

HB

325



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January 31, 2000

The Honorable Brian Porter
Speaker of the House
Alaska State Legislature
State Capitol
Juneau, AK 99801-1182

Dear Speaker Porter:

In the interest of recovering medical assistance payments due to the state, I am transmitting this bill that grants the Department of Health and Social Services an express right to a lien against any money recovered from a third party for assistance payments. The bill also strengthens the department's existing right of third party subrogation and extends the time period from six months to one year for medical providers to file claims with the department for medical services provided.

Under the bill, when a state medical assistance recipient recovers money from a third party who is found liable for the recipient's medical expenses, the department would have a lien against that recovery. The department's lien would be reduced by a pro rata share of the recipient's attorney fees and litigation costs incurred in the recovery. If the department incurs attorney fees and costs to enforce the lien, the amount of the lien would be increased to cover those fees and costs. The department's lien would take priority over a lien filed by a hospital, nurse, or physician.

Under existing law, when a state medical assistance recipient has a claim against a third party for the recipient's medical expenses, the department has a right of subrogation. This law allows the department to stand in the place of the recipient to enforce the recipient's claim for medical assistance payments against an insurer or other third party. This bill adds a requirement that the recipient give the department notice if the recipient has an action or claim against a third party so that the department may enforce its subrogation rights. The bill also expressly grants the department the right to bring an

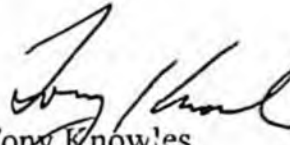
Governor

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action to recover on a subrogated medical assistance claim regardless of whether the recipient acts or fails to act to enforce the claim.

I urge your support of this important legislation.

Sincerely,



Tony Knowles
Governor

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

TONY KNOWLES, GOVERNOR

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February 3, 2000

Honorable Fred Dyson, Chairman
House Health, Education and Social Services Committee
Room 104 Capitol Building
Juneau, AK 99811

Dear Representative Dyson,

The Department of Health and Social Services respectfully requests a hearing in the House Health, Education and Social Services Committee on House Bill 325 "An Act relating to priorities, claims, and liens for payment to certain medical services provided to medical assistance recipients; and providing for an effective date."

The bill contains two distinct provisions: 1) providing the Department of Health and Social Services with unambiguous authority to recover medical costs incurred by the Division of Medical Assistance when a legal settlement making a monetary award to cover injuries has been made; and 2) allowing providers to bill the Division for services up to twelve months from the date of service.

A fiscal note has previously been submitted. Your favorable consideration of this request would be appreciated.

Sincerely,



Elmer A. Lindstrom

Special Assistant to the Commissioner

cc: Pat Pourchot
Legislative Director
Office of the Governor

Bob Labbe
Director
Division of Medical Assistance

FISCAL NOTE

No. 1

STATE OF ALASKA
2000 LEGISLATIVE SESSION

Bill Ver n: HB 325
(H) Publish-Date: 2/2/00

Revision Date/Time (Note if correction): _____ Dept. Affected: Health and Social Services
 Title: Medicaid lien recovery and filing period BRU: Medical Assistance
 Component: Medicaid Services
 Sponsor: Rules COMPONENT SERIAL NO. 2077
 Requestor: Governor See also (SN#): _____

Expenditures/Revenues: (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS	(2.7)	(10.7)	(10.7)	(10.7)	(10.7)	(10.7)
MISCELLANEOUS						
TOTAL OPERATING	(2.7)	(10.7)	(10.7)	(10.7)	(10.7)	(10.7)

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	(1.6)	(6.4)	(6.4)	(6.4)	(6.4)	(6.4)
1003 GF Match	(1.1)	(4.3)	(4.3)	(4.3)	(4.3)	(4.3)
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (please specify)						
TOTAL	(2.7)	(10.7)	(10.7)	(10.7)	(10.7)	(10.7)

Estimate of any current year (FY2000) cost: \$0.0

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary)

This legislation would make two changes to the Medicaid program; the net effect of those changes is shown above. First, the legislation would strengthen the Department of Health and Social Services' ability to recover money from third party payors when they are liable for the medical expenses that have been paid by the department for someone receiving medical assistance under Medicaid or the Chronic and Acute Medical Assistance (CAMA) program. This would result in the Department recovering more of these expenditures.

The legislation also extends the timely filing period for providers to submit claims to Medicaid and CAMA from six months to one year. This will increase expenditures as currently some claims are not paid solely because they are not filed within the six month time period. The following page shows the separate impacts. (Note: impacts to CAMA are not included as they are not considered material.)

Prepared by: Jon Sherwood Phone: 465-3355
 Division: Medical Assistance Date/Time: 1/20/00 3:03 PM
 Approved by Commissioner: Karen Perdue, Commissioner Date: 1/24/00
 Agency: Department of Health & Social Services

ANALYSIS (cont.):**Medicaid Lien and Recovery**

Giving the Department lien authority and improving its subrogation rights will result in increased third-party settlement recoveries (those recoveries in which liens and subrogation are at issue) for the Medicaid program. Because regulations are necessary to implement some provisions and third party recoveries usually take place well after the Medicaid program has paid for the medical services, recoveries are not expected to increase immediately. The table below shows the projected increase in recoveries.

Year	Increased Recovery (thousands)
FY2001	\$52.7
FY2002	\$210.7
FY2003	\$210.7
FY2004	\$210.7
FY2005	\$210.7
FY2006	\$210.7

Assumption: Third party settlement recoveries will increase by one-third, beginning in the 4th quarter of FY2001.

Timely Filing Period Extension

Currently, some Medicaid providers fail to bill within the six month timely filing period. In some cases, these claims are not reimbursed. In other cases, where providers show good cause for late filing, they may get paid for 50 percent of the normal reimbursement for the claims.

Extending the timely filing period to 12 months and allowing full reimbursement for late claims with good cause will result in more valid claims being paid in full. The amount of late claims can vary widely from year to year, and in some years, more late claims are meet the good cause criteria for partial reimbursement. The table below represents an average estimated amount of increased claims payments as a result of the proposed change, assuming that implementing regulations become effective in the fourth quarter of FY2001.

Year	Increased Payments (thousands)
FY2001	\$50.0
FY2002	\$200.0
FY2003	\$200.0
FY2004	\$200.0
FY2005	\$200.0
FY2006	\$200.0

Assumption: New timely filing limits go into effect beginning the 4th quarter of FY2001.

Net Impact	FY2001	FY2002	FY2003	FY2004	FY2005	FY2006
Liens and Recovery (decrease)	(52.7)	(210.7)	(210.7)	(210.7)	(210.7)	(210.7)
Timely Filing (increase)	50.0	200.0	200.0	200.0	200.0	200.0
TOTAL	(2.7)	(10.7)	(10.7)	(10.7)	(10.7)	(10.7)