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SENATE FINANCE COMMITTEE REPORT

DATE: 2/23/90

FURTHER:

DATE TURNED INTO OFFICE: 4/19/90

The Finance Committee considered SB 431

Act relating to health facility payment rates.

and recommended:

[x] replace with CS SB 431 (Fin)
[] or adopt CS

[x] same title
[] new title
[] technical title change (HB only)

[] attached amendment(s)
[] letter of intent adopted

- [] do pass
[] do not pass
[] no recommendation
[x] individual recommendations
[] further referral to

ATTACHES NEW FISCAL NOTE(S): Dept/Date:
[x] fiscal note(s) DHSS 220.4

APPROVES PREVIOUS: Dept/Date:
[] fiscal note(s)

[] zero fiscal note(s)

[] zero fiscal note(s)

[] appropriation-no fiscal note

SIGNING DO PASS:
[Signature]

OTHER RECOMMENDATIONS:
King Duncan No Rec.
Paul J. Shauff No Rec.
Rich Healy (NO REC)

1. [Signature] Co-Chairs

2. [Signature] Signatures and Recommendations

DO NOT PASS UNNECESSARY & ADDS ANOTHER 4 NEW STATE EMPLOYEES

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						
TOTAL OPERATING	220.4	225.4	225.4	225.4	225.4	225.4

CAPITAL						
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REVENUE						
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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, Act*
 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

April 19, 1990

Fiscal Note CSSB431 (FIN)

	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

Adopted
4-19-90
w/Amended
DHSS F/R
6-1971D

Original sponsor(s): HESS Committee

IN THE SENATE

BY THE FINANCE COMMITTEE

CS FOR SENATE BILL NO. 431 (Finance)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SIXTEENTH LEGISLATURE - SECOND SESSION

A BILL

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

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

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

(a) The [~~COMMISSION SHALL ADVISE THE~~] department shall set [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 may not set a rate until after a public hearing before the Medicaid Rate Advisory Commission except that this hearing requirement is not applicable if a new rate is immediately necessary to afford exceptional relief to a facility as determined under regulations adopted by the department.

[~~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. 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. The written determination of a rate set by the department after a hearing must include a statement of the department's findings, a description of the basis of the findings and conclusions, a citation to the regulations supporting the findings and conclusions, and a statement of the decision [, AFTER CONSIDERATION OF ANY RECOMMENDATIONS MADE BY THE COMMISSION].

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

(f) The commissioner of health and social services shall appoint a technical advisory committee and hold public hearings on the department's rate setting regulations, rate setting methodology, and alternative payment systems.

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

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) except as provided in (b) of this section.

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

(b) The commissioner shall, by regulation, establish time limits applicable to the various phases of an administrative appeal process involving an appeal of the amount of a payment rate set by the department for a facility. The time limits set under the regulations supersede conflicting time limits in AS 44.62.330 - 44.62.630. The regulations must provide that

(1) a hearing for an appeal described in this subsection must be scheduled under AS 44.62.410 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;

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

(3) if either time limit set under (1) or (2) of this subsection is not met, the department shall report the noncompliance

to the legislature and the governor by the following January 20 with an explanation of the length of delay, reasons for the delay, and proposed corrective action by the department to ameliorate the causes of delay.

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

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

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

* Sec. 7. This Act takes effect July 1, 1990.

Outdated

6-1971D
Lauterbach
4/3/90

4/17/90
PF-3 284
JD

Original sponsor(s): HESS Committee

1 IN THE SENATE

2 CS FOR SENATE BILL NO. 431 ()

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 and providing for an effective date."

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

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

10 (a) After a public hearing before the Medicaid Rate Advisory
11 Commission, [THE COMMISSION SHALL ADVISE] the department shall set
12 [ON] the prospective rate of payment to a health facility under this
13 chapter and AS 47.25.120 - 47.25.300 based on a fair rate for reason-
14 able costs incurred by the facility. [THE DEPARTMENT SHALL SET THE
15 RATES OF PAYMENT TO A HEALTH FACILITY.] The department shall by
16 regulation list the factors it considers in making its rate determina-
17 tions under this section. A rate set under this section does not take
18 effect until it is approved in writing by the commissioner of health
19 and social services or the agency assigned by the commissioner to
20 perform this function. The written determination of a rate set by the
21 department after a hearing must include a statement of the depart-
22 ment's findings, a description of the basis of the findings and con-
23 clusions, a citation to the regulations supporting the findings and
24 conclusions, and a statement of the decision [, AFTER CONSIDERATION OF
25 ANY RECOMMENDATIONS MADE BY THE COMMISSION].

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

27 (f) The commissioner of health and social services shall appoint
28 a technical advisory committee and hold public hearings on the depart-
29 ment's rate setting regulations, rate setting methodology, and

1 alternative payment systems.

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

3 Sec. 47.07.075. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.

4 Actions of the department regarding health facility payment rates
5 under this chapter and AS 47.25.120 - 47.25.300 are subject to the
6 provisions of the Administrative Procedure Act (AS 44.62) except as
7 provided in (b) of this section.

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

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

15 (1) a hearing for an appeal described in this subsection
16 must be scheduled under AS 44.62.410 to occur no more than 120 days
17 after written notice of rate appeal has been received by the depart-
18 ment from a facility unless the facility requests a delay;

19 (2) the commissioner must, within 30 days after receiving
20 the recommendation of the hearing officer, either render a decision in
21 the case or refer the case back to a hearing officer for additional
22 findings;

23 (3) if either time limit set under (1) or (2) of this
24 subsection is not met, the department shall report the noncompliance
25 to the legislature and the governor by the following January 20 with
26 an explanation of the length of delay, reasons for the delay, and
27 proposed corrective action by the department to ameliorate the causes
28 of delay.

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

1 (a) The commission shall [REVIEW PROPOSED PAYMENT RATES OF
2 HEALTH FACILITIES AND] advise the department on policies relating to
3 payment rates for health facilities under this chapter and AS 47.25.-
4 120 - 47.25.300. The commission may also review the department's
5 regulations on payment rates and recommend an alternative rate-setting
6 system if it determines that the department's system is inadequate.

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

8 * Sec. 7. This Act takes effect July 1, 1990.

Final Version

Amendments to SB 431 based on hearing before Senate Finance Subcommittee:

- 1) Page 1, line one should be changed to read,
" After a public hearing before the
Medicaid Advisory Rate Commission the dept.
....."
- 2) Substitute on line 18 (p. 1) the following language,
is substituted beginning with "A rate set under this
section does not take effect until it is approved
in writing by the commissioner or the agency assigned
to perform this function. Every rate set by the
department after a hearing must state the ~~the~~
department's findings, the basis of its findings and
conclusions supported by regulation, together with its
decision."
- 3) Page 2, line 10, change 15 days to 30 days
- 4) Page 2, beginning with line 14... substitute the
following language.
(3) "if either time limits set under (1) or (2)
of this subsection are not met, the commissioner
or the commissioner's designee shall report to
the legislature and the governor on January 20th
each year of the noncompliance, with an explanation
of the length of delay, reasons for the delay and
proposed corrective actions by the department
to ameliorate the situation."
- 5) ~~Page 2, line 10, change 15 days to 30 days~~ (Not in agreement)
- 6) Page 2, line 24, please insert a new sentence to
read, "The commissioner shall appoint a technical
advisory committee and hold public hearings
on the department's regulations, rate setting
methodology and alternative payment systems."
(Not in agreement)

The commissioner has indicated that with these changes, as outlined above, and except where noted that the department would not oppose this bill. It would be most important to then get support for passage in the House of Representatives.

Concerning the fiscal note it is the position of the association that additional staff is necessary to fully carry out the department's responsibility in setting rates and adjudicating appeals. The association is in support of the 2 additional budget analyst's and their expenses for a total cost of \$111,093.

HEALTH ASSOCIATION OF ALASKA

STATEMENT OF SUPPORT

CSSB 431 - Amendments Medicaid Rate Setting Process

April 16, 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. Page 1, Section 1, Line 10.
2. Writes into law that either the Commissioner or the Agency appointed by the Commissioner will set the Medicaid rate for health facilities, and that a written determination of a rate set must include a written statement of the Department's findings. Page 1, Section 1, Line 17.
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 1, Section 2, Line 27.
4. Requires that a hearing for an appeal must be scheduled within 120 days after written notice is received by the Department. Page 2, Section 4, Line 16.
5. Requires the Commissioner to render a decision on appeals with 30 days. Page 2, Section 4, Line 19.

6. Requires the Commissioner to report noncompliance of meeting appeal deadlines to the Governor. Page 2, Section 4, Line 24.
7. Authorizes Advisory Commission to review the Department's regulations and recommend alternative payment systems. Page 3, Section 5, Line 4.

FOR MORE INFORMATION CONTACT: HARLAN KNUDSON - 586-1790
HEALTH ASSOCIATION OF ALASKA

JERRY REINWAND - 586-8966

#

STEVE COWPER, GOVERNOR

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

3601 "C" STREET, SUITE 578
P.O. BOX 240249
ANCHORAGE, ALASKA 99524-0249

DATE: December 12, 1989

TO: Honorable Myra M. Munson
Commissioner, DHSS

FROM: *Doug Elliott*
Doug Elliott
Hearing Officer
DHSS/Commissioner's Office

SUBJECT: Status Report

Attached please find a status report for all Medicaid rate appeals filed since 1986. Cases are listed in the order of filing, using the existing case numbering system. For your convenience, an alphabetical index is also attached.

In my report of June 21, 1989, I mentioned my efforts to expedite the hearing process, stating: "My goal is to set new appeals for hearing within six months, and to submit proposed decisions within three months after the completion of the hearing or posthearing briefing." I am pleased to report substantial progress toward this goal.

I am now current on proposed decisions. The only case now under advisement is Humana '89 (Case No. 89-MRC-2), in which the final brief was submitted November 21, 1989. I expect to submit the proposed decision in that case well within the three month time frame. The appeal was filed on January 6, 1989. It is a case involving a number of issues and several million dollars in dispute. The case has progressed quite expeditiously, in spite of necessary continuances.

The first two appeals I received since my June report were scheduled for hearing within six months of receipt. St. Ann's appeal of the amended exceptional relief decision was filed with the Commissioner on July 20, 1989, and received by me July 27, 1989. The hearing was set for November 7, 1989, but was taken off the calendar at the request of counsel for both parties. Charter North's appeal of its rates for 1988 and 1989 (Case No. 89-MRC-8) was filed on July 21, 1989, and received by me September 1, 1989.

It is set for hearing on February 21, 1990, and so far is running on schedule. Several additional appeals were referred to me last month, and prehearing conferences will be held in the next few weeks.

It will not always be possible to conduct hearings within six months. Hearings must be scheduled for dates when all of the attorneys, witnesses and other necessary participants are available, and this can be difficult. Once a hearing date has been set, a continuance may be requested by one or both parties due to unforeseen circumstances. Moreover, as discussed below, the parties often request that appeals be stayed pending other proceedings. Absent good cause to do otherwise, my policy is to schedule hearings for the earliest date the parties can be ready.

Thirteen appeals have been filed in 1989 to date. This is the same number filed last year, and one more than in 1987. There are currently 30 cases pending before me; however, this number includes 16 cases that have been stayed pending other proceedings, and three FY 88 cases remanded to me for further proceedings on the malpractice insurance issue. Final decisions in three cases are currently being appealed to Superior Court, and the proposed decision in one case is currently before the Commissioner. Final decisions have been issued in all appeals of FY 86 and 87 rates, except for the one FY 87 case now awaiting decision. Most of the FY 88 cases remain open pending resolution of the malpractice issue and/or the upper limits issue which several long term care facilities are pursuing before the Grant Appeal Board. My expectation is that once these issues are resolved, many of the cases that have been stayed can be resolved without evidentiary hearings.

DE:sr

cc: MRAC Members
Jack Nielson
Facility Administrators
Attorneys of Record
Health Association of Alaska

APPEAL STATUS REPORT

<u>Case Number</u>	<u>Facility/ Fiscal Year</u>	<u>Status</u>
86-MRC-1	Humana/86	Final decision issued by Commissioner 11/2/89; appealed to Superior Court.
86-MRC-2	Providence/86	Final decision issued by MRC 6/17/88.
86-MRC-3	Denali Center/ 86	Appeal withdrawn by facility; case closed 2/9/88.
86-MRC-4	Humana/87	Proposed decision submitted 11/24/89.
86-MRC-5	OLOCCC/87	Final decision issued by MRC 1/28/89; appealed to Superior Court.
87-MRC-1	Cordova/87	Final decision issued by Commissioner 9/26/89.
87-MRC-2	Providence/87	Final decision issued by MRC 12/8/88.
87-MRC-3	St. Ann's/87	Appeal withdrawn by facility; case closed 12/18/87.
87-MRC-4	Wrangell/87	Final decision issued by MRC 8/22/88, modified 10/13/88.
87-MRC-5	Hope Cottages/ 88	Final decision issued by MRC 9/24/88; appealed to Superior Court.
87-MRC-6	Wrangell/88	Proposed decision submitted 7/25/89; remanded by Commissioner for further proceedings on malpractice insurance issue 9/26/89; supplemental proceedings scheduled for February 1990.
87-MRC-7	So. Peninsula/ 88	Amended proposed decision submitted 7/3/89; remanded by Commissioner for further proceedings on malpractice insurance issue 9/26/89; supplemental proceedings scheduled for February 1990.
87-MRC-8	Humana/88	Record to be re-opened for further proceedings on malpractice insurance issue; supplemental proceedings scheduled for February 1990.
87-MRC-9	Petersburg/ 85 Audit	Stayed at request of counsel pending Supreme Court appeal.

87-MRC-10	St. Ann's/88	Proposed decision submitted 8/7/89; remanded by Commissioner for further proceedings on malpractice issue 9/26/89; supplemental proceedings scheduled for February 1990.
87-MRC-11	OLOCCC/88	Stayed at request of facility pending resolution of malpractice, workers' comp. issues in other cases.
87-MRC-12	Cordova/85 Audit	Stayed at request of counsel pending Supreme Court appeal.
88-MRC-1	Providence/88	Briefing completed 1/24/89; remand to be re-opened for further proceedings on malpractice insurance issue; supplemental proceedings scheduled for February 1990.
88-MRC-2	Denali Center/ 88	Hearing originally set for September 19, 1989; continued until December 19, 1989.
88-MRC-3	Wesleyan/88	Hearing originally set for September 7, 1989; continued until early 1990 at request of counsel.
88-MRC-4	Cordova/88 (pass-through costs)	Stayed at request of counsel.
88-MRC-5	Cordova/88 (Timeliness)	Stayed at request of counsel.
88-MRC-6	Norton Sound/ 7/1/- 9/30/88	Appeal withdrawn by facility; case closed 12/13/88.
88-MRC-7	So. Peninsula/ 85 Audit	Stayed at request of counsel pending Supreme Court appeal in Petersburg/Cordova case.
88-MRC-8	Wesleyan/89	Hearing originally set for September 7, 1989; continued until early 1990 at request of counsel.
88-MRC-9	Petersburg/88 Reduction	Stayed at request of counsel pending collateral proceedings.
88-MRC-10	Heritage Place/ 88 Reduction	Stayed at request of counsel pending collateral proceedings.
88-MRC-11	St. Ann's/88 Reduction	Stayed at request of counsel pending collateral proceedings.

88-MRC-12	Cordova/88 Reduction	Stayed at request of counsel pending collateral proceedings
88-MRC-13	Sitka/89	Stipulated dismissal granted by Commissioner; case closed 6/2/89.
89-MRC-1	Heritage Place/ 89	Hearing originally set for September 19, 1989; continued until December 19, 1989.
89-MRC-2	Humana/89	Hearing conducted July 1989; briefing completed 11/21/89; under advisement.
89-MRC-3	Wrangell/85 Audit (Timeliness)	Stayed at request of counsel pending Supreme Court appeal in Petersburg/Cordova case.
89-MRC-4	Norton Sound/89	Stayed at request of facility.
89-MRC-5	OLOCCC/89	Stayed at request of facility.
89-MRC-6	Providence/89	Stayed at request of facility.
89-MRC-7ER	St. Ann's Exceptional Relief	Hearing set for November 7, 1989; stayed at request of parties.
89-MRC-8	Charter North/ 88, 89	Hearing set for 2/21/90.
89-MRC-9	So. Peninsula/ 89	Appeal received 11/7/89; stayed at request of facility pending Grant Appeal Board ruling on upper limit issue.
89-MRC-10	S. Peninsula/ 90	Appeal received 11/7/89; acknowledgment letter sent to facility 12.7.89.
89-MRC-11	Mary Conrad/89	Appeal received 11/7/89; acknowledgment letter sent to facility 12/7/89.
89-MRC-12	Thirteen Facilities/89 (Maximum LTC Rates)	Appeal received 11/6/89; prehearing conference tentatively set for December 22, 1989.
89-MRC-13	Wesleyan/90	Appeal received 11/22/89; prehearing conference tentatively set for December 22, 1989.

Updated 12/11/89

Appeals Status Report
Alphabetical List of Appeals

<u>Facility/Fiscal Year</u>	<u>Case Number</u>
Charter North/88, 89	89-MRC-8
Cordova Audit/85	87-MRC-12
Cordova/87	87-MRC-1
Cordova/88 (pass through)	88-MRC-4
Cordova/88 (timeliness)	88-MRC-5
Cordova/88 Rate Reduction	88-MRC-12
Denali Center/86	86-MRC-3
Denali Center/88	88-MRC-2
Heritage Place/88 Rate Reduction	88-MRC-10
Heritage Place/89	89-MRC-1
Hope Cottage/88	87-MRC-5
Humana/86	86-MRC-1
Humana/87	86-MRC-4
Humana/88	87-MRC-8
Humana/89	89-MRC-2
Mary Conrad/89	89-MRC-11
Norton Sound 7/1/88 - 9/30/88	88-MRC-6
Norton Sound/89	89-MRC-4
Our Lady of Compassion/87	86-MRC-5
Our Lady of Compassion/88	87-MRC-11
Our Lady of Compassion/89	89-MRC-5
Petersburg Audit/85	87-MRC-9

Petersburg/88 Rate Reduction	88-MRC-9
Providence/86	86-MRC-2
Providence/87	87-MRC-2
Providence/88	88-MRC-1
Providence/89	89-MRC-6
St. Ann's/87	87-MRC-3
St. Ann's/88	87-MRC-10
St. Ann's/88 Rate Reduction	88-MRC-11
St. Ann's/Exceptional Relief	89-MRC-7ER
Sitka/89	88-MRC-13
South Peninsula/88	89-MRC-7
South Peninsula/85 Audit	88-MRC-7
South Peninsula/89	89-MRC-9
South Peninsula/90	89-MRC-10
Thirteen Facilities/89	89-MRC-12
Wesleyan/88	88-MRC-3
Wesleyan/89	88-MRC-8
Wesleyan/90	89-MRC-13
Wrangell/87	87-MRC-4
Wrangell/88	87-MRC-6
Wrangell/85 Audit (timeliness)	89-MRC-3

updated 12/12/89

5643
file



MAR 05 1990

Donna Herbert, owner

174 S. Franklin St.
Suite 229
Juneau, Alaska
99801

(907) 586-9565

March 1, 1990

The Honorable Paul Fischer
Alaska State Senate
P. O. Box V
Juneau, Alaska 99811

RE: Exceptional Relief for Wesleyan Nursing Home

Dear Senator Fischer:

On behalf of Wesleyan Nursing Home, I would like to thank you for the time and interest that you have invested evaluating the Medicaid Reimbursement Systems in the State of Alaska. I have reviewed a transcript of the hearing you held in Soldotna on November 1, 1989, and I testified at the Senate HESS Hearings in Juneau on January 31, 1990.

Wesleyan Nursing Home in Seward, Alaska, is encountering serious financial problems, and unless some relief is granted, the facility faces closure early this year. Wesleyan Nursing Home has operated in Seward for over 20 years providing services that are different from and broader than services provided by most of the other nursing homes in Alaska. Wesleyan treats many mentally retarded and mentally ill residents in addition to a small number of geriatric patients. Most of the facilities in the state will not admit the MR & MI residents; in fact many of Wesleyan's patients have been refused admission even by API and Harborview.

Despite the high cost of treating these types of patients, Wesleyan's reimbursement rate is 30% lower than the weighted average rate of all the other free standing nursing homes. Wesleyan suffered an operating loss of \$896,981 in FY'89 and expects an operating loss of over \$300,000 in FY'90.

In August of 1989, Wesleyan appealed to the Medicaid Rate Advisory Commission for an exception of \$21.90 per long term care day to its low reimbursement rate. The Medicaid Rate Advisory Commission unanimously granted a \$20.90 addition to the rate. The Department of Health and Social Services overturned the Rate Commission's award, and set a rate addition of \$9.17 -- \$11.73 lower than the rate set by the Commission.

- SPONSOR'S BACKGROUND MATERIAL

The Honorable Paul Fischer
March 1, 1990
Page 2

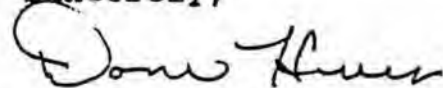
In January, 1990, Wesleyan Nursing Home filed suit against the Department of Health & Social Services seeking relief from its unrealistically low rate. The Department filed a motion for summary judgment stating that Wesleyan had not exhausted its administrative remedies. Based upon state counsel's representation that the entire exceptional relief process would take only two to three weeks, Judge Carlson directed Wesleyan to file for exceptional relief with the Department before seeking relief through the court system.

On February 16, 1990, Wesleyan filed for exceptional relief with the Department of Health & Social Services. The Board of Wesleyan Nursing home and its staff would like your support with the Department to approve the exceptional relief. It has been the experience of the other nursing homes that exceptional relief is a lengthy process, taking as long as two to three months. Exceptional relief rarely granted in an amount sufficient to relieve a health care facility's fiscal shortfall.

In the Senate HESS meeting of January 31, 1990, Commissioner Munson stated that health care facilities' reimbursement rates were increasing at a rate of 20% a year. This is an erroneous statement. The percentage of increase is skewed by the inclusion of statistics from Mary Conrad Center, a new facility which began operation in 1988 and which increased its patient volume by 153% from 1988 to 1989. When considered as though the patient volume had been static for the Mary Conrad Center, the over-all percentage of increase is only 3.42%. With Mary Conrad Center included, even with its phenomenal volume increase, the percentage of increase is only 16.36%. The enclosed schedule of rates demonstrates this more clearly. The 3.42% increase is far below the inflation rate and is an indicator of why three of the six free standing nursing homes in the State are in a serious financial situation and have had to seek exceptional relief.

I hope this information is helpful to you in your efforts to ensure that the health care industry in Alaska is reasonably reimbursed for the costs of providing quality health care. If there is anything further I can provide to you, please give me a call.

Sincerely,



Donna Herbert

Enclosures



Donna Herbert, owner

(907) 586-9565

174 S. Franklin St.
Suite 229
Juneau, Alaska
99801

August 23, 1989

State of Alaska
Medicaid Rate Advisory Commission
PO Box 240249
Anchorage, Ak 99524-0429

Dear Commission Members:

Wesleyan Nursing Home is bringing forward to the Commission a number of important issues for your consideration during the meeting of August 29, 1989.

The issues and their impact on Wesleyan's rate that we bring before you today are:

	<u>Exception Request</u>	<u>Staff Proposal</u>
Volumes Rebase	\$143.39	\$131.81
Ancillary Therapy	\$6.28	-0-
Inservice Training	\$1.24	-0-
Repairs & Maintenance	\$1.80	-0-
<u>Labor Negotiations</u>	<u>\$1.00</u>	<u>-0-</u>
Total Rate:	\$153.71	\$131.81

Thank you for your understanding and consideration of these issues, each of which has a significant impact on Wesleyan Nursing Home.

FOR WESLEYAN NURSING HOME:

Donna Herbert,
Financial Consultants of Alaska

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WESLEYAN NURSING HOME
MEDICAID RATE ADVISORY COMMISSION PRESENTATION
August 23, 1989

GENERAL SUMMARY

Wesleyan Nursing Home has suffered severe financial hardships because of a series of events that began in 1983. Its cash reserves have been depleted from \$1,371,411 in 1985 to \$231,118 in August of 1989. Please refer to the graphs on page 3 and page 4.

Wesleyan suffered an operating loss of \$311,224 in 1988 and a loss of \$590,000 in 1989. For fiscal year 1990, it is currently operating at a monthly loss of approximately \$60,000. If this trend continues, the 1990 loss would be \$720,000 -- obviously an amount that would not allow the facility to sustain operations.

The more significant circumstances contributing to this situation are as follows:

1. Calculation errors in the Medicaid reimbursement rate for 1982 - 1987.
2. Inaccurate or nonexistent accounting records.
3. The erroneous assumption on the part of Wesleyan that private patient charges could not exceed those paid by Medicaid.
4. A seriously mistaken assumption that ancillary services could not be charged. The consequence of this assumption was that no charges were recorded to ancillary departments, and ancillary expenses were grossly understated. The effect of this was extremely detrimental to reimbursement.
5. In 1985 and 1986, when Medicaid reimbursement was based on budget, Wesleyan understated its budget each year by more than \$200,000.
6. In 1987, when the current prospective payment reimbursement process was established, neither Wesleyan nor the Rate Commission was able to carve out Medicaid charges or costs. Therefore, Wesleyan's rate was established on averages.
7. In 1985 through 1987, Wesleyan's expenses increased so slightly that no significant "F" calculation adjustment was received;
8. In the past three years, Wesleyan's patient volumes have declined 27%. For 1990 rates, the "F" calculation uses 1985 patient days.

9. Certification and Licensing have cited the facility for a lack of ancillary programs and therapies, repairs, and training.

Wesleyan's routine rate for 1989 is 38% below the weighted average of the four free-standing nursing homes with 100 beds and under. The ancillary rate is 27% below the average for these same four facilities. Please refer to the graph on page 5.

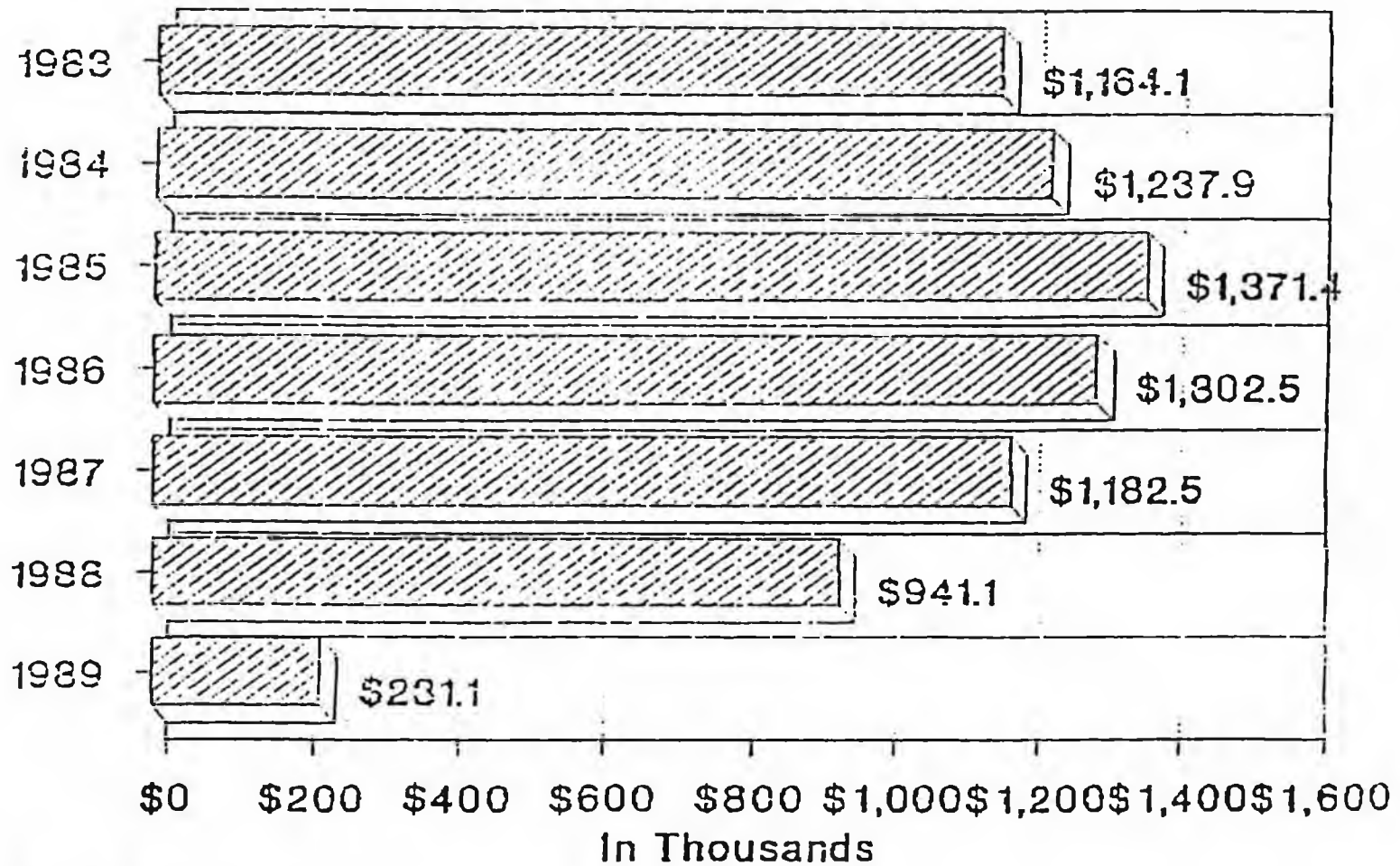
Wesleyan's reimbursement vs. expense from 1984 through 1989 is in excess of \$1,200,000 as shown on page 6. The list goes on and on. However, today we are faced with the opportunity to correct these problems so that Wesleyan Nursing Home may continue to function as a viable health facility and continue to provide quality care for Alaskan residents.

The facility has taken stringent measures to correct the deficiencies within its control. However, the Medicaid prospective payment reimbursement methodology does not allow for prior year errors to be corrected and incorporated into the 1990 rate. The "F" calculations utilize cost containment methodology which does not allow rates to rise adequately, particularly when the basis for those calculations is flawed or unrealistic.

WESLEYAN NURSING HOME

Cash Position - '83 to '89

Fiscal Year



by: Financial Consultants of Alaska

WESLEYAN NURSING HOME
Seward, Alaska

08/24/89

CASH and OPERATING LOSS POSITION

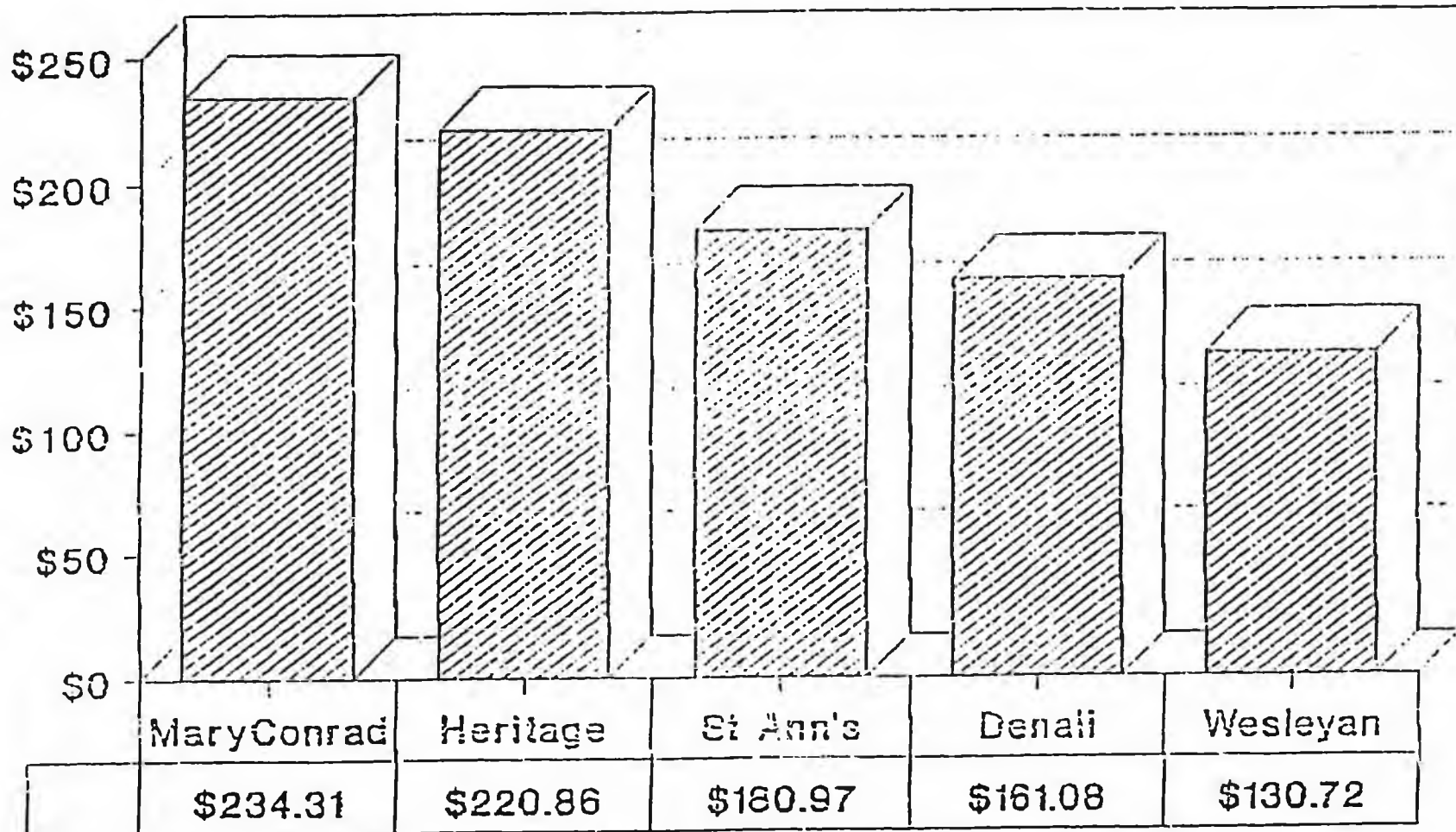
	F/Y 1983	F/Y 1984	F/Y 1985	F/Y 1986	F/Y 1987	F/Y 1988	F/Y 1989*	As Of 08/15/89
	=====	=====	=====	=====	=====	=====	=====	=====
Cash	\$1,164,087	\$1,237,918	\$1,371,411	\$1,302,510	\$1,182,448	\$941,051	\$393,981	\$231,118
Operating Loss	(\$12,810)	(\$168,836)	(\$161,757)	(\$181,479)	(\$291,760)	(\$465,290)	(\$714,056)	n/a
Other Sources of Revenue	\$209,156	\$228,361	\$227,808	\$228,635	\$177,691	\$154,056	\$124,056	\$69,937 **
Revenue over Expense	\$196,338	\$59,525	\$66,051	\$44,156	(\$114,069)	(\$311,234)	(\$590,000)	n/a

*from General Ledger
before final audit.

**1990 Revenue Sharing

1989 REIMBURSEMENT RATES

Free Standing Nursing Homes



FACILITY & RATE

by: Financial Consultants of Alaska

WESLEYAN NURSING HOME
MEDICAID RATE ADVISORY COMMISSION PRESENTATION

PATIENT DAY VOLUMES

SYNOPSIS: Under the current rate-setting methodology, the routine component of the LTC rate is calculated using 1985 patient days as a base. A general statewide drop in census, along with the opening of Heritage Place, has resulted in Wesleyan volumes falling 27% since 1985. As an exception to normal practice, Wesleyan Nursing Home requests that a more realistic number of patient days be used in the calculation of the 1990 rate.

DISCUSSION:

PATIENT DAYS

	TOTAL	MEDICAID
1983	23,026	20,723
1984	23,029	20,956
1985	23,340	21,029
1986	22,582	20,243
1987	21,303	19,225
1988	21,465	19,299
1989	18,440	16,596
1990 - Based on 54 Patients	19,710	16,500
1988-1990 3-Year Average:	19,872	17,465
1985-1989 Decrease:	-26.57%	

Please also refer to patient census and discharge data on page 15.

WESLEYAN NURSING HOME
 MEDICAID RATE ADVISORY COMMISSION PRESENTATION

PATIENT DAY VOLUMES (Cont'd)

The patient day average over a three year period has been used previously by the Medicaid Rate Advisory Commission when granting volume exceptions.

	AS PROPOSED	VOLUME EXCEPTION
	<u>1985 DAYS</u>	<u>THREE-YEAR AVERAGE</u>
<u>ROUTINE</u>	\$2,249,246	\$2,249,246
Patient Days	22,663	19,372
Routine Component	\$99.16	\$113.19
"F" Calculation Adj.	5.45	.54
Inflation Adj.	4.66	5.32
Total Routine Rate:	\$109.27	\$119.05
	<u>1988 DAYS</u>	<u>THREE-YEAR AVERAGE</u>
<u>CAPITAL</u>	\$125,459	\$125,459
Patient Days	21,465	19,972
Total Capital Rate:	\$5.92	\$6.31
	<u>MEDICAID</u> <u>1988 DAYS</u>	<u>MEDICAID</u> <u>THREE-YEAR AVERAGE</u>
<u>ANCILLARY</u>		
Net Cost	\$258,516	\$258,516
Patient Days	19,298	17,465
Total Ancillary Rate:	\$13.39	\$14.80
Wesleyan Rate Sub-Total:	\$128.58	\$140.16
Year-End Conformance:	\$3.23	\$3.23
FY'90 WESLEYAN RATE:	\$131.81	\$143.39

WESLEYAN NURSING HOME
MEDICAID RATE ADVISORY COMMISSION PRESENTATION

PATIENT DAY VOLUMES (Cont'd)

PETITION TO THE COMMISSION:

Wesleyan Nursing Home requests the Commission to consider this critical volume issue and rebase the FY'90 "F" calculations using three-year average patient days, rather than 1985 patient days. Further, Wesleyan requests that the Commission instruct staff to calculate the ancillary component on the Medicaid three-year average volumes rather than the 1988 Medicaid days. This exception will add \$11.58 per LTC day to the proposed rate.

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WESLEYAN NURSING HOME
 MEDICAID RATE ADVISORY COMMISSION PRESENTATION

ANCILLARY THERAPISTS AND CONSULTANTS

SYNOPSIS: The state survey performed at Wesleyan Nursing Home in FY'89 cited the facility for the complete lack of occupational, physical, and speech therapists, lack of social workers, and inadequate recreational therapy department and programs.

DISCUSSION: In the table below, the therapy consultant and salaries for 1988 total \$2,079. Every LTC nursing home in the state is required to staff these ancillary departments with licensed consultants or licensed staff employees. Wesleyan has hired consultants and employees in each of the departments listed. There is \$109,733 of Medicaid Specific Ancillary Costs not included in their 1988 base rate. The partial Certification Report that is enclosed in the back of your packet has many of those deficiencies highlighted in yellow.

ANCILLARY THERAPIES NOT INCLUDED IN 1988 BASE

	<u>1990 Expenses</u>	<u>1988 Base</u>
OCCUPATIONAL THERAPY	55,253	1,640
PHYSICAL THERAPY	28,062	440
SPEECH	16,260	-0-
DIETICIAN	1,096	-0-
SOCIAL WORKER	1,696	-0-
RECREATIONAL THERAPY:		
2 Activities Aides	15,683	-0- ¹
1 Recreat. Therapist Consultant	<u>5,040</u>	<u>-0-</u>
TOTAL ANCILLARY THERAPIES	124,890	2,079
Less 1988 Costs in Base		
Plus 9.8% Inflation	<u><2,282></u>	
	122,607	
 MEDICAID SPECIFIC (@ 89.50%)	 109,733	
 TOTAL AVERAGED MEDICAID DAYS	 17,465	
 REQUESTED EXCEPTION FOR ANCILLARY THERAPIES -	 \$5.28 PER DAY	

¹ Recreational Therapy is a part of expanded services due to certification in FY-89.

WESLEYAN NURSING HOME
MEDICAID RATE ADVISORY COMMISSION PRESENTATION

ANCILLARY THERAPISTS AND CONSULTANTS (Cont'd)

PETITION TO THE COMMISSION:

Wesleyan Nursing Home requests the Commission to consider the allowable therapy cost required by certification and by quality patient care logic and set a rate that includes an Ancillary Exception of \$6.28 per LTC day.

WESLEYAN NURSING HOME
MEDICAID RATE ADVISORY COMMISSION PRESENTATION

REPAIR AND MAINTENANCE

SYNOPSIS: Wesleyan Nursing Home had many deficiencies for repair and maintenance in the 1989 certification report. Wesleyan demonstrated to staff in a walk through the facility that repairs have been sadly neglected.

DISCUSSION: For the entire 1988 fiscal year, Wesleyan had repair and maintenance costs of only \$3,348. In a building that is 37 years old, the lack of costs speaks to the many repairs that must be done to meet certification health and safety standards. The administrator has carefully inspected the facility and listed the deficiencies that must be corrected. I have enclosed a partial list of those repairs in the back of your packets. The partial certification report that is enclosed has many of those items marked in green.

The estimate of the repair costs is \$39,500. \$35,824 of those costs are not in the base year.

REPAIR AND MAINTENANCE

	<u>1990</u>	<u>1988</u>
REPAIR & MAINTENANCE EXPENSE	39,500	3,348
Less 1988 Costs plus Inflation in Base	<u>43,676</u> 35,824	
PATIENT DAYS	19,872	
TOTAL EXCEPTION REQUESTED	\$ 1.80	

The majority of the deficiencies on repairs, infection control and sanitation were cited on the state survey.

PETITION TO THE COMMISSION:

Wesleyan Nursing Home requests that the Commission consider the badly needed repair costs and grant an exception of \$1.80 per LTC day for repairs.

WESLEYAN NURSING HOME
MEDICAID RATE ADVISORY COMMISSION PRESENTATION

INSERVICE TRAINING

SYNOPSIS: The 1989 Certification Review cited Wesleyan Nursing Home for a total lack of inservice training programs for the nursing staff. In 1988, Wesleyan recorded no inservice training costs.

DISCUSSION: Prior to the State's Certification Review, Wesleyan hired Whitman Nursing Consultants to review the facility before the State survey team's arrival. Marian Caudill performed the management certification survey and produced a 20-page report which delineated potential certification deficiencies that needed to be corrected before review.

Inservice training programs have been initiated and scheduled since the time of the State survey.

INSERVICE TRAINING

	<u>1990</u>		<u>1988</u>
STAFF IN SERVICE ²	15,460	.78	-0-
BOARD AND ADMINISTRATION	5,000	.25	-0-
MANAGEMENT CERTIFICATION ³	<u>4,177</u>	.21	-0-
	24,637		
PATIENT DAYS	19,872		
TOTAL EXCEPTION REQUESTED	\$ 1.24		

PETITION TO THE COMMISSION:

Wesleyan Nursing Home requests the Commission to consider the inservice training and allow an additional \$1.24 per LTC day.

² Cited in Survey.

³ Hired prior to survey to correct deficiencies.

WESLEYAN NURSING HOME
MEDICAID RATE ADVISORY COMMISSION PRESENTATION

LABOR NEGOTIATION FEES

SYNOPSIS: Wesleyan Nursing Home hired a labor negotiating firm to negotiate its labor-union negotiations. Failure to do so would have resulted in even higher salaries and benefits than the facility has been forced to comply with.

DISCUSSION:

LABOR NEGOTIATION FEES

	<u>1990</u>	<u>1988</u>
WILCOX (Law Firm)	19,822	-0-
Patient Days	19,872	
TOTAL EXCEPTION REQUESTED	\$ 1.00	

PETITION TO THE COMMISSION:

Wesleyan Nursing Home requests the Commission to grant a \$1.00 per LTC day increase in the rate for legal fees that were not included in base years.

WESLEYAN NURSING HOME
Seward, Alaska

PATIENT CENSUS
=====

	1985 =====	1986 =====	1987 =====	1988 =====	1989 =====
Jan	64	62	58	54	51
Feb	63	64	59	54	47
Mar	63	62	61	52	48
Apr	63	64	58	57	45
May	64	62	56	58	49
Jun	64	61	57	56	49
Jul	62	56	59	53	50
Aug	61	57	60	51	
Sep	63	57	62	51	
Oct	62	57	59	53	
Nov	63	61	60	52	
Dec	62	60	57	50	

PATIENT DISCHARGES
=====

Home	4	8	5
Expired	5	11	6
OLOC	1	2	
Pioneer's			2
Heritage Place	2	2	1
HarborView		3	1
API	2	5	6
Other	1	1	3

6

Wesleyan Nursing Home, Inc.

431 First Avenue
Box 430
Seward, Alaska 99601
(907) 224-5241

June 22, 1989

Medicaid Rate Advisory Commission
3601 "C" Street, Suite 592
P.O. Box 240249
Anchorage, Alaska 99524-0249

Dear Commission Members:

It is my understanding that the \$130.72 rate that is proposed for Wesleyan Nursing Home is in keeping with the current methodology. However, I would like to bring two issues for Wesleyan to the Commission for your review.

In 1988, Wesleyan Nursing Home's operating loss was \$311,224. That loss includes revenue sharing and other sources of income. Our Facility has the lowest nursing home rate in the state. In fact, it is 30 percent lower than the weighted average of all other free-standing nursing homes.

In part, this was due to an accounting system that was nonexistent in relationship to health care requirements in past years. Our facility has corrected this deficiency but under the current Medicaid methodology there is no mechanism to adjust the base years of 1983 - 1986. Therefore, our costs are contained from these base years even though the base years were incorrect.

I ask the Commission to advise me as to what might be done in order that Wesleyan Nursing Home's rates may be brought in line with other facilities and be adequate to cover costs.

The scope of services provided by Wesleyan Nursing Home is different and broader than that of most other Alaska nursing homes. Wesleyan Nursing Home treats MR, MI and Rehabilitation residents in addition to geriatric. The costs attendant to the provision of care and treatment is greater. It is my understanding that only a few Alaska facilities currently provide care to MR & MI residents; these include AFI and Harborview.

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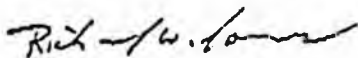
Medicaid Rate Advisory Commission
Wesleyan Nursing Home
Administrator's Testimony
Page 2

I would also like to bring the new OBRA standards to the attention of the Commission. Due to additional costs imposed on facilities in order to administer additional services in keeping with OBRA standards, most states have initiated supplemental dollars paid to the facilities to compensate for the implementation of OBRA requirements in addition to their usual reimbursement systems. HCFA supports the states in this initiative. However, it is up to each individual state to make this decision. It is my understanding that the State of Alaska has not come up with supplemental funds for OBRA driven services. In support of this position, I offer you a current court case, Berlin Convalescent Center v. Stoneman, (Vermont, Memorandum Decision filed May 5, 1989.) (Attached) I request the Commission to take this matter up for review.

Wesleyan Nursing Home is required to meet OBRA guidelines for MR, MI and Rehabilitation residents in addition to our Geriatric residents. Active treatment programs for these populations require specialized staffs and staff training programs. Specifically, there is a need for group therapy counseling and increased psychiatric services for MI's. MR's require an educational rather than maintenance approach and corresponding specialists and staff training to implement programs. Rehab requires increased Speech Pathology, OT, PT and RT services.

Thank you for your time.

Sincerely yours,



Richard W. Jones,
Administrator

attachment

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Wesleyan Nursing Home, Inc.

431 First Avenue
Box 430
Seward, Alaska 99504
(907) 224-5241

August 23, 1989

State of Alaska
Medicaid Rate Advisory Commission
PO Box 240249
Anchorage, AK 99524-0429

Dear Commission Members:

When I appeared before you on June 29, I informed you that Wesleyan Nursing Home was in very serious financial condition. The cash reserves in 1985 of \$1,300,000 has been depleted to \$250,000 in 1989 and that we were losing \$60,000 per month. My concern was that the proposed rate of \$130.72 was so far below expenses, that the facility could not continue in this mode of operation.

At that time I also suggested that Wesleyan should consider classification as a MR and/or MI facility since the majority of residents treated at the facility are MR or MI rather than geriatric residents. Since I spoke to you on June 22, I have had a great deal of assistance and enlightenment from Karen Martz, Mary Hilton, Jack Nielson, Donna Herbert and a team from the Division of Mental Health and Developmental Disabilities. Each of them have worked closely with me to bring clarity into the current situation. They have each assisted me in identifying and recreating what problems in the past may have lead into the serious predicament that we face today.

It has been clearly reinforced to me by the Health Division (DMA) that Wesleyan historically and currently provides services to MR & MI residents appropriately within its current certification and license. Further, that due to the time of MR

Medicaid Rate Advisory Commission
August 23, 1989
Page 2

and MI residents at Wesleyan a MR / MI unit should not be designated within the facility. The types of MR and MI residents located at Wesleyan receive "educational" therapy not restorative "active treatment" program therapy as is provided at API and Harborview. To illustrate by example, one of our MR residents is 38 years old. However, mentally she is 14 months old, is on a baby bottle, wears diapers and walks on her tip-toes (as would an infant at that stage of development). She is unable to communicate (as are several of our MR & MI residents), and requires constant attention on an almost one to one basis in a similar manner as you would expect to find in any home where an infant is present. Two of our residents are both MR and MI. The care planning and assessment process is much more involved, requires more staff time, and a broader spectrum of input in the interdisciplinary approach than is required for geriatric residents.

If a MR / MI designated unit were "created" the types of programs that would be required to be developed and provided would be "active treatment" programs. The costs associated with the new service program would be significantly higher than experienced with the current program. This would be viewed as an unnecessary duplication of service programs currently provided by API and Harborview. Residents needing "active treatment" program development are initially admitted to API or Harborview. Then, after improvement or stabilization of the residents' condition is achieved the resident is transferred to Wesleyan which provides a long term educational program in a less institutionalized or structured setting. Later, with continued progress, some residents are able to be transferred to shelter homes, foster homes, domiciles, sheltered educational workshop programs and near independent living in the residents home community. This

system is supported by all effected facilities, the Health Division (DMA) and the Division of Mental Health and Developmental Disabilities. The system currently in place works well, has appropriate goals including the active participation of community based mental health counseling services and the current system of utilizing Wesleyan as the second program step resource should not be changed.

As you are aware the Wesleyan Nursing Home rate is over 30% below the weighted average of the other free standing under 100 bed facilities. After reviewing past years records, staff reports and rates with your staff when they were kind enough to visit the facility, it appears that there were many reasons for the low rates that were set over the years that depleted all cash reserves.

A new management team is in place at Wesleyan. This new management team is supported and supplemented by the assistance of financial, planning and quality of care consultants and by a new open working relationship with the MRAC staff, Health Division and the Division of Mental Health & Developmental Disabilities.

Our facility has taken steps to correct the past deficiencies that were due to previous errors and omissions. However, under the current methodology, there is no mechanism to adjust base years. Therefore our costs are contained from base year even though the base years were incorrect. It is my understanding that corrections cannot be made for prior years, but there are two current problems that also effect the low rates:

1. That 1990 routine rates are being set using 1985 volumes from the "F" calculation.
2. A substantial portion of current costs, many of which are required by certification and licensing are not in our base year.

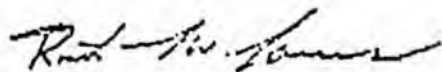
Medicaid Rate Advisory Commission
August 23, 1989
Page 4

Wesleyan's patient volumes have declined in the last two years from an average of 23,000 for FY '84 and '85 to an average of 19,953 for FY '88 and '89. The volume decrease is in part due to our goal of returning residents to a setting of as "independent" living as possible in their communities as well as the opening of other LTC facilities in the area. I will be asking your consideration today for a volume exception. The facility has been cited as needing to address many repair & maintenance deficiencies. Wesleyan is an older facility, originally a Tuberculosis Hospital converted from a nursing residence. Many deficiencies, including code violations exist which have been only partially rectified or have been neglected. These deficiencies must be addressed. Our consultant, Donna Herbert will go into more detail on each of the individual areas.

Our new management team and I face severe problems at Wesleyan Nursing Home; problems with certification and licensing, staffing, lack of training for employees, and repair and maintenance that has been sorely previously neglected. We are willing to tackle each of these problems and challenges, but we need your help in setting a fair rate that has some semblance to the facility costs.

Thank you for your help and consideration and a special thank you to Mary Hiltor and Jack Nielson for the many hours they gave to us.

Sincerely,



Richard W. Jones,
Administrator

WESLEYAN NURSING HOME
Seward, Alaska

CASH and OPERATING LOSS POSITION

08/24/89

	F/Y 1983	F/Y 1984	F/Y 1985	F/Y 1986	F/Y 1987	F/Y 1988	F/Y 1989*	As Of 08/15/89
Cash	\$1,164,087	\$1,237,918	\$1,371,411	\$1,382,510	\$1,182,443	\$941,051	\$393,981	\$231,118
Operating Loss	(\$12,819)	(\$168,636)	(\$161,757)	(\$184,479)	(\$291,760)	(\$465,290)	(\$714,056)	n/a
Other Sources of Revenue	\$209,156	\$228,361	\$227,809	\$228,635	\$177,691	\$154,056	\$124,056	\$69,937 **
Revenue over Expense	\$196,338	\$59,525	\$66,054	\$44,156	(\$114,069)	(\$311,234)	(\$590,000)	n/a

*From General Ledger
before final audit.

**1990 Revenue Sharing

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

*4/19/90
Changes
proposed
by
Myra
Munson*

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 91	FY92	FY93	FY94	FY 95	FY 96
PERSONAL SERVICES	234.1	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						
TOTAL OPERATING	271.0	267.8	267.8	267.8	267.8	267.8

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

REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	133.9	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						
TOTAL	271.0	267.8	267.8	267.8	267.8	267.8

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: Myra 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 Agency(ies)

*4-19-90 Above changes proposed
by Myra Munson.*

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
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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	224.1	268.9	268.9	268.9	268.9	268.9
TRAVEL	9.0	9.0	9.0	9.0	9.0	9.0
CONTRACTUAL	94.3	93.3	93.3	93.3	93.3	93.3
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						
TOTAL OPERATING	368.0	376.7	376.7	376.7	376.7	376.7

CAPITAL						
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REVENUE						
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FUNDING: (Thousands of Dollars)

GENERAL FUND	184.0	188.4	188.4	188.4	188.4	188.4
FEDERAL FUNDS	184.0	188.3	188.3	188.3	188.3	188.3
OTHER						
TOTAL	368.0	376.7	376.7	376.7	376.7	376.7

POSITIONS:

FULL-TIME	5	5	5	5	5	5
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: ^{by 414} Jack Nielson, Executive Director
 Division: Medicaid Rate Advisory Commission
 Approved by: ^(R) Commissioner: Mike M. Moxon
 Agency: Department of Health & Social Services

Phone: 562-1996
 Date: 02/20/90
 Date: 2/21/90

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

2/22/90 According to the Dept of Health and Social Services, this fiscal note applies to the CSSB 431 (HESS) version of this bill.

*DCM
Senate HESS.*

Facility reimbursement rates for medicaid and general relief medical are set currently by use of a consistent methodology. Facilities must prove that the rate yielded by the methodology is not fair or reasonable. This Bill will require the department to issue written findings to justify all discrepancies between the rate requested by a facility and the rate calculated by the department. The responsibility to prove the adequacy and fairness of the rate will shift from the facility to the state.

Based on historical experience, two budget analysts will be required to perform the additional work of researching individual facility issues and preparing written findings. Research will include analysis of comparable facilities and other states' rates.

The Bill also requires that a hearing be conducted within 120 days of all disputed rates. Four positions are required to meet this provision: An appeals specialist (Budget Analyst III), an attorney in the Department of Law, a hearing examiner and a secretary. The appeals specialist will answer discovery requests and requests for admission, participate in depositions, serve as an expert witness, and perform other technical analysis. The attorney will perform legal research associated with reviewing federal requirements and case law, as well as represent the department in the appeal. The hearing officer is required to conduct the appeals hearing within the 120 day deadline. The secretary will provide word processing support to the hearings examiner.

The Bill also deletes the Medicaid Rate Advisory Commission from the rate setting process and charges the Commission to review alternative methodologies. The department will incur costs associated with designing a new system within current resources.

SUMMARY of FUNDING REQUIREMENTS SB431

	FY91	FY92 - FY96
Line 100		
Department Rate Setting Staff		
Program Budget Analysts III		
2 @ Range 19A 10 months		
71100 Salary	66,720	80,064
71600 Benefits	23,373	28,048

	FY91	FY92 - FY96
Department Appeals Staff Program Budget Analyst III 1 @ Range 19A 10 months		
71100 Salary	33,360	40,032
71600 Benefits	11,686	14,024
Hearing Examiner 1 @ Range 24A 10 months		
71100 Salary	46,870	56,244
71600 Benefits	14,853	17,824
Secretary I 1 @ Range 10B 10 months		
71100 Salary	18,930	22,716
71600 Benefits	<u>8,304</u>	<u>9,965</u>
TOTAL LINE 100	224,100	268,900
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		
73100 RSA Law (Atty-24A)	74,100	74,100
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	94,300	93,300
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>	<u>1,500</u>
TOTAL LINE 500	36,600	1,500
GRAND TOTAL	368,000	376,700