.25.300. The estimate shall consider anticipated utilization and payment rates for each facility. The methodology used by the department to develop the estimate shall be consistent with the regulations governing the department's rate-setting process. (§ 6 ch 95 SLA 1983; am § 8 ch 105 SLA 1986; am E.O. No. 72 § 10 (1989))

**Effect of amendments.** — The 1986 amendment rewrote this section.

The 1989 amendment, effective March 1, 1989, substituted "department" or "department's" for "commission" or "commission's" throughout the section; in subsection (a), deleted "and may review budgets" following "rates" and substituted "advise the department on" for "establish"; in subsection (b), substituted "advise" for "consult with" and deleted a second sentence

which prohibited the commission from changing the unit of payment without written consent of the department; in subsection (c), inserted "recommend that the department" and made a stylistic change in the first sentence; and, in subsection (d), substituted "department under this chapter and AS 47.25.120 — 47.25.300" for "commission" at the end of the first sentence.

**Sec. 47.07.190. Employment of personnel.** The department may employ and determine the salary of an executive director, who shall provide staff assistance to the commission. With the approval of the department, the executive director may select and employ additional staff. The commission shall be assisted by the officers or personnel of the department as the commissioner of health and social services directs. The executive director of the commission is in the exempt service under AS 39.25. (§ 6 ch 95 SLA 1983; am E.O. No. 72 § 11 (1989))



Fairbanks Memorial Hospital

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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.

**SP 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 party, 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.

Mudson 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. Emmitt 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.

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REPRESENTING ACUTE, LONG TERM AND OUTPATIENT FACILITIES

April 23, 1990

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Representative Johnny Ellis  
Chairman  
House Committee on Health,  
Education and Social Services  
Legislative Building  
Juneau, Alaska 99811

Jim  
FYI

RE: SB 431, Medicaid Rate Setting Process

Dear Johnny:

This is to ask you to schedule CSSB 431, amendments to the Medicaid Rate Setting Process, for hearing before the House HESS Committee, pending referral.

CSSB 431, passed the Senate today, but has been held for reconsideration. The bill should reach your committee within the next few days. Our goal is to meet the five-day "notice of consideration".

Enclosed is a summary of the bill. The intent is to clear up confusion created by the enactment of Executive Order #72. There is a reasonable fiscal note on the bill.

The Department testified before the Senate Finance Committee that it was not opposed to this legislation.

Hospitals and nursing homes consider this to be a very important bill, though its' over all impact on the Department will be minor.

Your scheduling and support for the bill is needed.

Sincerely,

  
Harlan Knudson

CC: Representatives: Mark Boyer, Peter Goll,  
Max Gruenberg, George Jacko,  
Cheri Davis, Walter Furnace.

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 - 586-8960

HEALTH ASSOCIATION OF ALASKA

STATEMENT OF SUPPORT

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