

ALASKA LEGISLATURE COMMITTEE FILES 2001-2002 8672

10533 SENATE HEALTH EDUCATION & SOCIAL SERVICES

1 Certificate" in the form and manner and containing the information required by the
2 Bureau of Vital Statistics. [IN ADDITION TO THE INFORMATION REQUIRED
3 BY THE BUREAU OF VITAL STATISTICS, THE CERTIFICATE MUST
4 CONTAIN THE DECEDENT'S SOCIAL SECURITY NUMBER, IF
5 ASCERTAINABLE.] The certificate shall be recorded by the judge or magistrate and
6 then filed with the Bureau of Vital Statistics. Upon the entry of the order and the
7 recording and filing of the "Presumptive Death Certificate" as herein provided, the
8 missing person is presumed to be dead, and the person's estate may be administered in
9 accordance with the then existing provisions of law applicable to the administration of
10 the estates of deceased persons.

11 * Sec. 5. AS 16.05.450(a) is amended to read:

12 (a) The commissioner or an authorized agent shall issue a crewmember fishing
13 license under AS 16.05.480 to each qualified person who files a written application at
14 a place in the state designated by the commissioner, containing the reasonable
15 information required by the commissioner together with the required fee. [THE
16 COMMISSIONER SHALL REQUIRE THE REPORTING OF THE APPLICANT'S
17 SOCIAL SECURITY NUMBER ON THE APPLICATION.] The application shall be
18 simple in form and shall be executed by the applicant under the penalty of unsworn
19 falsification.

20 * Sec. 6. AS 16.05.480(b) is amended to read:

21 (b) A person applying for a resident commercial license under this section
22 shall provide [THE PERSON'S SOCIAL SECURITY NUMBER AND] the proof of
23 residence that the department requires by regulation.

24 * Sec. 7. AS 18.50.280(a) is amended to read:

25 (a) For each dissolution, divorce, and annulment of marriage granted by a
26 court in the state, the clerk of the court shall prepare and file a certificate of
27 dissolution, divorce, or annulment with the bureau, on forms prescribed and furnished
28 by the bureau. [THE FORMS MUST REQUIRE THE REPORTING OF THE
29 SOCIAL SECURITY NUMBERS OF THE PETITIONER OR PLAINTIFF AND, IF
30 ASCERTAINABLE, THE OTHER PARTY TO THE DISSOLUTION, DIVORCE,
31 OR ANNULMENT OF MARRIAGE.] The petitioner or plaintiff shall furnish the

1 (2) state whether the applicant has been previously licensed as a driver
2 and, if so, when and by what jurisdiction;

3 (3) state whether any previous driver's license issued to the applicant
4 has ever been suspended or revoked or whether an application for a driver's license has
5 ever been refused and, if so, the date of and reason for the suspension, revocation, or
6 refusal; and

7 (4) contain other information that the department may reasonably
8 require to determine the applicant's identity, competency, and eligibility.

9 * **Sec. 12.** AS 06.20.020(b); AS 06.40.050(e); AS 08.01.060(b), 08.01.100(e);
10 AS 14.20.027; AS 16.05.450(d), 16.05.480(d); AS 18.50.230(f), 18.50.280(c);
11 AS 18.60.395(d); AS 18.65.410(b); AS 18.72.030(b)(2); AS 21.06.255; AS 25.05.091(b);
12 AS 25.20.050(n); AS 25.24.160(d), 25.24.210(f), 25.24.230(i); AS 25.27.020(a)(2)(D); and
13 AS 28.15.061(g) are repealed.

14 * **Sec. 13.** The following are repealed:

15 (1) Section 148(c), ch. 87, SLA 1997, as amended by sec. 53, ch. 132, SLA
16 1998;

17 (2) Sections 2, 14, and 16, ch. 37, SLA 1998;

18 (3) Section 53, ch. 132, SLA 1998;

19 (4) Section 54(b), ch. 132, SLA 1998, as amended by sec. 101, ch. 21, SLA
20 2000;

21 (5) Section 54(c), ch. 132, SLA 1998;

22 (6) Section 56, ch. 132, SLA 1998;

23 (7) Section 92, ch. 58, SLA 1999; and

24 (8) Section 103, ch. 21, SLA 2000.

25 * **Sec. 14.** Section 13 of this Act takes effect immediately under AS 01.10.070(c).

26 * **Sec. 15.** Sections 1 - 12 of this Act take effect July 1, 2006.

ALASKA STATE LEGISLATURE



Interim:
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Session:
State Capitol
Juneau, Alaska 99801-1182
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SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE SENATOR LYDA GREEN, CHAIR

To: Senator Lyda Green, Chair
From: Aurora Hauke, Committee Aide
Date: January 29, 2001
Subject: CSSB 19 (RES) Child Support Enforcement/Soc Sec #

Senator Halford would like this bill held over. He might want an amendment, maybe extending the sunset date on those portions which he had a problem with.

He also requested that these questions be asked:

- 1) Why does CSED want to repeal the non-severability portion? Are they concerned that something in particular will be found unconstitutional?
- 2) SSNs have to be on the application for a drivers license, but it is not required that the SSN is listed on the drivers license. However, this is not common knowledge, nor is it noticed on DMV applications. Could regulations be changed to require the DMV to state on the application that the SSN doesn't have to be printed on the drivers license or give the applicant a choice.

I will include these questions on my list of questions, I just wanted you to know where these two came from.

SENATOR LOREN LEMAN, VICE-CHAIR
SENATOR PETE KELLY, SENATOR JERRY WARD, SENATOR BETTYE DAVIS

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SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE SENATOR LYDA GREEN, CHAIR

FLOOR BACK-UP FOR: **HESS CS FOR CSSB 19 (RES)** **CHILD SUPPORT ENFORCEMENT/SOC SEC. #**

The following changes were made to CSSB 19 (RES) in the HESS Committee:

- Findings and intent language was removed.
- The five-year sunset was renewed on requirements that applicants for various licenses provide their social security numbers to the licensing agency and that the licensing agency provide those social security numbers to child support enforcement agencies.
- The five-year sunset was renewed on the requirements that certain court documents and documents of the Bureau of Vital Statistics include social security numbers and that those social security numbers be provided to child support enforcement agencies.
- The five-year sunset was renewed on the provisions allowing the child support enforcement agency to enter into agreements with financial institutions for financial data matching.
- New hire reporting requirements amended to ensure that an employer who unintentionally fails to report a newly hired employee to child support enforcement agencies may not be held liable for their failure to do so in a private civil case.

SENATOR LOREN LEMAN, VICE-CHAIR
SENATOR JERRY WARD, SENATOR GARY WILKEN, SENATOR BETTYE DAVIS

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SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE SENATOR LYDA GREEN, CHAIR

COMMITTEE SCHEDULE

BUTROVICH 205

1:30 PM

Monday January 29

+*SCR2 SOBRIETY AWARENESS MONTH

+SB19 CHILD SUPPORT ENFORCEMENT/SOC SEC.#

Wednesday January 31

Overview: Department of Education & Early Development.

*F² Pop.
exam - findings
Gov.'s bill*

SENATOR LOREN LEMAN, VICE-CHAIR
SENATOR PETE KELLY, SENATOR JERRY WARD, SENATOR BETTYE DAVIS

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SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE SENATOR LYDA GREEN, CHAIR

COMMITTEE SCHEDULE

BUTROVICH 205

1:30 PM

Monday February 5

Education —

Wednesday February 7

No meeting scheduled.

SENATOR LOREN LEMAN, VICE-CHAIR
SENATOR PETE KELLY, SENATOR JERRY WARD, SENATOR BETTYE DAVIS

CSSB 19 (HES)

CSSB 19 (HES) REMOVES SUNSET PROVISIONS THAT WOULD HAVE REPEALED MOST OF THE 1997 AND 1998 CHILD SUPPORT LEGISLATION AS OF JULY 1, 2001. CSSB 19 ALSO REPEALS A NONSEVERABILITY CLAUSE INCLUDED IN THE EARLIER LEGISLATION. THE 1997 AND 1998 LEGISLATION HAS PROVEN SUCCESSFUL. SINCE 1998, CHILD SUPPORT COLLECTIONS HAVE INCREASED AND COMPLAINTS HAVE DECLINED. ALSO, CONGRESS REQUIRED THE ORIGINAL LEGISLATION AS A PART OF WELFARE REFORM. IF ANY OF THIS EARLIER LEGISLATION IS ALLOWED TO SUNSET, ALASKA WILL BE OUT OF COMPLIANCE WITH FEDERAL LAW AND INELIGIBLE FOR NEARLY \$70 MILLION IN FEDERAL CHILD SUPPORT AND PUBLIC ASSISTANCE FUNDING.

SENATE HESS ADDED A NEW SUNSET FOR THOSE PARTS OF THE '97 AND '98 LEGISLATION THAT REQUIRE SOCIAL SECURITY NUMBERS ON OCCUPATIONAL AND DRIVERS LICENSES, AS WELL AS OTHER LICENSES AND CERTIFICATES.¹ THESE PROVISIONS WILL SUNSET ON JULY 1, 2006. THE SAME IS TRUE OF PROVISIONS DEALING WITH THE FINANCIAL INSTITUTION DATA MATCH PROGRAM.²

LANGUAGE ADDED IN SENATE HESS STATES THAT FAILURE ON THE PART OF AN EMPLOYER TO REPORT A NEWLY HIRED OR REHIRED EMPLOYEE AS REQUIRED BY STATUTE DOES NOT GIVE RISE TO A PRIVATE ACTION AGAINST THE EMPLOYER.

¹ Removes the Social Security Number requirement from applications for a wide range of business and professional licenses; crewmember and resident commercial fishing licenses; commercial and noncommercial drivers licenses; teacher's certificates; certificates for dissolution, divorce, or annulment of marriage; presumptive death certificates; and attorney bar applications. Also removes the requirement that each of the licensing agencies report Social Security Numbers to Child Support Enforcement.

² Current statutes allow us to match the names of parents who owe arrears with the names on accounts at financial institutions. This makes it much more difficult for delinquent parents to hide their assets, simplifies the search for funds in multi-state institutions, and allows the institutions to cooperate without fear of retaliatory lawsuits. Without this provision, finding hidden assets would require sweeps of all banks for each and every case. For many children the ability to collect support would be seriously compromised.

The nonseverability provision in our legislation from 1998 means that if any part of the legislation, however minor, is found to be unconstitutional, all the rest of the legislation will be considered unconstitutional. This provision was inserted into SB 232 while it was in the Senate Resources Committee, and later appeared in the companion bill in SCS CS HB 344 (fin). The nonseverability provision was not among those that were negotiated with CSED and the agency was not made aware of the reasons for its inclusion. It is clear, however, that if invoked, the provision would put Alaska out of compliance with federal law and in jeopardy of losing all federal financial participation in CSED and public assistance.

The statutes that allow CSED to revoke drivers' and occupational licenses for non-payment of child support were a part of legislation from 1995. They are not subject to the sunset provisions, and are not a part of SB 19.

In answer to your question about programs that were required but not described in federal legislation, one that appeared in the 1998 legislation was revocation of recreational licenses. On that subject, legislators and CSED developed language stating that only a judge may revoke a recreational license, not the agency. To the best of our knowledge, no judge has ever revoked a recreational license, underscoring the very limited scope of this legislation.

In answer to your question about elements in the statutes that will sunset that were not required by federal law, there are two which were also developed through negotiation between legislators and CSED. The "best efforts" language states that a person's license will not be revoked if he is determined by a judge to be making the "best efforts" possible under the circumstances to meet his support obligations. The second requires that orders to withhold and deliver must be sent by certified mail.

are these
a problem
to CSED
or House
Committee
members?

not particularly, ~~the~~ just
they mostly had questions
which asked for clarification

CS for Senate Bill 19 (HES)

Sectional Analysis

Sections 1 through 12 and section 15: Renew selected sunset provisions.

- Imposes a five-year sunset on the requirements that applicants for various licenses provide their social security numbers to the licensing agency and that the licensing agency provide those social security numbers to the child support enforcement agency of this or another state.
- Imposes a five-year sunset on the requirements that certain court documents and documents of the Bureau of Vital Statistics include social security numbers and that those social security numbers be provided to the child support enforcement agency of this or another state.
- Imposes a five-year sunset on the provisions allowing the child support enforcement agency to enter into agreements with financial institutions for financial data matching.

Section 13: Repeals the original sunset, nonseverability, and related provisions.

- Repeals the original sunset and nonseverability provisions of the 1997 and 1998 Acts.
- Repeals several related provisions from other legislation that refer to the original sunset provisions of the 1997 and 1998 Acts.

Section 14: Effective date of the Act.

- Establishes an immediate effective date for section 13 of the Act.

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SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE SENATOR LYDA GREEN, CHAIR

To: Senator Lyda Green, Chair
From: Aurora Hauke, Committee Aide
Date: January 29, 2001
Subject: CSSB 19 (RES) Child Support Enforcement Repealers

(1) Section 148, ch.87, SLA 1997, as amended by sec. 53, ch. 132, SLA 1998

The original repeal date of the 1997 CSED reform bill was July 1, 1999, the 1998 CSED legislation changed the repeal date to July 1, 2001.

(2) Sections 2, 14, and 16, ch. 37, SLA 1998

This was Austerman's canned salmon processor reporting bill. Section 1 names exceptions of the confidentiality of the Department of Revenue. Section 2 repeats the language in Section 1 without naming child support enforcement. Sections 14 & 16 allow Section 2 to replace Section 1 if the CSED legislation is repealed.

(3) Section 53, ch. 132, SLA 1998

Repeal date of 1998 CSED legislation is July 1, 2001.

(4) Section 54(b), ch. 132, SLA 1998, as amended by sec. 101, ch. 21, SLA 2000

Set repeal date of certain sections of 1998 CSED legislation at July 1, 2001 and provided that all affected statutes be returned to their original language after the repeal of the legislation. Adds Section 16 of the 1998 CSED legislation, which relates to dissolution of marriages, to the list of those to be repealed.

(5) Section 54(c), ch. 132, SLA 1998

States that the intent of the 1998 CSED legislation is to be consistent with the 1997 CSED legislation, notwithstanding language differences.

SENATOR LOREN LEMAN, VICE-CHAIR
SENATOR PETE KELLY, SENATOR JERRY WARD, SENATOR BETTYE DAVIS

(6) Section 56, ch. 132, SLA 1998

Non-severability of certain sections.

(7) Section 92, ch. 58, SLA 1999

Definition of "license" to remain same even if 1998 CSED legislation repealed.

(8) Section 103, ch. 21, SLA 2000

Notification guidelines for initiating paternity proceedings do not get repealed.

from Sen. Halford's office

SLAs repealed in CS SB 19 (RES) (22-GS1002C)

Ch. 87, SLA 1997 (1997 CSED bill - sunset extended in 1998 CSED bill)

* Sec. 148. (c) The amendments made by other sections of this Act are repealed July 1, 1999. Each statute amended by this Act is repealed and reenacted on July 1, 1999, to read as it existed on the day before the amendment to the law under this Act took effect. Notwithstanding AS 01.10.100 (c), a statute repealed under (a) of this section is revived and reenacted on July 1, 1999, to read as it existed on the day before the effective date of (a) of this section. A court rule that was amended by a statute repealed or reenacted by this Act is further amended on July 1, 1999, to delete the change that had been made by other sections of this Act.

Ch. 37, SLA 1998 (Austerman's canned salmon processor reporting bill)

* Sec. 2. AS 09.25.100, as repealed and reenacted under sec. 148(c), ch. 87, SLA 1997, is amended to read:

(a) Information in the possession of the Department of Revenue that discloses the particulars of the business or affairs of a taxpayer or other person is not a matter of public record, except as provided in AS 43.05.230 (i) or for purposes of investigation and law enforcement. The information shall be kept confidential except when its production is required in an official investigation, administrative adjudication under AS 43.05.400 - 43.05.499, or court proceeding. These restrictions do not prohibit the publication of statistics presented in a manner that prevents the identification of particular reports and items, prohibit the publication of tax lists showing the names of taxpayers who are delinquent and relevant information that may assist in the collection of delinquent taxes, or prohibit the publication of records, proceedings, and decisions under AS 43.05.400 - 43.05.499.

* Sec. 14. Section 2 of this Act takes effect only if AS 09.25.100 is repealed and reenacted under sec. 148(c), ch. 87, SLA 1997.

* Sec. 16. If sec. 2 of this Act takes effect, it takes effect on the effective date of the repeal and reenactment of AS 09.25.100 under sec. 148(c), ch. 87, SLA 1997.

Ch. 132, SLA 1998 (1998 CSED bill)

* Sec. 53. Section 148(c), ch. 87, SLA 1997, is amended to read:

(c) The amendments made by other sections of this Act are repealed July 1, 2001 [1999]. Each statute amended by this Act is repealed and reenacted on July 1, 2001 [1999], to read as it existed on the day before the amendment to the law under this Act took effect. Notwithstanding AS 01.10.100 (c), a statute repealed under (a) of this section is revived and reenacted on July 1, 2001 [1999], to read as it existed on the day before the effective date of (a) of this section. A court rule that was amended by a statute repealed or reenacted by this Act is further amended on July 1, 2001 [1999], to delete the change that had been made by other sections of this Act.

* Sec. 54. (b) The amendments made by secs. 3 - 9, 21 - 26, 30 - 33, 47, 51, and 52 of this Act are repealed July 1, 2001. If a law is amended by secs. 3 - 9, 21 - 26, 30 - 33, 47, 51, or 52 of this Act by adding a new section or subsection, that new section or subsection is repealed July 1, 2001. If a law is amended by secs. 3 - 9, 21 - 26, 30 - 33, 47, 51, or 52 of this Act by adding new language to a section or subsection that existed before the effective date of this section, that section or subsection is repealed and reenacted on July 1, 2001, to read as it existed on the day before the amendment to the law under secs. 3 - 9, 21 - 26, 30 - 33, 47, 51, or 52 of this Act took effect except that, if the same section or subsection is repealed and reenacted under sec. 148(c), ch. 87, SLA 1997, as amended by sec. 53 of this Act, that section or subsection is repealed and reenacted on July 1, 2001, to read as it existed on the day before the amendment to the law under ch. 87, SLA 1997, took effect. When implementing this subsection and sec. 148(c), ch. 87, SLA 1997, as amended by sec. 53 of this Act, the revisor of statutes may not retain any amendments made to the affected statutes that took effect or take effect from July 1, 1997, through June 30, 2001.

Ch. 21, SLA 2000 (revisor's bill added section 16 to the repeal)

* Sec. 101. The uncodified law of the State of Alaska enacted in sec. 54(b), ch. 132, SLA 1998, is amended to read:

(b) The amendments made by secs. 3 - 9, 16, 21 - 26, 30 - 33, 47, 51, and 52 of this Act are repealed July 1, 2001. If a law is amended by secs. 3 - 9, 16, 21 - 26, 30 - 33, 47, 51, or 52 of this Act by adding a new section or subsection, that new section or subsection is repealed July 1, 2001. If a law is amended by secs. 3 - 9, 16, 21 - 26, 30 - 33, 47, 51, or 52 of this Act by adding new language to a section or subsection that existed before the effective date of this section, that section or subsection is repealed and reenacted on July 1, 2001, to read as it existed on the day before the amendment to the law under secs. 3 - 9, 16, 21 - 26, 30 - 33, 47, 51, or 52 of this Act took effect except that, if the same section or subsection is repealed and reenacted under sec. 148(c), ch. 87, SLA 1997, as amended by sec. 53 of this Act, that section or subsection is repealed and reenacted on July 1, 2001, to read as it existed on the day before the amendment to the law under ch. 87, SLA 1997, took effect. When implementing this subsection and sec. 148(c), ch. 87, SLA 1997, as amended by sec. 53 of this Act, the revisor of statutes may not retain any amendments made to the affected statutes that took effect or take effect from July 1, 1997, through June 30, 2001.

(c) It is the intent of the legislature that the revisor of statutes' implementation of sec. 148(c), ch. 87, SLA 1997, as amended by sec. 53 of this Act, be consistent with the directions in (b) of this section, notwithstanding that different wording is used in the two provisions.

* Sec. 56. NONSEVERABILITY OF ACT. Notwithstanding AS 25.27.280, if a provision enacted by secs. 1 - 12, 14 - 17, 19 - 26, 28 - 53, or 55 of this Act, or the application of a provision enacted by secs. 1 - 12, 14 - 17, 19 - 26, 28 - 53, or 55 of this Act to any person or circumstance, is held to be unconstitutional, that provision and the remainder of the provisions enacted by secs. 1 - 12, 14 - 17, 19 - 26, 28 - 53, and 55 of this Act shall be considered to be invalid, and, to this end, secs. 1 - 12, 14 - 17, 19 - 26, 28 - 53, and 55 of this Act are declared to be nonseverable.

Ch. 58, SLA 1999 (Kohring's DCRA/DCED bill)

* Sec. 92. INSTRUCTIONS CONCERNING AS 25.27.244. Notwithstanding sec. 53, ch. 132, SLA 1998, the amendment made to AS 25.27.244 (s)(2) by section 92 of this Act shall remain in effect on and after July 1, 2001, unless that amendment is repealed or amended by a law enacted after the effective date of this bill section.

Ch. 21, SLA 2000 (revisor's bill)

* Sec. 103. The uncodified law of the State of Alaska is amended by adding a new section to read:
NO DELAYED REPEAL OF 1998 AMENDMENT TO AS 25.27.165 (b). Notwithstanding sec. 148(c), ch. 87, SLA 1997, as amended by sec. 53, ch. 132, SLA 1998, and notwithstanding sec. 54(b), ch. 132, SLA 1998, the amendment to AS 25.27.165 (b) made by sec. 28, ch. 132, SLA 1998, is not repealed under sec. 148(c), ch. 87, SLA 1997, as amended by sec. 53, ch. 132, SLA 1998 and is not affected by sec. 54(b), ch. 132, SLA 1998. However, this bill section does not affect other amendments made to AS 25.27.165 (b) by sec. 148(c), ch. 87, SLA 1997, as amended by sec. 53, ch. 132, SLA 1998, or other law.



Official Business

Alaska State Legislature
Twenty-Second Legislature - First Session

SENATE CALENDAR

Forty-Sixth Legislative Day

Thursday, February 22, 2001 - 11:00 a.m.

Chaplain: The Reverend Kathleen Wakefield, St. Brendan's Episcopal Church

SECOND READING OF SENATE BILLS

SB 16

"An Act regarding oil discharge prevention and cleanup involving self-propelled nontank vessels exceeding 400 gross registered tonnage and railroad tank cars and related facilities and operations and requiring preparation and implementation of oil discharge contingency plans for those nontank vessels and railroad tank cars; amending the definition of 'response action' that relates to releases or threatened releases of oil and thereby amending the duties and liabilities of response action contractors; and authorizing compliance verification for nontank vessels and for trains and related facilities and operations; and providing for an effective date."

RES RPT 4DP 2NR P. 0144
FN1: (DOT), FN2: (DEC) P. 0144
FIN RPT 3DP 6NR P. 0352
FN1: (DOT), FN2: (DEC) P. 0353
RULES TO CALENDAR W/CS SAME TITLE

CS FOR SENATE BILL NO. 16(RLS)
FN1: (DOT), FN2: (DEC)

SB 19

"An Act repealing the termination date of changes made by ch. 87, SLA 1997 and ch. 132, SLA 1998 regarding child support enforcement and related programs; repealing the nonseverability provision of ch. 132, SLA 1998; repealing certain requirements for applicants for hunting and sport fishing licenses or tags, and for certain hunting permits, to provide social security numbers for child support enforcement purposes; and providing for an effective date."

FN1: ZERO(REV) P. 0028
RES RPT CS 5DP 1NR NEW TITLE P. 0168

CS FOR SENATE BILL NO. 19(RES)

"An Act repealing the termination date of changes made by ch. 87, SLA 1997, and ch. 132, SLA 1998, regarding child support enforcement and related programs; repealing the nonseverability provision of ch. 132, SLA 1998; repealing uncodified laws relating to ch. 87, SLA 1997, and ch. 132, SLA 1998; and providing for an effective date."

FN1: ZERO(REV) P. 0169
HES RPT CS 3DP 2NR NEW TITLE P. 0287

CS FOR SENATE BILL NO. 19(HES)

"An Act relating to federal child support enforcement requirements regarding social security number information, employer reports about employees, and certain kinds of automated data matching with financial institutions; repealing the termination date of changes made by ch. 87, SLA 1997, and ch. 132, SLA 1998, regarding child support enforcement and related programs; repealing the nonseverability provision of ch. 132, SLA 1998; repealing uncodified laws relating to ch. 87, SLA 1997, and ch. 132, SLA 1998; and providing for an effective date."

FN1: ZERO(REV) P. 0288
FIN RPT CS(HES) 8DP P. 0385
FN2: ZERO(REV) P. 0385

SENATE AMENDMENT

1

BY:

Taylor

TO:

SENATE BILL NO.

SB 19

TO:

HOUSE BILL NO.

Delete page 6 line 3

[Sec. 16. Sections 1-10, 12 and 13
of this act take effect July 1, 2006.]*

(TURN IN ORIGINAL AMENDMENT TO SENATE SECRETARY'S OFFICE.
THE AMENDMENT WILL BE NUMBERED, COPIED AND DISTRIBUTED.)

CORRECTION

THE FOLLOWING DOCUMENT(S)
HAVE BEEN REFILMED TO
ASSURE LEGIBILITY OR PAGINATION



Central Microfilm Services
Department of Education & Early Development
State of Alaska



Official Business

Alaska State Legislature
Twenty-Second Legislature - First Session

SENATE CALENDAR

Forty-Sixth Legislative Day

Thursday, February 22, 2001 - 11:00 a.m.

Chaplain: The Reverend Kathleen Wakefield, St. Brendan's Episcopal Church

SECOND READING OF SENATE BILLS

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"An Act regarding oil discharge prevention and cleanup involving self-propelled nontank vessels exceeding 400 gross registered tonnage and railroad tank cars and related facilities and operations and requiring preparation and implementation of oil discharge contingency plans for those nontank vessels and railroad tank cars; amending the definition of 'response action' that relates to releases or threatened releases of oil and thereby amending the duties and liabilities of response action contractors; and authorizing compliance verification for nontank vessels and for trains and related facilities and operations; and providing for an effective date."

RES RPT 4DP 2NR P. 0144
FN1: (DOT), FN2: (DEC) P. 0144
FIN RPT 3DP 6NR P. 0352
FN1: (DOT), FN2: (DEC) P. 0353
RULES TO CALENDAR W/CS SAME TITLE

CS FOR SENATE BILL NO. 16(RLS)
FN1: (DOT), FN2: (DEC)

SB 19

"An Act repealing the termination date of changes made by ch. 87, SLA 1997 and ch. 132, SLA 1998 regarding child support enforcement and related programs; repealing the nonseverability provision of ch. 132, SLA 1998; repealing certain requirements for applicants for hunting and sport fishing licenses or tags, and for certain hunting permits, to provide social security numbers for child support enforcement purposes; and providing for an effective date."

FN1: ZERO(REV) P. 0028
RES RPT CS 5DP 1NR NEW TITLE P. 0168

CS FOR SENATE BILL NO. 19(RES)

"An Act repealing the termination date of changes made by ch. 87, SLA 1997, and ch. 132, SLA 1998, regarding child support enforcement and related programs; repealing the nonseverability provision of ch. 132, SLA 1998; repealing uncodified laws relating to ch. 87, SLA 1997, and ch. 132, SLA 1998; and providing for an effective date."

FN1: ZERO(REV) P. 0169
HES RPT CS 3DP 2NR NEW TITLE P. 0287

CS FOR SENATE BILL NO. 19(HES)

"An Act relating to federal child support enforcement requirements regarding social security number information, employer reports about employees, and certain kinds of automated data matching with financial institutions; repealing the termination date of changes made by ch. 87, SLA 1997, and ch. 132, SLA 1998, regarding child support enforcement and related programs; repealing the nonseverability provision of ch. 132, SLA 1998; repealing uncodified laws relating to ch. 87, SLA 1997, and ch. 132, SLA 1998; and providing for an effective date."

FN1: ZERO(REV) P. 0288
FIN RPT CS(HES) 8DP P. 0385
FN2: ZERO(REV) P. 0385

Citations

Honoring – Mayor Ed Zeine

Representative(s) Harris

Senator(s) Lincoln, Elton, Davis, Austerman, Taylor, Kelly, Green, Pearce, Hoffman, Wilken

In Memoriam – Dean R. Dewey

Senator(s) Leman, Elton, Davis, Lincoln, Austerman, Taylor, Kelly, Green, Pearce, Hoffman, Wilken, Donley

In Memoriam – Clarence Allen Lovejoy

Senator(s) Leman, Elton, Davis, Lincoln, Austerman, Taylor, Kelly, Green, Pearce, Hoffman, Wilken, Donley

Representative(s) Crawford, Berkowitz, Meyer, Green

In Memoriam – Diana M. Craig

Representative(s) Green

Senator(s) Ward, Elton, Davis, Lincoln, Austerman, Taylor, Kelly, Green, Pearce, Hoffman, Wilken, Donley

In Memoriam – Nello Oscar Long

Representative(s) Hudson, Kuttula

Senator(s) Elton, Davis, Lincoln, Austerman, Taylor, Kelly, Green, Pearce, Hoffman, Wilken, Donley

In Memoriam – Sumner Stanley Woodman

Representative(s) Scalzi

Senator(s) Torgerson, Ward, Elton, Davis, Lincoln, Austerman, Taylor, Kelly, Green, Pearce, Hoffman, Wilken, Donley

Publication Notice - Citations

Honoring – Dr. Paul Eneboe, Homer Chamber of Commerce 2000 Citizen of the Year

Senator(s) Torgerson

Honoring – Maritime Helicopters, Homer Chamber of Commerce Outstanding Business of the Year 2000

Senator(s) Torgerson

SENATE AMENDMENT

1

BY:

Taylor

TO: _____

SENATE BILL NO. SB 19

TO: _____

HOUSE BILL NO. _____

Delete page 6 line 3

[Sec. 16. Sections 1-10, 12 and 13
of this act take effect July 1, 2006.]*

(TURN IN ORIGINAL AMENDMENT TO SENATE SECRETARY'S OFFICE.
THE AMENDMENT WILL BE NUMBERED, COPIED AND DISTRIBUTED.)

THE ALASKA LEGISLATURE

DRAFT



SPONSORS APPROVAL:

* HONORING *

* MAYOR ED ZEINE *

The Twenty-second Alaska State Legislature is proud to honor Ed Zeine who has unselfishly served the community of Cordova with a wide range of activities that has touched the lives of nearly every resident for the past 22 years.

Ed Zeine arrived in Cordova in 1979. He worked as the Cordova Community Hospital Administrator for 12 years before retiring in 1991. During his tenure, he was instrumental in obtaining funding, overseeing the design and construction of the new hospital facility, the Cordova Community Medical Center.

In 1999
This year, when the hospital ran into financial trouble, Ed came out of retirement for four months without pay to take the helm of the troubled institution. Through his leadership he was able to hire and reorganize some of the procedural practices and brought it back to being a healthy business once again.

Once retired, Ed's commitment to community service increased. In 1991 he was elected to the Prince William Sound Aquaculture board of directors. He served as chairman from 1997-2000. It speaks highly of Ed's integrity and reputation in the community as a sports fisherman to be elected to this position by commercial fishermen.

~~Once~~ *W* When the City Manager's position was vacant, Ed was called upon to serve as interim City Manager for the City of Cordova. He served from December 1993 to April 1994.

1998 proved to be a busy year for Ed. He was elected Mayor of Cordova for a 3-year term and was appointed to the Governors' Trails and Recreational Access for Alaska (TRAAK) Citizens Advisory Board. The purpose of this board is to improve access to recreational facilities, and provide for transportation and scenic improvements along highways. He was also appointed as a member of the Exxon Valdez Oil Spill Public Advisory Group (EVOS PAG)

Ed has been an active member of the local Moose Lodge and has served as Governor of the Lodge. The local Lodge is very supportive of the local youth and various community charities. Ed spearheaded the local "Youth Fishing Derby" day. He is the founding member of the Cordova Sportsman's Club.

The Twenty-second Alaska State Legislature joins with family and friends of Ed Zeine in honoring this outstanding Alaskan who has shown his devotion and commitment to the citizens of Cordova and Alaska. We recognize his generosity and selflessness in reaching out to others and giving a helping hand in the hometown he loves.



BRIAN PORTER
SPEAKER OF THE HOUSE

RICK HALFORD
PRESIDENT OF THE SENATE

Date:

JOHN HARRIS
PRIME SPONSOR

Cosponsors: Senator Lincoln,

THE ALASKA LEGISLATURE

DRAFT



SPONSORS APPROVAL:

Loren D. Leman

In Memoriam

*** DEAN R. DEWEY ***

The Alaska Legislature recognizes the life and accomplishments of Dean Dewey, who died in a fishing accident near Cordova on May 29, 2000.

Dean Dewey was born April 4, 1934, in Gillette, Wyoming and was raised on a cattle ranch. He graduated from Campbell County High School and attended Casper College in Casper, Wyoming. Mr. Dewey also served his country honorably during the Korean War and was discharged in 1952. He moved to Alaska in 1959 as an employee with the Bureau of Public Roads and worked for the Army Corps of Engineers until 1976. Dean Dewey and his wife Melinda also owned and operated Dewey's Cook Inlet Unlimited from 1967 until 1982. They lived in the Tunagain area of Anchorage.

Mr. Dewey began commercial fishing on Prince William Sound in 1987. Despite the notorious occupational risks associated with commercial fishing in Alaska, Dean Dewey considered fishing a privilege. He was an outdoorsman and a respected seaman who routinely faced the sea's perils with courage, his love for Alaska and his faith in God. He lived his life to the fullest and a friend describes him with one word, an "inspiration."

Dean was a dedicated and generous family man. He was a warm, joyful and opened his doors to all who wished to converse. He was helpful to people in need.

The Twenty-second Alaska Legislature is grateful for the contributions of Dean Dewey and extends its best wishes to his family and friends, especially his wife Melinda, his sons Roger and Michael as well as his granddaughter Virginia.

BRIAN PORTER
SPEAKER OF THE HOUSE

RICK HALFORD
PRESIDENT OF THE SENATE

Date:

LOREN LEMAN
PRIME SPONSOR

Cosponsors:



THE ALASKA LEGISLATURE

DRAFT



SPONSORS APPROVAL:

Loren D. Leman

In Memoriam

* CLARENCE ALLEN LOVEJOY *

The Alaska Legislature recognizes the life and accomplishments of Clarence Allen Lovejoy, who died in Anchorage on December 27, 2000.

Clarence Lovejoy, known to his friends as "Al," was born in Batavia, New York on March 10, 1921. After high school, he was trained as a journeyman printer. He worked as a printer for a New York newspaper and eventually for the Bureau of Engraving in Washington, D.C. Mr. Lovejoy was a World War II veteran who served honorably in the United States Army. After the war, he spent seven years printing for a Bible college in Alberta, Canada.

Mr. Lovejoy moved to Alaska where he was employed at Color Art Printing and later became a pastor and missionary in Brussels, Belgium. Upon completion of this calling, Mr. Lovejoy entered the civil service at Elmendorf Air Force Base until his retirement. The Lovejoys lived in the Turnagain area of Anchorage.

Mr. Lovejoy was well known in the Christian community of Anchorage. He was a member of the First Presbyterian Church of Anchorage, where he taught Sunday school, and was a former member of both Chapel-by-the Sea, and the First Conservative Baptist Church of Anchorage. Mr. Lovejoy's friends praised his true love of the Lord and his incessant willingness to spread God's Word. He was an evangelist who shall be sorely missed.

The Twenty-second Alaska Legislature is grateful for the life contributions of Clarence Lovejoy and extends its best wishes to his family and friends, especially his wife Dorothea Owen Lovejoy and his two sons Douglas, Stephen and daughter Susan Johnson as well as their grandchildren.



BRIAN PORTER
SPEAKER OF THE HOUSE

RICK HALFORD
PRESIDENT OF THE SENATE

Date:

LOREN LEMAN
PRIME SPONSOR

Cosponsors: Representatives Crawford, Berkowitz, Meyer, Green

THE ALASKA LEGISLATURE

DRAFT



SPONSORS APPROVAL:

In Memoriam

*** DIANA M. CRAIG ***

The Twenty-Second Alaska Legislature joins with the friends and family of Diana M. Craig of Anchorage in honoring her life, and mourning her passing on July 8, 2000.

Diana was born May 21, 1972, in Anchorage to Jack and Janet Craig. She attended Anchorage public schools, and graduated in 1990 from Dimond High School. With a zeal for education nurtured and encouraged at home, she attended the University of Alaska-Anchorage, earning a dual bachelor's degree in history, and political science.

During her college career, she served as a Legislative Page for the Alaska Senate Finance Committee, where she provided support to legislators and staff drawing up the state budget. She also served as a summer Legislative Intern at the Washington D.C. office of Senator Ted Stevens. Those who worked with her, recall her as a cheerful worker who took advantage of every opportunity to learn more about the legislative process.

Diana was an inquisitive young woman, excited at all life had to offer and eager to experience it. After graduation from UAA she became interested in a career in law, and took a job working as a legal clerk at BP Alaska. In her spare time, she drew on her high school and college forensics experience to volunteer with the West High School Debate Team. The experience of working with young people proved so rewarding, she decided to enter the education profession and in 1997 returned to college to receive her teacher's certificate at Western Oregon University. She planned to become a teacher, but was prevented from realizing this, and many other dreams, by the onset of the cervical cancer that took her life.

Diana was well loved by her wide circle of devoted friends and fellow parishioners from Elizabeth Ann Seton Catholic Church, who viewed her as an energetic, enthusiastic and inquisitive soul who passed up few opportunities to learn about the world and its people. In pursuit of education as well as the sheer joy of discovery, she traveled extensively in the Lower 48, Finland, Sweden, Australia, and Hong Kong, and planned to travel next to Peru to explore opportunities for helping less-fortunate children.

At her passing, her family said, "Diana will be remembered by those whose lives she touched, as a strong and unselfish friend. Diana's love of her family and friends created a circle of people tied together forever in their love for her. Her infectious laughter and sense of humor brightened the lives of all she encountered."


Diana is survived by her mother Janet Craig; brother, Steven; grandmother, Maybelle Benedict; uncle and aunt, Ray and Linda Craig and their children, Cari, Kip and Heather; and many close friends.

The Alaska State Legislature extends condolences to the friends and family of this special young woman whose life in Alaska brought so much joy, and whose untimely passing brings so much sadness.

BRIAN PORTER
SPEAKER OF THE HOUSE

Date:

RICK HALFORD
PRESIDENT OF THE SENATE



JOE GREEN
PRIME SPONSOR

THE ALASKA LEGISLATURE

DRAFT



SPONSORS APPROVAL:

Bill Hudson

In Memoriam

* NELLO OSCAR LONG *

The members of the Twenty-Second Alaska State Legislature join with family, friends, and fellow veterans in honoring the memory of Nello Oscar Long.

Nello, a long-time Juneau resident, spent 30-years as a carpenter and building contractor. Born September 19, 1919, in Millerton, Oklahoma, Nello grew up on a farm during the hard depression years. As a teenager, he worked in the Civilian Conservation Corps in Arizona and eventually joined the Navy. Nello survived the bombing and the subsequent sinking of the U.S. aircraft carrier *Lexington* during the Battle of the Coral Sea. After receiving submarine-chaser training, he was again dispatched to the Pacific where he became friends with Elwood Mahler and began a long distance romance with Mahler's sister Beatrice. Nello and Beatrice were married on November 23, 1946. Together they raised four children. Living in California until 1963, the family moved to Alaska where Nello's first job was to build houses from logs milled at the sawmill on Montana Creek Road where he worked with his brother Maurice. Later he was a builder and worked as the project manager for the major renovation of the Governor's House in the 1980s and the building of the Auke Bay ferry terminal.

Nello loved eagles. It was his habit to cook up batches of sourdough bread and pancakes from an 80-year-old starter to feed the many eagles near his home and workplaces.

Nello was a devoted member of the Church of Christ, serving as an elder for 33 years and was involved in the construction of the building where his beloved church meets today.

It is with great respect that the Twenty-Second Alaska State Legislature salutes this fine man, honoring the many contributions he made to his profession and community, and offers heartfelt condolences to his wife Beatrice, daughters Karen Williams and her husband Dave; Janet Henderson and her husband Kevin; Terri Rush and her husband Gene; and son Stephen Long and his wife Carolyn. Nello is also survived by nine brothers and sisters. Ten grandchildren and one great-grandchild.



BRIAN PORTER
SPEAKER OF THE HOUSE

RICK HALFORD
PRESIDENT OF THE SENATE

Date:

BILL HUDSON
PRIME SPONSOR

Cosponsors: Representative Kerttula, Senator Elton

THE ALASKA LEGISLATURE

DRAFT



SPONSORS APPROVAL:

A handwritten signature in cursive, appearing to read "Drew Scalzi", written over a horizontal line.

In Memoriam

* SUMNER STANLEY WOODMAN *

The Twenty-second Alaska State Legislature honors the life and many achievements of an Alaskan pioneer, Sumner Stanley Woodman.

Stanley was born July 28, 1918, in Miles City, Montana. He spent his early years in St. Louis, Illinois and in 1931, when the Depression hit, his parents took the family to Ponsford, Minnesota and started a farm. In 1938 Stanley, his parents and sister Alice moved to Alaska as homesteaders, settling on the Kenai Peninsula in Homer. He found part-time work at Libby's Cannery in Kenai until he began to find work on boats and became a commercial fisherman, drifting for salmon in Cook Inlet and fishing for halibut. Stanley also became a big game guide, taking hunters on moose, bear, sheep and caribou hunts in the hills behind Homer, down the Alaska Peninsula and around Denali.

Over the years Stanley joined the Carpenter's Union and worked on projects in Valdez, Anchorage, and Adak. He also helped build the original Homer dock, travelling across Kachemak Bay to fell trees that were used for the dock's pilings. In addition, he worked on the Portage tunnel and was there for the final blast that opened it to Whittier in 1942.

In 1943, Stanley entered the Army, serving in the 153rd Infantry. He was later transferred to the Harborcraft Division because of his experience on boats and made 26 round trips to the Aleutian Islands, delivering supplies to military bases. He was on the Q 49 when it became shipwrecked in a big storm near Montague Island. After escaping in a life raft that soon overturned, he and others with him spent six weeks stranded on the beach, eating deer and clams. According to family members, Stanley said it was the best six weeks of the war for him.

In 1950, Stanley married Tonie Hawkes and they had two children. On January 29, 2001 he died at the age of 82 at South Peninsula Hospital in Homer. Stanley is survived by his son, Kim Woodman; his daughter and son-in-law Sonja and Rich Corazza and grandchildren, Megan and Rick Corazza and Laura Woodman, all of Homer. He also leaves an extended family of nephews and nieces and their children.

The members of the Twenty-second Alaska Legislature extend their most sincere condolences to the family members and many friends of Stanley Woodman. May God be with you.



BRIAN PORTER
SPEAKER OF THE HOUSE

RICK HALFORD
PRESIDENT OF THE SENATE

Date:

DREW SCALZI
PRIME SPONSOR

Cosponsors:

ALASKA STATE LEGISLATURE



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SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE SENATOR LYDA GREEN, CHAIR

HESS CS FOR CSSB 19 (RES) CHILD SUPPORT ENFORCEMENT/SOC SEC.

The following changes were made to CSSB 19 (RES):

- Findings and intent language was removed.
- The five-year sunset was renewed on requirements that applicants for various licenses provide their social security numbers to the licensing agency and that the licensing agency provide those social security numbers to child support enforcement agencies.
- The five-year sunset was renewed on the requirements that certain court documents and documents of the Bureau of Vital Statistics include social security numbers and that those social security numbers be provided to child support enforcement agencies.
- The five-year sunset was renewed on the provisions allowing the child support enforcement agency to enter into agreements with financial institutions for financial data matching.
- New hire reporting requirements amended to ensure that an employer who unintentionally fails to report a newly hired employee to child support enforcement agencies may not be held liable for their failure to do so in a private civil case.

Removal of ...

SENATOR LOREN LEMAN, VICE-CHAIR
SENATOR PETE KELLY, SENATOR JERRY WARD, SENATOR BETTYE DAVIS

CS for Senate Bill 19 (RES)

Sectional Analysis

Sec. 1: Findings, Purpose and Intent.

- Recognizes the value of the work of CSED to Alaska's children and the importance of the statutory changes of 1997 and 1998 to that work.
- Acknowledges that the 1997 and 1998 statutes brought Alaska into compliance with federal law, which is a condition of receiving federal financial participation in child support enforcement and public assistance programs.
- Identifies a nonseverability provision of the 1998 Act which, if triggered, would put the state in jeopardy of losing this funding.
- Confirms that these statutes will be automatically repealed by sunset clauses on July 1, 2001, unless the sunset clauses are repealed, also jeopardizing the funding.
- States the intent to repeal the sunset and nonseverability provisions.

Section 2: Repeals the sunset, nonseverability, and related provisions.

- Repeals the sunset and nonseverability provisions of the 1997 and 1998 Acts.
- Repeals several related provisions from other legislation that refer to the sunset provisions of the 1997 and 1998 Acts.

Section 3: Effective date of the Act.

- Establishes an immediate effective date for the Act.

CHILD SUPPORT ENFORCEMENT "SUNSET" SUMMARY

Legislation passed in 1997 and 1998 contained sunset provisions that will take effect in 2001. These laws support programs and activities at CSED that have resulted in a significant increase in child support payments, and improved services to families in Alaska. If the sunset is allowed to occur, these improvements will be diminished, and by being out of compliance with welfare reform laws Alaska will be in jeopardy of losing \$80,000,000 in federal public assistance and child support funding.

Below is an outline of key parts of the 1997 and 1998 legislation, as well as a description of how the sunset provisions would affect CSED's work. Each of these segments is a requirement of federal compliance.

Availability of Records/Access to Information

The subject statutes allow CSED to obtain certain types of information electronically and through administrative action. If these provisions are repealed, CSED may be required to contact sources of information separately for each case, and take the difficult and time-consuming avenue of obtaining a court order to request basic information. The time lost would severely hamper our child support enforcement efforts.

'Best Efforts' Language

Adopted in 1998, this language allows a non-custodial parent who is found by a court to be making the 'best efforts possible under the circumstances to have no child support arrearages' to avoid the loss or suspension of a driver's or other license. The act adds commercial crewmember fishing licenses to existing license statute, and removes subpoena noncompliance as a reason for general license suspension. Instead, the act allows license suspension for subpoena noncompliance only in the context of a civil contempt action.

Central Registry

The law requires courts to automatically forward child support orders to CSED, and authorizes CSED to exchange this and other critical information within strict confidentiality guidelines. These procedures allow CSED to serve clients with improved timeliness and accuracy, efficiencies that will be diminished if the statutes are repealed.

Credit Bureau Reporting

Current state law requires child support debt to be reflected on a delinquent parent's credit bureau report until it has been paid. The sunset would have the effect that unpaid child support arrears could not be reported after 10 years.

CSED was already doing this
okay

required by Feds

okay

not req. by Congress but
Congress has
reg.

okay

in '97
admin.
in '98 taken out

cong. req.
Fed req.

okay

alt. already
had it

okay

Definitions: Duty of support, earnings, tribunal, arrearages

The 1997 and 1998 acts redefined a number of key terms used in child support enforcement, and this nationwide uniformity is essential to cooperative enforcement efforts between the states.

between state ags.

if there was Vol. paternity notice must be given to that person

Due Process

okay

The 1997 and 1998 acts strengthened due process protections by requiring additional notices to parents of their rights and responsibilities in paternity and child support proceedings and by providing additional opportunities for parents and other persons to request and obtain administrative and judicial review of agency actions and decisions.

give info to delinquent, match cases by congress

Financial Institution Data Match and Immunity from Liability

sunset

Current statutes allow us to match the names of parents who owe arrears with the names on accounts at financial institutions. This makes it much more difficult for delinquent parents to hide their assets, simplifies the search for funds in multi-state institutions, and allows the institutions to cooperate without fear of retaliatory lawsuits. Few banks would participate in the FIDM if this protection were repealed. Searching for hidden assets would require sweeps of all banks for each and every case. For many children our ability to collect support would be seriously compromised.

Income Withholding

okay

In direct response to federal requirements from PRWORA, the 1997 and 1998 acts have simplified the way a non-custodial pays child support through withholding, and shortened to 7 days the time between the request for withholding and the commencement of withholding by the employer. Within 2 days of receipt of withheld funds, CSED forwards the payment to the family. In out-of-state cases, we can request income withholding directly (without going through the other state's child support agency), often saving several months' delay. If these laws are allowed to sunset, it will be harder for CSED to collect monthly payments and arrearages; these collections may take months to implement, rather than immediately; and it will be easier for delinquent parents to avoid payment of their child support obligations by moving to another job before income withholding can be established.

Liens

okay

The subject legislation simplified the statute so that CSED or a parent may assert a lien when the obligor owes an arrearage under a support order being enforced by the agency. Also, Alaska cooperates with other jurisdictions by giving full faith and credit to liens arising by operation of law in other states, *if the person seeking to enforce the lien complies with this state's procedural requirements for recording and serving liens*. The simplified statutes, and the reciprocity with regard to liens, allow us to collect lawfully established support payments and arrearages that might otherwise be unreachable.

Wesley
Reforms

Miscellaneous

The subject statutes provide procedures and definitions relating to the following subjects, and bring Alaska into conformance with language in PRWORA.

- exchange information
- application for services
- payments to the agency
- audit of collections
- notice of public assistance
- order establishment
- service of papers
- regulations
- fees for services
- state registry information

1st class - let the court out on it allows you to

Does this create a surge?

Modification

The subject statutes require that parties be given periodic notice of their right to seek review of child support orders. They allow review of orders every three years and clarify CSED's authority to modify administrative orders where out of state court orders also exist. If allowed to sunset, all parties' rights to due process will be weakened because state agencies will no longer be required to have written regulations setting out procedures and standards governing the modification process.

actually already do it every 3 years

subject to WPTA

New Hire Reporting

Under the current law, all employers in the state are required to report to CSED new hires and rehires. This information helps CSED locate parents, and establish and enforce child support orders. New Hire reporting is currently responsible for about 12% of total child support collections. If the acts sunset, we will revert to a previous statute that only required employers to report new hires if notified by CSED, and which created a number of classes of exempt employers. Reversion to the old statute will increase to \$1000 the civil penalties that can be levied against employers for not reporting.

data match

Job reqs. need live reporting - report to state - now F.P.R. - all the small employers

all this subjects the fines \$10 WPTA 5-20

held very confidentially by CSED

Non-Cooperation

Current and previous laws require ATAP recipients to cooperate with child support proceedings. The 1997 act clarified who would make the determination of non-cooperation (CSED) and who would decide if the party had good cause for non-cooperation (DHHS). This clarification promotes cooperation in matters of paternity and child support, and protects parties who may have reasons for not cooperating, such as threats of domestic violence. These protections would be jeopardized by the sunset.

Can the employer be held responsible for amount due? Conf. requires

Nondisclosure of Information

The 1997 statute allows CSED to refuse to disclose the address or other identifying information of a parent or child if the health, safety, or liberty of that person would be unreasonably put at risk by such disclosure. Under the sunset, Alaska law will revert to a requirement to make such information available regardless of the risk if the obligor is current on child support obligations and has a previous visitation or joint custody agreement.

C.S. requires

Court administrative? stay okay

Wants to have a right person
Mother or Father may request genetic testing
Consider best interests of the child

Paternity

The 1997 and 1998 acts include detailed requirements for the form, use, and legal effect of voluntary acknowledgments of paternity, and for proceedings to establish paternity. Acknowledgement forms must include a statement setting out the legal consequences, rights, responsibilities and alternatives to signing the form and listing the restrictions to rescinding the acknowledgment. The acts also addressed a variety of substantive and procedural requirements for the establishment of paternity, including genetic testing, consideration of the best interests of the child, recovery of costs of testing, and allowing a putative father to request genetic testing. Reversion to previous law will diminish due process provisions and safety considerations, and will complicate the paternity determination process.

Seek Work Orders

Do for through the courts
+ Regis say through the court

In cases where support is owed a child who is receiving public assistance, the 1997 statute allows CSED to order an obligor to seek work, or to ask a court to order an obligor to seek work, unless the obligor enters into and complies with an approved payment plan. Without this statute, CSED would have to request a seek work order from the court in the context of a civil contempt proceeding.

Social Security Numbers

Sunset

no the application only

The 1997 and 1998 acts required applicants for state licenses, including professional, business, occupational, driver's, recreational and marriage licenses, to include their social security numbers. These numbers help CSED locate parents and collect child support, and reduce the number of cases of mistaken identity. (Requirements for social security numbers on hunting and fishing licenses have been waived and will be allowed to sunset even if the sunset repealer is passed.)

Subpoenas

Can Regis say this a...
by... however, procedures are to in place to

The current statutes establish procedures that give CSED the authority to subpoena financial or other information needed to establish, modify, or enforce a child support order. They require that subpoenas be served in person, or by registered, certified or insured mail. They allow a claim of good cause excusing compliance, provide a direct avenue of appeal of penalty decisions to the Superior court, and specify that CSED will enforce a subpoena from another state in the same manner. Repeal will restrict CSED's ability to obtain critical information, limiting the establishment, modification and enforcement of child support orders; and will diminish parties' due process rights with regard to administrative subpoenas.

UIFSA

The 1998 act revised the previous UIFSA statute to be clearer and more consistent. Without the changes, interstate cooperation in child support cases would be very difficult.

CSED WELFARE REFORM LEGISLATION "SUNSET" SUMMARY
Repealer 2001

NARRATIVE	STATE LAWS	FEDERAL LAWS	AMENDING SECTIONS
<p>Availability of Records/Access to Information * must be able to obtain access, without order from another tribunal, to: - gov't records, including vital statistics, state tax, property, occ. licensing, business entity, employment security, public assistance, DMV, corrections - customer records of public utilities & cable television per subpoena - financial institution information * to subpoena any financial information, and impose penalties for failure to respond * employer information upon request</p>	AS 06.05.537 AS 08.01.089 AS 09.25.100 AS 16.05.815 AS 18.50.310 AS 18.50.320 AS 22.35.020 AS 23.20.110 AS 25.24.920 AS 25.27.020(e) AS 25.27.085 AS 25.27.086 AS 25.27.250(e) AS 25.27.300 AS 28.05.061 AS 29.45.103 AS 33.30.216 AS 39.25.080 AS 40.17.010 AS 43.23.055 AS 47.05.020 AS 47.05.030	42 U.S.C. § 666(c)(1) PRWORA § 325	1997 Act: Secs. 2, 7, 10, 11, 19, 26, 33, 34, 47, 77, 83-85, 140 – 146 1998 Act: Secs. 10, 11, 26, 48
<p>Central Registry * requires the state to have a central case registry and an automated system for extracting and exchanging information with federal case registry, federal parent locator service, ATAP programs, and agencies of other states</p>	AS 25.24.920 AS 25.27.020(a)(13)	42 U.S.C. § 654A(e) & (f) PRWORA § 311	1997 Act: Secs. 47, 76
<p>Credit Bureau Reporting * must have procedures requiring CSED to report periodically to credit bureaus the names of non-custodial parents who owe arrears</p>	AS 25.27.273	42 U.S.C. § 666(a)(7) PRWORA § 367	1997 Act: Sec. 133

<p>Definitions * duty of support; earnings; support order; business day; employer; tribunal; arrearage</p>	<p>AS 25.27.900</p>	<p>42 U.S.C. § 653(p) and throughout PRWORA § 366 and throughout</p>	<p>1997 Act: Secs. 136 – 139 1998 Act: Secs. 49 – 50</p>
<p>Financial Institution Data Match * must be able to enter into agreements with financial institutions to do automated data exchanges and to attach assets located through that data match</p>	<p>AS 25.27.020(a)(2)(D) AS 25.27.250 AS 09.65.250</p>	<p>42 U.S.C. § 666(a)(17) PRWORA § 372</p>	<p>1997 Act: Secs. 13, 74</p>
<p>Fraudulent Transfers * must have the Uniform Fraudulent Conveyance Act, the Uniform Fraudulent Transfer Act, or a law specifying indicia of fraud creating prima facie case re transfer of property to avoid payment of support AND procedures by which state can seek to avoid transfer or obtain settlement in best interests of the child support creditor</p>	<p>AS 25.27.279 AS 09.25.060 AS 34.40 15 AAC 125.415</p>	<p>42 U.S.C. § 666(g) PRWORA § 364</p>	<p>1997 Act: Sec. 135</p>
<p>High Volume Automated Enforcement * have automated procedures to take actions upon request from another state</p>	<p>AS 25.27.022 AS 25.27.900</p>	<p>42 U.S.C. § 666(a)(14) PRWORA § 323 (with technical amendment)</p>	<p>1998 Act: Sec. 21, 22, 50</p>
<p>Immunity from Liability * financial institutions are not liable for disclosure of info to agency * employers are not liable for disclosure of info to agency or for good faith compliance with a withholding order</p>	<p>AS 09.65.250 AS 25.25.504 AS 25.25.250(h)</p>	<p>42 U.S.C. § 669A 42 U.S.C. § 666(b)(6)(A) 42 U.S.C. § 666(a)(17) PRWORA §§ 314, 353, 372</p>	<p>1997 Act: Secs. 13, 62</p>
<p>Income Withholding * revises existing withholding laws to incorporate various fed requirements, including 7 day employer deadline and no prior notice to obligor. Also, cleans up statutes relating to when and how CSED initiates income withholding when no immediate income withholding in order and when CSED may issue an order to withhold and deliver</p>	<p>AS 25.27.022(d) AS 25.27.062 AS 25.27.150 AS 25.27.250</p>	<p>42 U.S.C. § 666(b) 42 U.S.C. § 666(c)(1)(F) & (G) PRWORA § 314, 325</p>	<p>1997 Act: Secs. 80 – 82, 90 – 93, 128 – 130, 148(a) 1998 Act: Secs. 22, 23, 47</p>

License Suspension * "Best efforts" language added for occupational and drivers' licenses * recreational licenses	AS 25.27.244 AS 25.27.246 AS 09.50.020 AS 11.51.120 AS 12.55.139	42 U.S.C. 666(a)(16) PRWORA § 369	1997 Act: Secs. 106 – 127 1998 Act: Secs. 3 – 5 and 34 – 46
Liens * liens must arise by operation of law against non-custodial parent in arrears AND must give full faith & credit for liens arising in other states as long as other states meet Alaska's requirements	AS 25.27.230 AS 25.27.240	42 U.S.C. § 666(a)(4) PRWORA § 368	1997 Act: Secs. 104, 105 1998 Act: Sec. 31 – 33
Medical Support Orders * eliminates the requirement that the employer do business in Alaska before CSED sends a copy of medical support order to employer * requires the agency to send notice of medical support to new employer when obligor changes jobs	AS 25.27.063(b) AS 25.27.020(a)(9) AS 25.27.060 AS 21.36.095 Civil Rule 90.3(d)	42 U.S.C. § 666(a)(19) PRWORA § 382	1998 Act: Sec. 24
Miscellaneous * statute of limitations * interest rates * application for services * payments to the agency * audit of collections * certification of arrears * notice of public assistance * order establishment * service of papers	AS 09.10.040 AS 25.27.020(a)(6) AS 25.27.025 AS 25.27.100(a) AS 25.27.103 AS 25.27.105 AS 25.27.120(c) AS 25.27.160(b) AS 25.27.265	42 U.S.C. § 666(a)(2) 42 U.S.C. § 654A 42 U.S.C. § 654(4), (5) 42 U.S.C. § 666(c)(1) 42 U.S.C. § 654B(a)(1) PRWORA § 301 PRWORA § 311, 312 PRWORA § 325	1997 Act: Secs. 74 – 76, 78, 86 – 89, 94, 131 – 132 1998 Act: Secs. 2, 27
Modification * notice every 3 years of request for review; 3-year cycle for review upon request of parent or state agency, either per guidelines or based on COL or automated methods, without a material change in circumstances	AS 25.24.170(b) AS 25.27.190 AS 25.27.193	42 U.S.C. § 666(a)(10) PRWORA § 351	1997 Act: Secs. 44, 101 – 103
New Hire Reporting * must require employers to report hiring, rehiring, of each	AS 25.27.075	42 U.S.C. § 653A PRWORA § 313	1998 Act: Sec. 25

employee			
Non-Cooperation * good faith determinations when custodial parent fails to cooperate with CSED	AS 47.27.040(b)	42 U.S.C. § 654(29) PRWORA § 333	1997 Act: Sec. 147
Nondisclosure of Information * nondisclosure of information when there is a finding of domestic violence	AS 25.27.275	42 U.S.C. § 654(26) PRWORA § 303	1997 Act: Sec. 134
Paternity * state must have laws governing paternity establishment and voluntary acknowledgment of paternity which comply with detailed federal requirements. Please see summary for specifics.	AS 18.50.160 AS 18.50.165 AS 25.20.050 AS 25.20.055 AS 25.27.040(a) AS 25.27.165 AS 25.27.166 AS 25.27.167	42 U.S.C. § 666(a)(5) 42 U.S.C. § 666(c)(1) 42 U.S.C. § 652(a)(7) PRWORA § 325, 331	1997 Act: Secs. 20 – 22, 36 – 42, 79, 95 – 100 1998 Act: Secs. 12, 28 – 30
Seek Work Orders * agency must be able to obtain order requiring obligor to seek work	AS 25.27.020(d)	42 U.S.C. § 666(a)(15) PRWORA § 365	1997 Act: Sec. 77
Social Security Numbers * must require SSN's on license applications (professional, driver's, occupational, recreational, marriage), case files re divorce, support or paternity, death certificates	AS 06.20.020 AS 06.40.050 AS 08.01.060 AS 08.01.100 AS 08.08.137 AS 09.55.050 AS 14.20.027 AS 16.05.330 AS 16.05.346 AS 16.06.360 AS 16.05.450 AS 16.05.480 AS 18.50.230 AS 18.60.395 AS 18.65.410 AS 18.72.030 AS 21.06.255 AS 25.05.091	42 U.S.C. § 666(a)(13) PRWORA § 317	1997 Act: Secs. 3 – 6, 8, 9, 12, 14 – 18, 23 – 25, 27 – 32, 35, 41, 43, 45, 46 1998 Act: Secs. 6 – 9, 12, 14 – 17, 51 – 52

	AS 18.50.165 AS 18.50.280 AS 25.20.050(n) AS 25.24.160 AS 25.24.210 AS 25.24.230 AS 28.15.061		
Subpoenas * must be able to subpoena any financial or other information without approval of separate body, impose penalties for noncompliance, and enforce other states' subpoenas	AS 25.27.085 AS 25.27.086	42 U.S.C. § 666(a)(2) 42 U.S.C. § 666(c)(1) PRWORA § 325	1997 Act: Secs. 83 – 85 1998 Act: Sec. 26
Tax Dependents * court may not unconditionally grant noncustodial parent right to claim child as tax dependent unless parent meets federal requirements and does not owe more than four times the monthly support obligation at end of tax year.	AS 25.24.152 AS 25.24.232	None	1998 Act: Secs. 13, 18
UIFSA * state must adopt verbatim the revised version of UIFSA	AS 25.25.101 – 25.25.903	42 U.S.C. § 666(f) PRWORA § 321	1997 Act: Secs. 48 – 73 1998 Act: Secs. 19 – 20



DEPARTMENT OF HEALTH & HUMAN SERVICES

Administration for
Children and Families

2201 Sixth Avenue, Suite 600
Seattle, WA 98121-1827

Barbara Miklos, Director
Child Support Enforcement Division
550 West 7th, 4th Floor
Anchorage, AK 99501-3556

Dear Ms. Miklos:

This is in response to your request for clarification of:

- The consequences if a State fails to enact laws or otherwise conform to the requirements of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), Public Law 104-193, and
 - Nationwide information on state compliance with PRWORA.
1. In order for a State to receive Federal funding for the operation of its child support enforcement program, it must have an approved State IV-D plan which meets the requirements of section 454 of the Social Security Act (the Act). One of those requirements, specified at section 454(20)(A), is that the State must have in effect all of the laws required by section 466.

PRWORA made numerous changes to sections 454 and 466 of the Act. When a State fails to comply with all statutory requisites, its plan is subject to disapproval by the Office of Child Support Enforcement (OCSE). In accordance with sections 452(a)(3) and 455(a)(1)(A) of the Act, there would then be no authority to expend Federal funds under Title IV-D of the Act for the operation of the State's child support enforcement program.


Therefore, a determination that a State IV-D plan is disapproved will result in immediate suspension of all Federal payments for the State's child support enforcement program, and such payments will continue to be withheld until the State IV-D plan can be approved by OCSE. Alaska received approximately \$12.4 million in Title IV-D funding for the administration of its child support program in FY 1997, and over \$3.2 million in Title IV-D performance related child support incentives.

In addition, in order to be eligible for a block grant for Temporary Assistance to Needy Families (TANF), section 402(a)(2) of the Act requires a State to certify that it will operate a child support enforcement program under the State plan approved under part D. Therefore, TANF funding would also be jeopardized if the State failed to enact the required child support legislation on a timely basis. Alaska's Federal funding for IV-A for FY 1997 was approximately \$63 million.

2. Data on state compliance with PRWORA changes frequently. We are therefore unable to provide you with an accurate and up to date listing of which states have fully complied with its provisions. Most states have either passed legislation that has been found complete, or is under review. Alaska is in the category of states which did not pass enabling legislation in 1997, but which have expressed an intent to do so and are working with its Regional Office to develop such legislation. Only one state, Idaho, has failed to enact enabling legislation and has stated it is unwilling to do so. Attached is a "notice of intent" to disapprove Idaho's state plan, with the resulting loss of Federal funding. If proposed legislation is not enacted in Alaska, our office would begin the process of issuing a similar notice of intent to disapprove.

Please contact Michael Furtado at (206) 615-2552, ext. 3045 if you have any further questions.

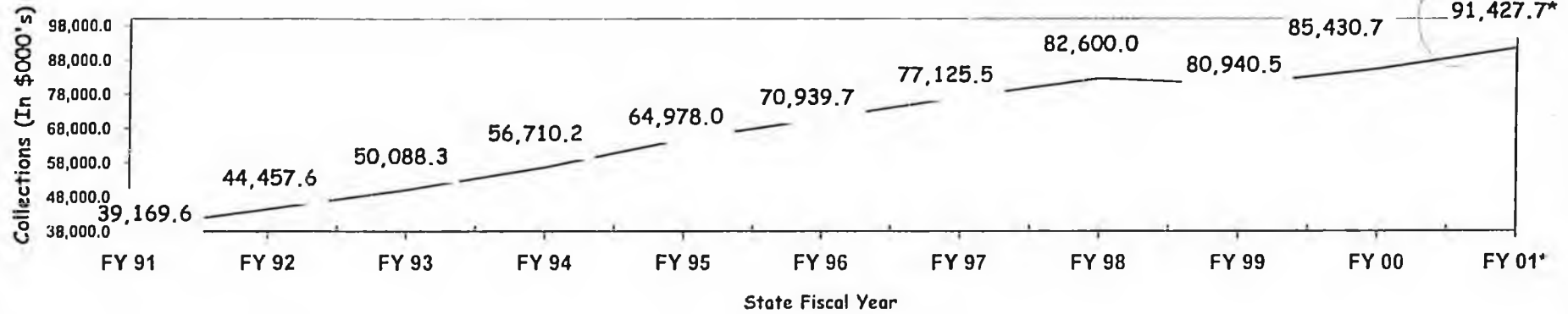
Sincerely,


Stephen S. Hennigson
Regional Administrator

Attachment: Idaho Notice of Intent to Disapprove

**CHILD SUPPORT ENFORCEMENT DIVISION
Annual Collections
FY 91 to 01**

*(FY 01 is Projected)



	Government	Family	Total
FY 91	12,946.6	26,223.0	39,169.6
FY 92	14,396.1	30,061.5	44,457.6
FY 93	15,565.1	34,523.2	50,088.3
FY 94	17,365.8	39,344.4	56,710.2
FY 95	20,532.4	44,445.6	64,978.0
FY 96	22,647.5	48,292.2	70,939.7
FY 97	24,760.7	52,364.8	77,125.5
FY 98	23,301.7	59,298.3	82,600.0
FY 99	20,733.1	60,207.4	80,940.5
FY 00	19,756.1	65,674.6	85,430.7
FY 01*	18,768.3	72,659.4	91,427.7

*Projected

ALASKA STATE LEGISLATURE

LEGISLATIVE BUDGET AND AUDIT COMMITTEE

Division of Legislative Audit



P.O. Box 113300
Juneau, AK 99811-3300
(907) 465-3830
FAX (907) 465-2347
Internet e-mail address:
legaudit@legis.state.ak.us

SUMMARY OF: A Special Report on the Department of Revenue, Child Support Enforcement Division, Selected Issues, November 28, 2000.

PURPOSE OF THE REPORT

In accordance with Title 24 of the Alaska Statutes and a special request by the Legislative Budget and Audit Committee, we conducted an audit of the Department of Revenue, Child Support Enforcement Division (CSED). Our objectives were to determine the merits of specific, performance-related allegations made against CSED. These allegations focused on agency activities in the areas of collections, administrative processes, and communications.

REPORT CONCLUSIONS

We found most of these allegations to be either unfounded or already fully addressed by CSED. We noted weaknesses in the areas of client communications, employee morale, and office culture.

Collections

- Correct support amounts collected.
- CSED assists other states with collections.
- A few support obligations remain overstated.
- Arrearages accrue without the parent's knowledge.
- CSED charges required interest on arrearages.
- CSED correctly calculates interest due.
- CSED seizes assets and suspends licenses, when appropriate.
- CSED now current on posting receipts.
- CSED disburses correct amounts.

Administrative Processes

- CSED not authorized to change legal custody or visitation rights.
- CSED modifies administrative support orders, when appropriate.
- CSED holds administrative hearings upon request.

Communications

- CSED does not fully respond to all client inquiries.
- Legal notices are being properly sent.
- Phone contact with CSED perceived as difficult.
- Computer generated correspondence accurately reflects the date prepared.
- Support orders are sent out in a timely manner.
- No evidence of unauthorized handwritten changes to court or CSED orders.
- Account addresses substantially correct.

FINDINGS AND RECOMMENDATIONS

1. The CSED director should pursue ways to improve the division's communications.

Overall, we found CSED's customer service to be satisfactory. However, based on our observations and those we obtained through surveys of program participants, there are several areas of client communication that could be improved. These include incoming telephone calls, form letters, responses to written inquiries, and documentation of client contact.

2. The CSED director should take steps to improve employee morale and the office culture.

We conducted a survey of all CSED employees. The results revealed a widespread morale problem. Employees commonly perceived problems specifically in hiring and promotion and generally in the way CSED is managed.

Management contends that it has made some improvements in these areas in the past year, after our surveys were conducted. Given this progress, management should arrange for updated surveys to determine what problems still exist and to allow it to plan further improvements. To be successful, these surveys need to be both independent and confidential. If requested, Legislative Audit will assist CSED in conducting employee and client surveys in 2001.

SB

37

Subject: SB 37

Date: Mon, 14 May 2001 21:16:07 -0800

From: "James Miller" <jdolphin@barrow.com>

To: <Senator_Lyda_Green@legis.state.ak.us>

I hope you got my letter-if not I am emailing a copy of it to you.....

I am writing to ask that you vote "No" on SB 37. I am a Family Nurse Practitioner student. I care a great deal about SB 37 because I will be working in this profession in Barrow, Alaska.

<?xml:namespace prefix = o ns = "urn:schemas-microsoft-com:office:office" />

In essence, this bill would allow competing physicians to meet and communicate in order to collectively negotiate with a health plan concerning any of the contract terms and conditions. This bill would also allow price fixing with the obvious result that costs would increase. This bill will allow physicians to use market power to disadvantage Nurse Practitioners. This bill will remove antitrust protections that nurse practitioners need to protect them from discriminatory practices undertaken by physicians and other employers to prevent nurse practitioners from being included as providers in health care delivery systems. This bill will not protect patients or reduce health care costs for patients. This bill will raise health care costs. This bill will block access to nurse practitioners as health care providers.

Advanced practice nurses make independent and collaborative health care decisions. In order to provide complete health care, nurse practitioners obtain medical histories and perform physical examinations, diagnose and treat acute health problems such as infections and injuries, diagnose, treat, and monitor chronic diseases such as diabetes and high blood pressure, order, perform, and interpret diagnostic studies such as lab work and x-rays, prescribe medications and other treatments, provide prenatal care and family planning services, provide well-child care, including screening and immunizations. Research studies since 1965 have documented that Nurse practitioners provide high quality care, cost-effective care, and care that results in a high level of patient satisfaction. Nurse Practitioners do more than direct patient care. Many nurse practitioners are also actively involved in education, research, and legislative activities to promote quality health care for all people in the United States.

Please feel free to contact me at 907-852-6240 (home) or 907-852-9260 (work) for further information regarding this problem. Thank you for your help with this very difficult matter.

Sincerely,

James E. Miller RN, FNP/MSN Student

PO Box 29

Barrow, Ak 99723

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1
Bill Version: SB 37
(S) Publish Date: 2/22/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Law
Title "An Act relating to collective negotiation by BRU Civil Division
physicians with health benefit plans; ..." Component Fair Business Practices
Sponsor Senator Pete Kelly
Requester Senate Judiciary Committee Component No. 2206

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 | FY 2007 |
|------------------------|--------------|--------------|--------------|--------------|--------------|------------|
| Personal Services | 199.8 | 199.8 | 199.8 | 199.8 | 199.8 | |
| Travel | 5.6 | 5.6 | 5.6 | 5.6 | 5.6 | |
| Contractual | 135.9 | 135.9 | 135.9 | 135.9 | 135.9 | |
| Supplies | 2.7 | 2.7 | 2.7 | 2.7 | 2.7 | |
| Equipment | 13.0 | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 357.0 | 344.0 | 344.0 | 344.0 | 344.0 | 0.0 |

| | | | | | | |
|----------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|----------------------|--|--|--|--|--|--|

| | | | | | | |
|------------------------|--|-------|-------|-------|-------|-----|
| CHANGE IN REVENUES () | | 344.0 | 344.0 | 344.0 | 344.0 | 0.0 |
|------------------------|--|-------|-------|-------|-------|-----|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|--------------|--------------|--------------|--------------|--------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 249.9 | | | | | |
| 1005 GF/Program Receipts | 107.1 | 344.0 | 344.0 | 344.0 | 344.0 | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type) | | | | | | |
| TOTAL | 357.0 | 344.0 | 344.0 | 344.0 | 344.0 | 0.0 |

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

| | | | | | | |
|-----------|---|---|---|---|---|--|
| Full-time | 2 | 2 | 2 | 2 | 2 | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: *(Attach a separate page if necessary)*

SB 37 provides a method for physicians to collectively negotiate certain terms and conditions of contracts with a health benefit plan. If an authorized third party negotiates with the health benefit plan, the subject matter of the negotiations must be reviewed and approved by the attorney general, who then receives various reports on the progress of the negotiations. Once a negotiated contract proposal is reached, it is to be reviewed and approved by the attorney general, using specific criteria, within thirty days. The bill provides that registration fees for authorized third parties will be established to approximately equal the regulatory costs for the attorney general's oversight of joint negotiations between physicians and health benefit plans. The bill further contains a sunset provision, repealing the new program on July 1, 2006.

If enacted, this legislation places substantial responsibilities on the attorney general to approve proposed negotiations, monitor reports of on-going negotiations, and to make a very fact intensive determination whether to approve or not approve a proposed negotiated contract

Prepared by: Joan M. Kasson Phone 465-5370
Division: Attorney General's Office Date/Time 1/22/01 8:59 AM
Approved by: Kathryn Daughhettee for Bruce M. Botelho, Attorney General Date 1/22/2001
Agency: Department of Law

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FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

BILL NO. SB 37 #1

ANALYSIS CONTINUATION

within a very short time frame. The economic and patient care detriment or benefit criteria the attorney general is directed to base approval or disapproval on will require significant analysis by expert health care economic assistance, as well as additional legal resources.

Under this bill, competing physicians within the service area of a health benefit plan can collectively negotiate certain defined terms and conditions of contracts with the health benefit plan. Negotiations can include fee and price related terms and conditions when the health benefit plan has a market share greater than 15 percent in the geographic service area of the negotiating physicians.

It is difficult to predict how many contracts and reports during a given year that the attorney general's office will have to review and approve. There are 2,050 licensed physicians currently in the State of Alaska, and we conservatively estimate more than 7,000 health benefit plans will be potentially subject to this bill. Given these numbers, we would anticipate the volume of collective negotiations under the bill to be significant enough that we will need additional resources to complete the required reviews and approvals.

The Department of Law anticipates a minimum of one new full-time equivalent attorney position and one full-time equivalent paraprofessional position will be needed to handle this new workload. Extensive regulation development will be necessary to implement the legislation by defining terms and setting forth the reporting requirements that authorized third parties will be required to submit in order to reduce, or preferably eliminate, investigation time during the 30 day review period. Once regulations are complete, these positions will perform the necessary investigation, review, and antitrust analyses on the collective bargaining reports submitted by the authorized third party, and represent the state when decisions of the attorney general are challenged.

Requests for approval of proposed negotiations and review of negotiated contracts by the attorney general are unlikely to be spread evenly throughout the course of a year. Instead, they may come at any time, and in any volume. Thus, we assume it will be more efficient to hire expert health care economic assistance by contract on an as needed basis. \$100,000 is included for outside expert costs (500 hours at an estimated average cost of \$200/hour).

In-house estimates are based on the department's FY 2002 standard full-time equivalent attorney and paraprofessional schedules, which include clerical support, communications, space, supplies, data processing, and other normal overhead expenses. (FTE attorney: \$141,776, FTE paraprofessional: \$92,230). Each position estimate also includes an additional \$6,500 for one-time equipment purchases and \$5,000 for direct case costs, costs that cannot be included in the rate as overhead.

The bill assumes fees for the registration of authorized third parties will be established to cover the cost of the program upon implementation. In the first year, it will take several months to establish the regulatory framework. During this time, no fees will be generated. General funds are necessary for the first year to implement the program, at which point, the fees will be set to cover all program costs. The Department of Law estimates, based on Texas' experience, that at least nine months will be required to get regulations in place. Accordingly, funds are split 70/30 general fund and general fund program receipts in FY 2002.

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: SB 37
(S) Publish Date: 2/22/01

Revision Date/Time (Note if correction): 1/19/2001 5:25pm Dept. Affected: DCED
Title: An act relating to collective negotiation by BRU: Insurance
physicians with health benefit plans Component: Insurance
Sponsor: Senator Pete Kelly
Requester: Senate Judiciary Component Number: 354

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 | FY 2007 |
|------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| Personal Services | 23.6 | 23.6 | 24.1 | 24.6 | 25.1 | 25.6 |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | 1.5 | 1.5 | 1.5 | 1.5 | 1.5 | 1.5 |
| Equipment | 5.0 | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 30.1 | 25.1 | 25.6 | 26.1 | 26.6 | 27.1 |

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| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

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|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|-------------|-------------|-------------|-------------|-------------|-------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | 30.1 | | | | | |
| 1005 GF/Program Receipts | | 25.1 | 25.6 | 26.1 | 26.6 | 27.1 |
| 1037 GF/Mental Health | | | | | | |
| 1156 RSS | | | | | | |
| TOTAL | 30.1 | 25.1 | 25.6 | 26.1 | 26.6 | 27.1 |

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

| | | | | | | |
|-----------|---|---|---|---|---|---|
| Full-time | 1 | 1 | 1 | 1 | 1 | 1 |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

A part-time administrative clerk III position is needed in order to gather and report the health benefit plan market share information required under Sec. 23.50.020 (e)(6), page 4, lines 12&13. This position would be responsible for developing and sending out surveys, requesting data from over 18,000 employers in the state and for performing reasonableness checks on the data submitted, entering the data into a spreadsheet, and developing the required market share reports. Since the Division of Insurance does not have regulatory authority over health benefit plans (employers), it is anticipated that employers will be reluctant to respond to the survey (about 30% response rate). Therefore, a significant amount of this employee's time is anticipated to be spent following up with employers who do not respond to the survey.

Prepared by: Robert A. Lohr Phone 907-269-7900
Division: Insurance Date/Time 1/19/2001 5:25:00pm
Approved by: Commissioner, Deborah B. Sedwick Date 1/19/2001
Agency: Dept. of Community & Economic Development

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FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: SB 37
(S) Publish Date: 2/22/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: An Act relating to collective negotiation by BRU: Centralized Administrative Services
physicians with health benefit... Component: Retirement and Benefits
Sponsor: Senator Pete Kelly
Requester: Senate Judiciary Component Number: 64

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 | FY 2007 |
|------------------------|---------|---------|---------|---------|---------|---------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | * | * | * | * | * | * |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|---|---|---|---|---|---|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type) | | | | | | |
| TOTAL | * | * | * | * | * | * |

Estimate of any current year (FY2001) cost: _____

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

The bill would compromise the State's ability to manage health care costs. Analyses of similar legislation at the federal level estimate health care increases of 5-13% when this type of legislation is enacted. That represents a potential increase to the State's plan of \$3.5 - 9.1 million.

The State's contribution as an employer is capped by collective bargaining agreements and in statute for non covered employees. Any increase in cost will be borne by the employee. Based upon FY 01 premiums, this could raise each employee's cost \$34 to \$88 per month.

Prepared by: Guy Bell, Director Phone 465-4471
Division: Retirement and Benefits Date/Time January 18, 2001
Approved by: Commissioner Jim Duncan Date January 19, 2001
Agency: Department of Administration

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: SB 37
 (S) Publish Date: 2/22/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Health and Social Services
 Title: Collective bargaining by physicians BRU: Medical Assistance
 Component: Medicaid Services
 Sponsor: Kelly
 Requester: Judiciary Component Number: 2077

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 | FY 2007 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

The Division of Medical Assistance assumes this bill will not impact the Medicaid and CAMA programs as the definition of health benefit plan in AS 21.54.500 does not include these public programs. Federal rules require Medicaid compensation to be sufficient to enlist enough providers so that services under the plan are available to the same extent as to the general public, however reimbursement rates for all services are also driven by appropriations. The Department of Health and Social Services supports exclusion of public programs from the physician negotiations provisions of this legislation.

Prepared by: Nancy Weller
 Division: Medical Assistance
 Approved by: Elmer A. Lindstrom, Special Assistant to the Commissioner
 Agency: Department of Health & Social Services

Phone 465-3355
 Date/Time 1/17/01 12:00 AM
 Date 1/23/01 3:44 PM

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 5
 Bill Version: CSSB 37 (FIN)
 (S) Publish Date: 3/29/01

Revision Date/Time (Note if correction): 3/28/2001 Dept. Affected: Administration
 Title: "An Act relating to collective negotiation by BRU: Centralized Admin Svcs.
physicians with health benefit... Component: Retirement & Benefits
 Sponsor: Senate Finance
 Requester: Senate Finance Committee Component Number: 64

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 | FY 2007 |
|------------------------|------------|------------|------------|------------|------------|------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | | | | | | |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

| | | | | | | |
|-----------------------------|--|--|--|--|--|--|
| CAPITAL EXPENDITURES | | | | | | |
|-----------------------------|--|--|--|--|--|--|

| | | | | | | |
|-------------------------------|--|--|--|--|--|--|
| CHANGE IN REVENUES () | | | | | | |
|-------------------------------|--|--|--|--|--|--|

FUND SOURCE (Thousands of Dollars)

| | | | | | | |
|--------------------------|------------|------------|------------|------------|------------|------------|
| 1002 Federal Receipts | | | | | | |
| 1003 GF Match | | | | | | |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type) | | | | | | |
| TOTAL | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 | 0.0 |

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

| | | | | | | |
|-----------|--|--|--|--|--|--|
| Full-time | | | | | | |
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)

This version of the bill will have no fiscal impact on the State's ability to manage health care costs.

Prepared by: SENATE FINANCE COMMITTEE Phone: 465-1881

Senator: SENATOR PETE KELLY, CO-CHAIR Date: 3/28/2001
SENATOR DAVE DONLEY, CO-CHAIR

Subject:**Date:** Sun, 18 Feb 2001 11:13:14 -0900**From:** "Roberta" <roberta1@gci.net>**To:** <Senator_Lyda_Green@legis.state.ak.us>

I am a student midwife and as such I am concerned about allowing physicians to unite together to negotiate contracts. This would effectively decrease the ability of advanced nurse practitioners to compete. Nurse-midwives, and advanced nurse practitioners are highly skilled in caring for people at the healthy end of the spectrum. People who utilize advanced nurse practitioners are generally very satisfied with their care and received much more one on one time with the care giver than generally given by a physician. Ideally, advanced nurse practitioners work independently, utilizing physicians as the next step in care when the client's problems are outside of their scope of care.

SB37
File Kelly
w/ [unclear]



Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

For Release: September 20, 2000

Related Documents:

Fairbanks, Alaska Physician's Group to Settle FTC Charges Price-Fixing and Concerted Refusals to Deal with Health Plans

File No. 991 0103
In the Matter of Alaska
Healthcare Network, Inc.

Agreement

Decision and Order

Complaint

Analysis

Separate Statement of
Commissioner Swindle
and Commissioner Leary

Alaska Healthcare Network (AHN), an association of 86 physicians who practice in the Fairbanks, Alaska area, has agreed to settle Federal Trade Commission charges that AHN and its members agreed to fix prices and other terms of dealing with health plans, and obstructed the entry of new health plans into Fairbanks. The result, the FTC said, was higher prices and fewer choices for patients of Fairbanks physicians. The proposed settlement would prohibit the illegal concerted actions alleged in the complaint, while allowing the respondent's members to engage in legitimate joint conduct. The settlement also includes a temporary structural remedy, which would limit for five years the proportion of Fairbanks physicians that can use AHN as a vehicle for contracting with health plans.

"AHN and its members engaged in a conspiracy to set prices and hamper the entry of managed care plans into the Fairbanks market, resulting in higher prices and limited choices for physician services," said Richard G. Parker, Director of the FTC's Bureau of Competition. "The proposed settlement is designed to prevent a repeat of such anticompetitive behavior by AHN."

Fairbanks is the second largest city in Alaska. AHN's members include over 60 per cent of the physicians in full-time, year-round private practice in Fairbanks, including almost half of the family and general practitioners, and from 70 to 100 per cent of the internists, pediatricians, obstetrician-gynecologists, and general surgeons.

The FTC's complaint alleges that AHN orchestrated agreements among its members to fix the prices they would accept from health plans, and operated de facto as its members' exclusive bargaining agent with payors. When AHN was formed in 1996, a wide range of health plans, including PPOs, HMOs, and government health care purchasing cooperatives, were seeking to contract with Fairbanks physicians. From early 1997 through 1998, AHN negotiated price and other contract terms on behalf of its physician members with at least seven third-party payors. According to the complaint, AHN devised a fee schedule based on members' current prices for use in negotiations with payors and engaged in protracted rate negotiations with payors on behalf of AHN members. With the exception of one payor, these negotiations ended with no resolution. In addition, AHN refused to transmit contract offers to its members unless negotiations were concluded to its satisfaction, and advised its members to deal with payors only through AHN in order to obtain better prices and other terms. The FTC complaint alleges that

and reporting requirements designed to assist the FTC in monitoring compliance with the terms of the order.

The Commission vote to accept the proposed settlement and place it on the public record for comment was 5-0, with Commissioners Orson Swindle and Thomas B. Leary issuing a separate statement. In their statement, the Commissioners opposed the "structural" remedy provision in Paragraph III of the proposed order, which imposes a "cap" on the number of Fairbanks physicians in each of five "relevant physician markets" who may participate in AHN. "Although we believe that limits on a physician group's market shares' in particular specialties can be appropriate fencing-in relief for the type of conduct involved in this case, we are not persuaded that this provision will operate in a rational and predictable way in a market as small as Fairbanks," the Commissioners wrote.

The statement said this concern was compounded by the first proviso to Paragraph III, which allows the respondent to "grandfather" in "any one pre-existing practice group" -- no matter how large. Citing examples of the markets where a significant proportion of participating practitioners would be "grandfathered," Swindle and Leary said, "We can certainly understand the desire to refrain from forcing the breakup of a presumably efficient practice group, but this proviso makes the percentage caps ineffective for those specialties. On the other hand, the order itself potentially inhibits the formation of similarly efficient practice groups in the specialties where the caps are effective."

The Commissioners concluded their statement by saying, "We hope that the public comment period on this consent agreement will yield some illuminating advice from the bar, the medical community, and the public at large, both with respect to the general appropriateness of structural measures in conduct' cases and with regard to whether such measures make sense in a thinly populated market such as Fairbanks."

An announcement regarding the proposed consent agreement will be published in the Federal Register shortly. The agreement will be subject to public comment until October 20, 2000, after which the Commission will decide whether to make it final. Comments should be addressed to the FTC, Office of the Secretary, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

NOTE: A consent agreement is for settlement purposes only and does not constitute an admission of a law violation. When the Commission issues a consent order on a final basis, it carries the force of law with respect to future actions. Each violation of such an order may result in a civil penalty of \$11,000 per day.

Copies of the complaint and proposed settlement, an analysis of the agreement to aid in public comment, and the statement by Commissioners Swindle and Leary, are available from the FTC's web site at <http://www.ftc.gov> and also from the FTC's Consumer Response Center, Room 130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580; toll-free: 877-FTC-HELP (877-382-4357); TDD for the hearing impaired 202-326-2502. To find out the latest news as it is announced, call the FTC NewsPhone recording at 202-326-2710.

MEDIA CONTACT:
Howard Shapiro

CORRECTION

THE FOLLOWING DOCUMENT(S)
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Department of Education & Early Development
State of Alaska

SB37

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Federal Trade Commission
600 Pennsylvania Avenue, NW
Washington, DC 20580

For Release: September 20, 2000

Fairbanks, Alaska Physician's Group to Settle FTC Charges Price-Fixing and Concerted Refusals to Deal with Health Plans

Alaska Healthcare Network (AHN), an association of 86 physicians who practice in the Fairbanks, Alaska area, has agreed to settle Federal Trade Commission charges that AHN and its members agreed to fix prices and other terms of dealing with health plans, and obstructed the entry of new health plans into Fairbanks. The result, the FTC said, was higher prices and fewer choices for patients of Fairbanks physicians. The proposed settlement would prohibit the illegal concerted actions alleged in the complaint, while allowing the respondent's members to engage in legitimate joint conduct. The settlement also includes a temporary structural remedy, which would limit for five years the proportion of Fairbanks physicians that can use AHN as a vehicle for contracting with health plans.

"AHN and its members engaged in a conspiracy to set prices and hamper the entry of managed care plans into the Fairbanks market, resulting in higher prices and limited choices for physician services," said Richard G. Parker, Director of the FTC's Bureau of Competition. "The proposed settlement is designed to prevent a repeat of such anticompetitive behavior by AHN."

Fairbanks is the second largest city in Alaska. AHN's members include over 60 per cent of the physicians in full-time, year-round private practice in Fairbanks, including almost half of the family and general practitioners, and from 70 to 100 per cent of the internists, pediatricians, obstetrician-gynecologists, and general surgeons.

The FTC's complaint alleges that AHN orchestrated agreements among its members to fix the prices they would accept from health plans, and operated de facto as its members' exclusive bargaining agent with payors. When AHN was formed in 1996, a wide range of health plans, including PPOs, HMOs, and government health care purchasing cooperatives, were seeking to contract with Fairbanks physicians. From early 1997 through 1998, AHN negotiated price and other contract terms on behalf of its physician members with at least seven third-party payors. According to the complaint, AHN devised a fee schedule based on members' current prices for use in negotiations with payors and engaged in protracted rate negotiations with payors on behalf of AHN members. With the exception of one payor, these negotiations ended with no resolution. In addition, AHN refused to transmit contract offers to its members unless negotiations were concluded to its satisfaction, and advised its members to deal with payors only through AHN in order to obtain better prices and other terms. The FTC complaint alleges that

Related Documents:

File No. 991 0103
In the Matter of Alaska Healthcare Network, Inc.

Agreement

Decision and Order

Complaint

Analysis

Separate Statement of Commissioner Swindle and Commissioner Leary

through these actions AHN succeeded in blocking the entry of several health plans into the Fairbanks area, and substantially delayed others.

The proposed settlement would prohibit the respondent from entering into any agreement: (1) to negotiate or refuse to deal with health plans; (2) to determine the terms upon which physicians deal with health plans; and (3) to restrict the ability of physicians to deal with any health plan, whether on an individual basis or through any other arrangement.

The proposed consent order would not prevent AHN from operating or participating in legitimate joint ventures. It may engage in conduct (including collectively determining reimbursement and other terms of contracts) that is reasonably necessary to operate any "qualified risk-sharing joint arrangement" or "qualified clinically-integrated joint arrangement," as defined in the 1996 FTC/DOJ Statements of Antitrust Enforcement Policy in Health Care.

In addition, Paragraph III of the proposed order imposes a structural remedy for a period of five years. If AHN operates a qualified risk-sharing or clinically-integrated joint arrangement, its participating physicians may constitute no more than 30 percent of Fairbanks physicians in the medical specialties of family practice and general internal medicine, obstetrics and/or gynecology, pediatrics, general surgery, and orthopedic surgery. The proposed order further provides that, when offering the services of its physicians through any other arrangement permitted by the order (e.g., if AHN acts as a "messenger" without facilitating agreements among its members on terms of dealing), AHN's participating physicians may constitute no more than 50 percent of Fairbanks physicians in those specialties.

The structural remedy is qualified to reflect practical considerations. Thus, AHN may include as a participating physician any single physician or any one pre-existing physician practice group, even if to do so means AHN exceeds the percentage limitations. In addition, AHN may exceed the percentage limitations where the excess results from certain changes in the marketplace beyond AHN's control, such as the exit of physicians from the market.

The Commission's analysis of the proposed order, issued along with the proposed settlement, explains that this time-limited structural remedy is warranted given the particular facts in this case, which indicate that there is a significant risk of continuing collusion among

AHN members that would not be addressed by an order limited to prohibiting certain specific conduct. For example, AHN purported to operate as a "messenger model", but actually acted as the collective bargaining agent of its members, orchestrating agreements on price and other terms. The five-year size limits are designed to protect consumers from continued coordination among AHN members on terms of dealing with health plans, without the need for more detailed Commission oversight of AHN activities.

The proposed settlement also contains a number of recordkeeping

and reporting requirements designed to assist the FTC in monitoring compliance with the terms of the order.

The Commission vote to accept the proposed settlement and place it on the public record for comment was 5-0, with Commissioners Orson Swindle and Thomas B. Leary issuing a separate statement. In their statement, the Commissioners opposed the "structural" remedy provision in Paragraph III of the proposed order, which imposes a "cap" on the number of Fairbanks physicians in each of five "relevant physician markets" who may participate in AHN. "Although we believe that limits on a physician group's market shares in particular specialties can be appropriate fencing-in relief for the type of conduct involved in this case, we are not persuaded that this provision will operate in a rational and predictable way in a market as small as Fairbanks," the Commissioners wrote.

The statement said this concern was compounded by the first proviso to Paragraph III, which allows the respondent to "grandfather" in "any one pre-existing practice group" -- no matter how large. Citing examples of the markets where a significant proportion of participating practitioners would be "grandfathered," Swindle and Leary said, "We can certainly understand the desire to refrain from forcing the breakup of a presumably efficient practice group, but this proviso makes the percentage caps ineffective for those specialties. On the other hand, the order itself potentially inhibits the formation of similarly efficient practice groups in the specialties where the caps are effective."

The Commissioners concluded their statement by saying, "We hope that the public comment period on this consent agreement will yield some illuminating advice from the bar, the medical community, and the public at large, both with respect to the general appropriateness of structural measures in conduct cases and with regard to whether such measures make sense in a thinly populated market such as Fairbanks."

An announcement regarding the proposed consent agreement will be published in the Federal Register shortly. The agreement will be subject to public comment until October 20, 2000, after which the Commission will decide whether to make it final. Comments should be addressed to the FTC, Office of the Secretary, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580.

NOTE: A consent agreement is for settlement purposes only and does not constitute an admission of a law violation. When the Commission issues a consent order on a final basis, it carries the force of law with respect to future actions. Each violation of such an order may result in a civil penalty of \$11,000 per day.

Copies of the complaint and proposed settlement, an analysis of the agreement to aid in public comment, and the statement by Commissioners Swindle and Leary, are available from the FTC's web site at <http://www.ftc.gov> and also from the FTC's Consumer Response Center, Room 130, 600 Pennsylvania Avenue, N.W., Washington, D.C. 20580; toll-free: 877-FTC-HELP (877-382-4357); TDD for the hearing impaired 202-326-2502. To find out the latest news as it is announced, call the FTC NewsPhone recording at 202-326-2710.

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(FTC File No.: 991 0103)
(<http://www.ftc.gov/opa/2000/09/alaskahealthnet.htm>)

Analysis of Agreement Containing Consent Order to Aid Public Comment

The Federal Trade Commission has accepted, subject to final approval, an agreement with the Alaska Healthcare Network, Inc. ("AHN") containing a proposed consent order. The agreement settles charges that AHN violated Section 5 of the Federal Trade Commission Act, 15 U.S.C. § 45, by facilitating or implementing agreements among its members to fix prices and other terms of dealing with payors, and to refuse to deal with payors except on collectively-determined terms. The proposed consent order has been placed on the public record for 30 days to receive comments from interested persons. Comments received during this period will become part of the public record. After 30 days, the Commission will review the agreement and the comments received, and will decide whether it should withdraw from the agreement or make the proposed order final.

The purpose of this analysis is to facilitate public comment on the proposed order. The analysis is not intended to constitute an official interpretation of the agreement and proposed order, or to modify in any way their terms. Further, the proposed consent order has been entered into for settlement purposes only and does not constitute an admission by AHN that it violated the law or that the facts alleged in the complaint (other than jurisdictional facts) are true.

The Complaint

The allegations in the Commission's proposed complaint are summarized below.

Respondent AHN is a non-profit corporation composed of more than 60 percent of the physicians with active medical staff privileges at Fairbanks Memorial Hospital (the only private general acute care hospital in the Fairbanks area). AHN's members include almost half of the family and general practitioners, and from 70 to 100 percent of the internists, pediatricians, obstetrician-gynecologists, and general surgeons in full-time, year-round private practice in Fairbanks.

AHN has served as a vehicle for its physician members to negotiate collectively with health plans. When AHN was formed, a wide range of health plans, including PPOs, HMOs, and government health care purchasing cooperatives, were seeking to contract with Fairbanks physicians. AHN members authorized AHN's Executive Director to bargain on their behalf over the terms and conditions under which individual physicians would deal with third-party payors. AHN emphasized to its members that - as a result of its size and its members' agreement to allow AHN to bargain on their behalf - AHN would be able to bargain from a position of strength and thus avert the competition among physicians that might otherwise be introduced into the Fairbanks area by managed care plans.

From early 1997 through 1998, AHN negotiated price and other contract terms on behalf of its physician members with at least seven third-party payors. It used fee information collected from its member physicians to develop a fee schedule to use in contract negotiations. AHN told its members that its fee schedule represented members' usual fees, and that the fee schedule would be used to obtain a favorable level of reimbursement for area physicians. AHN's Board of Directors and Contracting Committee also adopted a model contract that required payors to use AHN's fee schedule and to delegate their credentialing, utilization review, and formulary management to AHN rather than operating their own programs.

AHN purported to operate as a "messenger model," under which an agent conveys payors' contract offers to individual physicians, who each make an independent decision whether

to accept or reject each contract. In practice, however, AHN's Executive Director and Contracting Committee bargained with payors over payment and other terms, and refused to transmit contract offers to AHN members unless the payors agreed to AHN's terms.

AHN functioned de facto as the exclusive representative of its members. Through statements in its newsletters, documents, and other media, AHN repeatedly advised members to deal with payors only through AHN in order to obtain better prices and other terms. Some payors who were seeking to enter the Fairbanks area attempted unsuccessfully to contract with individual physicians instead of dealing with AHN: physicians told the payors that AHN handled contracting for them and for other Fairbanks physicians. Payors believed that they could not go around AHN to contract individually with physicians in Fairbanks, and thus that they had no alternative but to reach agreement with AHN or give up their planned entry into Fairbanks. In several instances, payors approached individual physicians in mass mailings, requests for proposals, or phone calls, and received no responses. This was completely unprecedented and contradicted by payors' favorable responses to RFPs in other markets, including Anchorage, Alaska, and demonstrated the unwillingness of AHN and its members to deal with an entire category of payors.

AHN reached agreement with one payor - NYLCare - in 1998, and transmitted a contract to individual AHN members for their approval. AHN's Executive Director told the members that the Contracting Committee had revised the NYLCare contract proposal in a way that was responsive to the common economic interest of all AHN members. AHN engaged six other third-party payors in protracted negotiations over price and non-price terms that often extended for more than a year with no resolution. AHN demanded that the payors use AHN's fee schedule and its model contract that required payors to delegate credentialing, quality assurance, and utilization review to AHN physicians. However, AHN had not implemented any utilization review, quality assurance, or credentialing systems, and it lacked the capacity to implement some or all of those services. AHN did not refer contract offers from any of these payors to its members. As a result of AHN's conduct, a wide range of third-party payors of physician services, including PPOs, HMOs, and employer health care purchasing cooperatives, were unable to secure physician contracts and thus were unable to do business in the Fairbanks area.

AHN did not engage in any activity that might justify collective agreements on the prices its members would accept for their services. Its actions have restrained price and other competition among physicians in the Fairbanks area and thereby harmed consumers (including third-party payors, subscribers, and their employers) by increasing the prices for physician services, delaying the development of alternative health care financing and delivery systems, and limiting competition among health plans.

The Proposed Consent Order

The proposed order is designed to prevent recurrence of the illegal concerted actions alleged in the complaint, while allowing AHN and its members to engage in legitimate joint conduct. The core prohibitions of the proposed order are contained in Paragraph II. Paragraph II.A prohibits AHN from entering into or facilitating any agreement: (1) to negotiate on behalf of any physicians with any payor or provider; (2) to deal or refuse to deal with any payor or provider; (3) regarding any term on which any physicians deal, or are willing to deal, with any payor or provider; or (4) to restrict the ability of any physician to deal with any payor or provider on an individual basis or through any other arrangement.

Paragraph II.B prohibits AHN from exchanging or facilitating the exchange of information among Fairbanks area physicians concerning: (1) negotiation with any payor or provider regarding reimbursement terms; or (2) any physician's intentions or decisions with respect to any dealings with any payor or provider. Paragraph II.C prohibits AHN

from encouraging, advising, or pressuring any person, other than the government, to engage in any action that would be prohibited if the person were subject to the order.

Paragraph II contains two provisos. The first proviso permits respondent to engage in conduct that is approved and supervised by the State of Alaska, so long as that conduct is exempt from liability under the federal antitrust laws under the state action doctrine. That doctrine protects private conduct that is both: (1) in accordance with a clearly articulated and affirmatively expressed state policy to supplant competition; and (2) actively supervised by the state itself. *See, e.g., FTC v. Ticor Title Insurance Co.*, 504 U.S. 621 (1992); *California Retail Liquor Dealers Ass'n v. Midcal Aluminum, Inc.*, 445 U.S. 97, 105 (1980).

The second proviso in Paragraph II allows AHN to engage in conduct (including collectively determining reimbursement and other terms of contracts) that is reasonably necessary to operate any "qualified risk-sharing joint arrangement" or "qualified clinically-integrated joint arrangement," provided respondent complies with the prior notification requirements set forth in Paragraph VI of the order. The prior notification mechanism will allow the Commission to evaluate a specific proposed arrangement and assess its likely competitive impact.

As defined in the order, a "qualified risk-sharing joint arrangement" must satisfy three conditions. First, all physician participants must share substantial financial risk through the arrangement. The definition of financial risk-sharing tracks the discussion of that term contained in the 1996 FTC/DOJ Statements of Antitrust Enforcement Policy in Health Care. Second, any agreement on prices or terms of reimbursement must be reasonably necessary to obtain significant efficiencies through the joint arrangement. Third, the arrangement must be non-exclusive - that is, it must not restrict the ability, or facilitate the refusal, of participating physicians to deal with payors individually or through any other network or venture.

A "qualified clinically-integrated joint arrangement" is one in which the physicians undertake cooperative activities to achieve efficiencies in the delivery of clinical services, without necessarily sharing substantial financial risk. This definition also reflects the analysis contained in the 1996 FTC/DOJ Statements of Antitrust Enforcement Policy in Health Care. Participating physicians must establish a high degree of interdependence and cooperation through their use of programs to evaluate and modify their clinical practice patterns, in order to control costs and assure the quality of physician services provided. In addition, the arrangement must be non-exclusive, and any agreement on prices or terms of reimbursement must be reasonably necessary to obtaining significant efficiencies through the arrangement.

The proposed order also imposes a structural remedy for a period of five years. Although the Commission has not routinely imposed structural relief on physician groups in previous cases, such relief is not unprecedented. *See, e.g., Home Oxygen and Medical Equipment Co.*, 118 F.T.C. 661 (1994) (pulmonologists prohibited for ten years from acquiring ownership interest in any entity that provides home oxygen delivery services if more than 25 percent of the pulmonologists in the area would be affiliated with the entity), and *Physicians Group, Inc.*, 120 F.T.C. 567 (1995) (physician organization ordered to dissolve). The Commission will continue to consider the option of structural remedies in these cases when necessary to achieve effective relief.

Paragraph III.A requires that if AHN operates a qualified risk-sharing or clinically-integrated joint arrangement, its participating physicians must constitute no more than 30 percent of Fairbanks physicians in any of the key medical specialties of family practice and general internal medicine, obstetrics and/or gynecology, pediatrics, general surgery, and orthopedic surgery. Paragraph III.B of the proposed order further requires that, when offering the services of its physicians through any other arrangement,

AHN's participating physicians constitute no more than 50 percent of Fairbanks physicians in any of those specialties. Paragraph III.B permits participation by a greater percentage of physicians because it is intended to apply to arrangements in which there is no agreement among AHN participating physicians on price or other competitively significant terms, including messenger model arrangements.

Paragraph III contains two provisos. The first proviso permits AHN to include as a participating physician any single physician or any one pre-existing physician practice group, without regard to the percentage limitations. The single physician exception allows AHN to exceed the percentage limitations in instances where there may be only a few physicians in a designated medical speciality; and the one pre-existing practice group exception allows AHN to exceed the percentage limitations where the alternative would be to require an integrated practice group to downsize. The second proviso permits AHN to exceed the percentage limitations to the extent that the excess arises from certain changes in the marketplace. As a result of these provisos, once AHN is operating in conformity with percentage limitations contained in the order, it will not be required to reduce its physician membership because of (1) the addition of a physician (who was not already in practice in Fairbanks) to a member practice group, or (2) a reduction in the total number of physicians in a particular specialty (and thus in the denominator used in calculating the percentage of physicians in a specialty who can be AHN members) as a result of physician exit from the market.

The structural relief in this case is necessary to prevent continuing tacit collusion among AHN members. Fairbanks is an isolated community with a relatively small number of physicians, a high proportion of whom are AHN members. According to the allegations of the complaint, these doctors have demonstrated an unwillingness to participate in health plans independently of AHN. In these circumstances, there is a significant risk of continuing tacit collusion among AHN members that cannot adequately be addressed by an order limited to prohibiting certain specified conduct (i.e., AHN members might be able to coordinate their refusals to deal with payors without engaging in overt acts of collusion). Moreover, since AHN purported to operate as a messenger model, but in fact actively negotiated price and nonprice terms on behalf of its physician members, an order limited to conduct remedies would have required detailed provisions governing AHN's future operation as a messenger. The structural relief, by contrast, will permit AHN, subject to the five-year size limits, to carry on its activities as it finds most effective without detailed oversight by the Commission, so long as the core prohibitions of Paragraph II are respected.

The structural relief contained in the order responds to the particular facts of this case, and is intended to interrupt the chain of effects flowing from the conduct alleged in the complaint and to permit time for new market structures and relationships to develop among Fairbanks physicians and between the physicians and health plans. The presence of this provision in the proposed order does not suggest that other physician networks whose membership exceeds the percentage limitations are likely to have anticompetitive effects. The provision is limited to five years in order to give AHN the greatest possible freedom to respond to changing market conditions thereafter, once the effects of the challenged conduct have dissipated.

The remaining provisions of the proposed order impose obligations on AHN with respect to distributing the order and complaint to its members and other specified persons and reporting information to the Commission. The order terminates twenty years after the date it issues.



Lakes Medical Clinic

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March 21, 2001

Senator Lyda Green
600 E Railroad Avenue
Wasilla AK 99654

Dear Lyda:

Thank you very much for your quick response to my concerns regarding Senate Bill 37. It is quite a threat to small business people involved in medicine, like myself.

I realize that the legislature is going to have to do something to generate income for the state as time progresses. Everyone I have spoken with seems to be much more accepting when a state sales tax is discussed as a possible remedy. A sales tax would be a fair across-the-board tax, as all people who participate in the economy of the state are affected. I am very bothered by the fact that many people who serve us in the legislature only want to tax those of us who are already taxed in the form of a federal income tax. Why not consider allowing all of the people in the state of Alaska to participate in the generation of income? I would support ~~an income tax~~, as many of my friends and colleagues would, when and if a tax is actually necessary. None of us are willing to support a state income tax and we would appreciate your support in this direction.

A sales tax

Thank you for your assistance in the matter of Dr. Layman. I have expressed to him that you have been in contact with Commissioner Godfrey. Dr. Layman is very much in favor of parental notification. A new regulation in this regard would be certainly a step in the right direction.

Again, thank you for all of your assistance.

Sincerely,

Ed Manning, II.

EM/afc

File SB37
Committee
Hon. J. J.

SB

38

(File 1)

FISCAL NOTE

STATE OF ALASKA
2001 LEGISLATIVE SESSION

Fiscal Note Number: 1 CORRECTED
 Bill Version: SB 38
 (S) Publish Date: 1/17/01

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
 Title: Relating to eligibility of certain women screened BRU: Medical Assistance Adm
to have breast and cervical cancer for Medicaid Component: Medicaid State Programs
 Sponsor: Rules
 Requester: _____ Component Number: 967

Expenditures/Revenues (Thousands of Dollars)

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

| OPERATING EXPENDITURES | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 | FY 2007 |
|------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Personal Services | | | | | | |
| Travel | | | | | | |
| Contractual | | | | | | |
| Supplies | | | | | | |
| Equipment | | | | | | |
| Land & Structures | | | | | | |
| Grants & Claims | 589.2 | 636.3 | 687.2 | 742.2 | 801.6 | 865.7 |
| Miscellaneous | | | | | | |
| TOTAL OPERATING | 589.2 | 636.3 | 687.2 | 742.2 | 801.6 | 865.7 |

CAPITAL EXPENDITURES

CHANGE IN REVENUES ()

FUND SOURCE (Thousands of Dollars)

| FUND SOURCE | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 | FY 2007 |
|--------------------------|--------------|--------------|--------------|--------------|--------------|--------------|
| 1002 Federal Receipts | 413.4 | 446.5 | 482.2 | 520.8 | 562.5 | 607.5 |
| 1003 GF Match | 175.8 | 189.8 | 205.0 | 221.4 | 239.1 | 258.2 |
| 1004 GF | | | | | | |
| 1005 GF/Program Receipts | | | | | | |
| 1037 GF/Mental Health | | | | | | |
| Other (Specify Type) | | | | | | |
| TOTAL | 589.2 | 636.3 | 687.2 | 742.2 | 801.6 | 865.7 |

Estimate of any current year (FY2001) cost: 0.0

POSITIONS

| Full-time | FY 2002 | FY 2003 | FY 2004 | FY 2005 | FY 2006 | FY 2007 |
|-----------|---------|---------|---------|---------|---------|---------|
| Part-time | | | | | | |
| Temporary | | | | | | |

ANALYSIS: (Attach a separate page if necessary)
 Legislation recently adopted by Congress creates a new Medicaid eligibility group for women diagnosed with cancer who were screened under the Breast and Cervical Cancer Detection Program funded through the Centers for Disease Control. Medicaid eligibility for these women lasts through treatment and includes all Medicaid covered services. The four grantees in Alaska diagnosed 39 women with breast cancer and 33 women with cervical cancer last year. Sixty-one percent of the breast cancer patients and eighteen percent of the cervical cancer patients were Alaska Native. Alaska Native women are not eligible for coverage under this option as they have creditable health insurance coverage as defined in the Public Health Service Act. Average Medicaid expenditures in FY 00 for women treated with these cancers were \$17,500 and \$12,100 respectively. Assumptions for this fiscal note were a federal match rate of 70.17 percent for FY02 (the State Children's Health Insurance match rate) and an eight percent growth rate for each succeeding year.

Prepared by: Nancy Weller, State Federal and Tribal Relations Phone 465-3355
 Division: Medical Assistance Date/Time 1/5/01 2:42 PM
 Approved by: Karen Hancock, Commissioner Date 1/8/01
 Agency: Department of Health and Social Services

For distribution information, call the Governor's Legislative Office

Public Law 106-354
106th Congress

An Act

To amend title XIX of the Social Security Act to provide medical assistance for certain women screened and found to have breast or cervical cancer under a federally funded screening program, to amend the Public Health Service Act and the Federal Food, Drug, and Cosmetic Act with respect to surveillance and information concerning the relationship between cervical cancer and the human papillomavirus (HPV), and for other purposes.

Oct. 24, 2000
[H.R. 4386]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Breast and Cervical Cancer Prevention and Treatment Act of 2000".

Breast Cancer
Prevention and
Treatment Act of
2000.
42 USC 1305
note.

SEC. 2. OPTIONAL MEDICAID COVERAGE OF CERTAIN BREAST OR CERVICAL CANCER PATIENTS.

(a) COVERAGE AS OPTIONAL CATEGORICALLY NEEDY GROUP.—

(1) IN GENERAL.—Section 1902(a)(10)(A)(ii) of the Social Security Act (42 U.S.C. 1396a(a)(10)(A)(ii)) is amended—

(A) in subclause (XVI), by striking "or" at the end;

(B) in subclause (XVII), by adding "or" at the end;

and

(C) by adding at the end the following:

"(XVIII) who are described in subsection (aa) (relating to certain breast or cervical cancer patients);".

(2) GROUP DESCRIBED.—Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended by adding at the end the following:

"(aa) Individuals described in this subsection are individuals

who—

"(1) are not described in subsection (a)(10)(A)(i);

"(2) have not attained age 65;

"(3) have been screened for breast and cervical cancer under the Centers for Disease Control and Prevention breast and cervical cancer early detection program established under title XV of the Public Health Service Act (42 U.S.C. 300k et seq.) in accordance with the requirements of section 1504 of that Act (42 U.S.C. 300n) and need treatment for breast or cervical cancer; and

"(4) are not otherwise covered under creditable coverage, as defined in section 2701(c) of the Public Health Service Act (42 U.S.C. 300gg(c))."

(3) **LIMITATION ON BENEFITS.**—Section 1902(a)(10) of the Social Security Act (42 U.S.C. 1396a(a)(10)) is amended in the matter following subparagraph (G)—

(A) by striking “and (XIII)” and inserting “(XIII)”; and

(B) by inserting “, and (XIV) the medical assistance made available to an individual described in subsection (aa) who is eligible for medical assistance only because of subparagraph (A)(10)(ii)(XVIII) shall be limited to medical assistance provided during the period in which such an individual requires treatment for breast or cervical cancer” before the semicolon.

(4) **CONFORMING AMENDMENTS.**—Section 1905(a) of the Social Security Act (42 U.S.C. 1396d(a)) is amended in the matter preceding paragraph (1)—

(A) in clause (xi), by striking “or” at the end;

(B) in clause (xii), by adding “or” at the end; and

(C) by inserting after clause (xii) the following:

“(xiii) individuals described in section 1902(aa),”.

(b) **PRESUMPTIVE ELIGIBILITY.**—

(1) **IN GENERAL.**—Title XIX of the Social Security Act (42 U.S.C. 1396 et seq.) is amended by inserting after section 1920A the following:

“PRESUMPTIVE ELIGIBILITY FOR CERTAIN BREAST OR CERVICAL
CANCER PATIENTS

42 USC
1396r-1b.

“SEC. 1920B. (a) **STATE OPTION.**—A State plan approved under section 1902 may provide for making medical assistance available to an individual described in section 1902(aa) (relating to certain breast or cervical cancer patients) during a presumptive eligibility period.

“(b) **DEFINITIONS.**—For purposes of this section:

“(1) **PRESUMPTIVE ELIGIBILITY PERIOD.**—The term ‘presumptive eligibility period’ means, with respect to an individual described in subsection (a), the period that—

“(A) begins with the date on which a qualified entity determines, on the basis of preliminary information, that the individual is described in section 1902(aa); and

“(B) ends with (and includes) the earlier of—

“(i) the day on which a determination is made with respect to the eligibility of such individual for services under the State plan; or

“(ii) in the case of such an individual who does not file an application by the last day of the month following the month during which the entity makes the determination referred to in subparagraph (A), such last day.

“(2) **QUALIFIED ENTITY.**—

“(A) **IN GENERAL.**—Subject to subparagraph (B), the term ‘qualified entity’ means any entity that—

“(i) is eligible for payments under a State plan approved under this title; and

“(ii) is determined by the State agency to be capable of making determinations of the type described in paragraph (1)(A).

“(B) REGULATIONS.—The Secretary may issue regulations further limiting those entities that may become qualified entities in order to prevent fraud and abuse and for other reasons.

“(C) RULE OF CONSTRUCTION.—Nothing in this paragraph shall be construed as preventing a State from limiting the classes of entities that may become qualified entities, consistent with any limitations imposed under subparagraph (B).

“(c) ADMINISTRATION.—

“(1) IN GENERAL.—The State agency shall provide qualified entities with—

“(A) such forms as are necessary for an application to be made by an individual described in subsection (a) for medical assistance under the State plan; and

“(B) information on how to assist such individuals in completing and filing such forms.

“(2) NOTIFICATION REQUIREMENTS.—A qualified entity that determines under subsection (b)(1)(A) that an individual described in subsection (a) is presumptively eligible for medical assistance under a State plan shall—

“(A) notify the State agency of the determination within 5 working days after the date on which determination is made; and

“(B) inform such individual at the time the determination is made that an application for medical assistance under the State plan is required to be made by not later than the last day of the month following the month during which the determination is made.

“(3) APPLICATION FOR MEDICAL ASSISTANCE.—In the case of an individual described in subsection (a) who is determined by a qualified entity to be presumptively eligible for medical assistance under a State plan, the individual shall apply for medical assistance under such plan by not later than the last day of the month following the month during which the determination is made.

“(d) PAYMENT.—Notwithstanding any other provision of this title, medical assistance that—

“(1) is furnished to an individual described in subsection (a)—

“(A) during a presumptive eligibility period;

“(B) by a entity that is eligible for payments under the State plan; and

“(2) is included in the care and services covered by the State plan,

shall be treated as medical assistance provided by such plan for purposes of clause (4) of the first sentence of section 1905(b).”.

(2) CONFORMING AMENDMENTS.—

(A) Section 1902(a)(47) of the Social Security Act (42 U.S.C. 1396a(a)(47)) is amended by inserting before the semicolon at the end the following: “and provide for making medical assistance available to individuals described in subsection (a) of section 1920B during a presumptive eligibility period in accordance with such section”.

(B) Section 1903(u)(1)(D)(v) of such Act (42 U.S.C. 1396b(u)(1)(D)(v)) is amended—

(i) by striking “or for” and inserting “, for”; and

(ii) by inserting before the period the following:
 “, or for medical assistance provided to an individual described in subsection (a) of section 1920B during a presumptive eligibility period under such section”.

(c) ENHANCED MATCH.—The first sentence of section 1905(b) of the Social Security Act (42 U.S.C. 1396d(b)) is amended—

(1) by striking “and” before “(3)”; and

(2) by inserting before the period at the end the following:
 “, and (4) the Federal medical assistance percentage shall be equal to the enhanced FMAP described in section 2105(b) with respect to medical assistance provided to individuals who are eligible for such assistance only on the basis of section 1902(a)(10)(A)(ii)(XVIII)”.

(d) EFFECTIVE DATE.—The amendments made by this section apply to medical assistance for items and services furnished on or after October 1, 2000, without regard to whether final regulations to carry out such amendments have been promulgated by such date.

Applicability.
 42 USC 1396a
 note.

Approved October 24, 2000.

LEGISLATIVE HISTORY—H.R. 4386 (S. 662):

SENATE REPORTS: No. 106-323 accompanying S. 662 (Comm. on Finance).

CONGRESSIONAL RECORD, Vol. 146 (2000):

May 9, considered and passed House.

Oct. 4, considered and passed Senate, amended, in lieu of S. 662.

Oct. 12, House concurred in Senate amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 36 (2000):

Oct. 24, Presidential statement.



Title 42. The Public Health and Welfare
Chapter 6a. The Public Health Service
Preventive Health Measures with Respect to Breast and Cervical Cancers
42 U.S.C. § 300k (1996)

§ 300k. Establishment of program of grants to States

(a) In general. The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to States on the basis of an established competitive review process for the purpose of carrying out programs--

- (1) to screen women for breast and cervical cancer as a preventive health measure;
- (2) to provide appropriate referrals for medical treatment of women screened pursuant to paragraph (1) and to ensure, to the extent practicable, the provision of appropriate follow-up services;
- (3) to develop and disseminate public information and education programs for the detection and control of breast and cervical cancer;
- (4) to improve the education, training, and skills of health professionals (including allied health professionals) in the detection and control of breast and cervical cancer;
- (5) to establish mechanisms through which the States can monitor the quality of screening procedures for breast and cervical cancer, including the interpretation of such procedures; and
- (6) to evaluate activities conducted under paragraphs (1) through (5) through appropriate surveillance or program-monitoring activities.

(b) Grant and contract authority of States.

(1) In general. A state receiving a grant under subsection (a) may, subject to paragraphs (2) and (3), expend the grant to carry out the purpose described in such subsection through grants to, and contracts with, public or nonprofit private entities.

(2) Limited authority regarding other entities. In addition to the authority established in paragraph (1) for a State with respect to grants and contracts, the State may provide for screenings under subsection (a)(1) through entering into contracts with private entities that are not nonprofit entities.

(3) Payments for screenings. The amount paid by a State to an entity under this subsection for a screening procedure under subsection (a)(1) may not exceed the amount that would be paid under part B of title XVIII of the Social Security Act [42 U.S.C. § 1395j et seq.] if payment were made under such part for furnishing the procedure to a woman enrolled under such part.

(c) Special consideration for certain States. In making grants under subsection (a) to States whose initial grants under such subsection are made for fiscal year 1995 or any subsequent fiscal year, the Secretary shall give special consideration to any State whose proposal for carrying out programs under such subsection--

- (1) has been approved through a process of peer review; and

- (2) is made with respect to geographic areas in which there is--
(A) a substantial rate of mortality from breast or cervical cancer; or
(B) a substantial incidence of either of such cancers.

[(d)](c) Coordinating committee regarding year 2000 health objectives. The Secretary, acting through the Director of the Centers for Disease Control and Prevention, shall establish a committee to coordinate the activities of the agencies of the Public Health Service (and other appropriate Federal agencies) that are carried out toward achieving the objectives established by the Secretary for reductions in the rate of mortality from breast and cervical cancer in the United States by the year 2000. Such committee shall be comprised of Federal officers or employees designated by the heads of the agencies involved to serve on the committee as representatives of the agencies, and such representatives from other public or private entities as the Secretary determines to be appropriate.

§ 300l. Requirement of matching funds

(a) In general. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees, with respect to the costs to be incurred by the State in carrying out the purpose described in such section, to make available non-Federal contributions (in cash or in kind under subsection (b)) toward such costs in an amount equal to not less than \$1 for each \$3 of Federal funds provided in the grant. Such contributions may be made directly or through donations from public or private entities.

(b) Determination of amount of non-Federal contribution.

(1) In general. Non-Federal contributions required in subsection (a) may be in cash or in kind, fairly evaluated, including equipment or services (and excluding indirect or overhead costs). Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(2) Maintenance of effort. In making a determination of the amount of non-Federal contributions for purposes of subsection (a), the Secretary may include only non-Federal contributions in excess of the average amount of non-Federal contributions made by the State involved toward the purpose described in section 1501 [42 U.S.C. § 300k] for the 2-year period preceding the first fiscal year for which the State is applying to receive a grant under such section.

(3) Inclusion of relevant non-Federal contributions for Medicaid. In making a determination of the amount of non-Federal contributions for purposes of subsection (a), the Secretary shall, subject to paragraphs (1) and (2) of this subsection, include any non-Federal amounts expended pursuant to title XIX of the Social Security Act [42 U.S.C. § 1396 et seq.] by the State involved toward the purpose described in paragraphs (1) and (2) of section 1501(a) [42 U.S.C. § 300k(a)].

§ 300l-1. Requirement regarding Medicaid

The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] for a program in a State unless the State plan under title XIX of the Social Security Act [42 U.S.C. § 1396 et seq.] for the State includes the screening procedures specified in subparagraphs (A) and (B) of section 1503(a)(2) [42 U.S.C. § 300m(a)(2)(A), (B)] as medical assistance provided under the plan.

§ 300m. Requirements with respect to type and quality of services

(a) Requirement of provision of all services by date certain. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees--

(1) to ensure that, initially and throughout the period during which amounts are received pursuant to the grant, not less than 60 percent of the grant is expended to provide each of the services or activities described in paragraphs (1) and (2) of section 1501(a) [42 U.S.C. § 300k(a)], including making available screening procedures for both breast and cervical cancers;

(2) subject to subsection (b), to ensure that--

(A) in the case of breast cancer, both a physical examination of the breasts and the screening procedure known as a mammography are conducted; and

(B) in the case of cervical cancer, both a pelvic examination and the screening procedure known as a pap smear are conducted;

(3) to ensure that, by the end of any second fiscal year of payments pursuant to the grant, each of the services or activities described in section 1501(a) [42 U.S.C. § 300k(a)] is provided; and

(4) to ensure that not more than 40 percent of the grant is expended to provide the services or activities described in paragraphs (3) through (6) of such section.

(b) Use of improved screening procedures. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that, if any screening procedure superior to a procedure described in subsection (a)(2) becomes commonly available and is recommended for use, any entity providing screening procedures pursuant to the grant will utilize the superior procedure rather than the procedure described in such subsection.

(c) Quality assurance regarding screening procedures. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that the State will, in accordance with applicable law, assure the quality of screening procedures conducted pursuant to such section.

§ 300n. Additional required agreements

(a) Priority for low-income women. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that low-income women will be given priority in the provision of services and activities pursuant to paragraphs (1) and (2) of section 1501(a) [42 U.S.C. § 300k(a)].

(b) Limitation on imposition of fees for services. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that, if a charge is imposed for the provision of services or activities under the grant, such charge--

(1) will be made according to a schedule of charges that is made available to the public;

(2) will be adjusted to reflect the income of the woman involved; and

(3) will not be imposed on any woman with an income of less than 100 percent of the official poverty line, as established by the Director of the Office of Management and Budget and revised by the Secretary in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981 [42 U.S.C. § 9902(2)].

(c) Statewide provision of services.

(1) In general. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that services and activities under the grant will be made available throughout the State, including availability to members of any Indian tribe or tribal organization (as such terms are defined in section 4 of the Indian Self-Determination and Education Assistance Act [25 U.S.C. § 450b]).

(2) Waiver. The Secretary may waive the requirement established in paragraph (1) for a State if the Secretary determines that compliance by the State with the requirement would result in an inefficient allocation of resources with respect to carrying out the purpose described in section 1501(a) [42 U.S.C. § 300k(a)].

(3) Grants to tribes and tribal organizations.

(A) The Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to tribes and tribal organizations (as such terms are used in paragraph (1)) for the purpose of carrying out programs described in section 1501(a) [42 U.S.C. § 300k(a)]. This title applies to such a grant (in relation to the jurisdiction of the tribe or organization) to the same extent and in the same manner as such title applies to a grant to a State under section 1501 [42 U.S.C. § 300k] (in relation to the jurisdiction of the State).

(B) If a tribe or tribal organization is receiving a grant under subparagraph (A) and the State in which the tribe or organization is located is receiving a grant under section 1501 [42 U.S.C. § 300k], the requirement established in paragraph (1) for the State regarding the tribe or organization is deemed to have been waived under paragraph (2).

(d) Relationship to items and services under other programs. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that the grant will not be expended to make payment for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to such item or service--

(1) under any State compensation program, under an insurance policy, or under any Federal or State health benefits program; or

(2) by an entity that provides health services on a prepaid basis.

(e) Coordination with other breast and cervical cancer programs. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that the services and activities funded through the grant shall be coordinated with other Federal, State, and local breast and cervical cancer programs.

(f) Limitation on administrative expenses. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that not more than 10 percent of the grant will be expended for administrative expenses with respect to the grant.

(g) Restrictions on use of grant. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that the grant will not be expended to provide inpatient hospital services for any individual.

(h) Records and audits. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees that--

(1) the State will establish such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursement of, and accounting for, amounts received by the State under such section; and

(2) upon request, the State will provide records maintained pursuant to paragraph (1) to the Secretary or the Comptroller of the United States for purposes of auditing the expenditures by the State of the grant.

(i) Reports to Secretary. The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless the State involved agrees to submit to the Secretary such reports as the Secretary may require with respect to the grant.

§ 300n-1. Description of intended uses of grant

The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless--

(1) the State involved submits to the Secretary a description of the purposes for which the State intends to expend the grant;

(2) the description identifies the populations, areas, and localities in the State with a need for the services or activities described in section 1501(a) [42 U.S.C. § 300k(a)];

(3) the description provides information relating to the services and activities to be provided, including a description of the manner in which the services and activities will be coordinated with any similar services or activities of public and nonprofit private entities; and

(4) the description provides assurances that the grant funds will be used in the most cost-effective manner.

§ 300n-2. Requirement of submission of application

The Secretary may not make a grant under section 1501 [42 U.S.C. § 300k] unless an application for the grant is submitted to the Secretary, the application contains the description of intended

uses required in section 1505 [42 U.S.C. § 300n-1], and the application is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this title [42 U.S.C. § 300k et seq.].

§ 300n-3. Technical assistance and provision of supplies and services in lieu of grant funds

(a) Technical assistance. The Secretary may provide training and technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to section 1501 [42 U.S.C. § 300k]. The Secretary may provide such technical assistance directly or through grants to, or contracts with, public and private entities.

(b) Provision of supplies and services in lieu of grant funds.

(1) In general. Upon the request of a State receiving a grant under section 1501 [42 U.S.C. § 300k], the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out such section and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

(2) Corresponding reduction in payments. With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the grant under section 1501 [42 U.S.C. § 300k] to the State involved by an amount equal to the costs of detailing personnel (including pay, allowances, and travel expenses) and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

§ 300n-4. Evaluations and reports

(a) Evaluations. The Secretary shall, directly or through contracts with public private entities, provide for annual evaluations of programs carried out pursuant to section 1501 [42 U.S.C. § 300k]. Such evaluations shall include evaluations of the extent to which States carrying out such programs are in compliance with section 1501(a)(2) [42 U.S.C. § 300k(a)(2)] and with section 1504(c) [42 U.S.C. § 300n(c)].

(b) Report to Congress. The Secretary shall, not later than 1 year after the date on which amounts are first appropriated pursuant to section 1509(a) [42 U.S.C. § 300n-5(a)], and annually thereafter, submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report summarizing evaluations carried out pursuant to subsection (a) during the preceding fiscal year and making such recommendations for administrative and legislative initiatives with respect to this title [42 U.S.C. § 300k et seq.] as the Secretary determines to be appropriate, including recommendations regarding compliance by the States with section 1501(a)(2) [42 U.S.C. § 300k(a)(2)] and with section 1504(c) [42 U.S.C. § 300n(c)].

§ 300n-4a. Supplemental grants for additional preventive health services

(a) Demonstration projects. In the case of States receiving grants under section 1501 [42 U.S.C. § 300k], the Secretary, acting through the Director of the Centers for Disease Control and Prevention, may make grants to not more than 3 such States to carry out demonstration projects for the purpose of--

(1) providing preventive health services in addition to the services authorized in such section, including screenings regarding blood pressure and cholesterol, and including health education;

(2) providing appropriate referrals for medical treatment of women receiving services pursuant to paragraph (1) and ensuring, to the extent practicable, the provision of appropriate follow-up services; and

(3) evaluating activities conducted under paragraphs (1) and (2) through appropriate surveillance or program-monitoring activities.

(b) Status as participant in program regarding breast and cervical cancer. The Secretary may not make a grant under subsection (a) unless the State involved agrees that services under the grant will be provided only through entities that are screening women for breast or cervical cancer pursuant to a grant under section 1501 [42 U.S.C. § 300k].

(c) Applicability of provisions of general program. This title [42 U.S.C. § 300k et seq.] applies to a grant under subsection (a) to the same extent and in the same manner as such title applies to a grant under section 1501 [42 U.S.C. § 300k].

(d) Funding.

(1) In general. Subject to paragraph (2), for the purpose of carrying out this section, there are authorized to be appropriated \$ 3,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.

(2) Limitation regarding funding with respect to breast and cervical cancer. The authorization of appropriations established in paragraph (1) is not effective for a fiscal year unless the amount appropriated under section 1510(a) [42 U.S.C. § 300n-5(a)] for the fiscal year is equal to or greater than \$ 100,000,000.

§ 300n-5. Funding for general program

(a) Authorization of appropriations. For the purpose of carrying out this title [42 U.S.C. § 300k et seq.], there are authorized to be appropriated \$ 50,000,000 for fiscal year 1991, such sums as may be necessary for each of the fiscal years 1992 and 1993, \$ 150,000,000 for fiscal year 1994, and such sums as may be necessary for each of the fiscal years 1995 through 1998.

(b) Set-aside for technical assistance and provision of supplies and services. Of the amounts appropriated under subsection (a) for a fiscal year, the Secretary shall reserve not more than 20 percent for carrying out section 1507 [42 U.S.C. § 300n-3].



Health Care Financing Administration

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January 4, 2001

Dear State Health Official:

The Breast and Cervical Cancer Prevention and Treatment Act of 2000 (BCCPTA - the , (Public Law 106-354) amends Title XIX of the Social Security Act to give States enhanced matching funds to provide Medicaid eligibility to a new group of individuals previously eligible under the program. The new option allows states to provide full Medicaid benefits to uninsured women under age 65 who are identified through the Centers for Disease Control and Prevention's (CDC) National Breast and Cervical Cancer Early Detection Program (NBCCEDP) and are in need of treatment for breast or cervical cancer, including pre-cancerous conditions and early stage cancer. The Act also allows states to extend presumptive eligibility to applicants in order to ensure that needed treatment begins as early as possible. The Act has an effective date of October 1, 2000.

The Health Care Financing Administration (HCFA) and CDC are committed to facilitating states' efforts to improve access to needed breast and cervical cancer treatment for uninsured women identified under the NBCCEDP as needing such treatment. This letter is a first step in support of that commitment. It provides a brief overview of CDC's NBCCEDP program and outlines the basic provisions of the new Medicaid coverage option.

Overview of CDC's National Breast and Cervical Cancer Early Detection Program (CDC Program)

During 2001, almost 50,000 women are expected to die from breast or cervical cancer in the United States despite the fact that earlier detection and treatment of these diseases could substantially decrease this mortality. Many of these deaths, which will occur disproportionately among women of racial and ethnic minority and low-income groups could be avoided by making cancer screening services available to all women at risk. Recognizing the value of screening and early detection, Congress passed the Breast and Cervical Cancer Mortality Prevention Act of 1990. This Act established the NBCCEDP, which authorizes CDC to promote breast and cervical cancer screening and to pay for screening services for eligible women.

The NBCCEDP operates in all 50 states, the District of Columbia, 6 U.S. Territories, and American Indian/Alaska Native organizations. Through cooperative agreements with state and territorial Health Departments, the District of Columbia Health Department, and American Indian/Alaskan Native Health Agencies, CDC's NBCCEDP builds the infrastructure for breast and cervical cancer early detection by supporting public and provider education, quality assurance, surveillance, and evaluation activities critical to achieving maximum utilization of the Program's screening, diagnostic and case management services.

Screening services provided by the NBCCEDP include clinical breast examinations, mammograms, pelvic examinations, and Papanicolaou (Pap) tests. Screening services include diagnostic services, such as surgical consultation and biopsy to ensure that all women with abnormal screening results receive timely and adequate diagnostic evaluation and treatment referrals. The law does not, however, allow CDC to pay for treatment services for women who are diagnosed with breast or cervical cancer.

As a condition of participation in the CDC program, 42 U.S.C.300n(a) requires states to agree that low-income women will be given priority in the provision of services. Over the past 10 years, the NBCCEDP has provided more than 2 million screening exams to underserved women, including older women, women with low incomes, and women of racial and ethnic minority groups. The program has diagnosed more than 8,600 breast cancers, over 39,000 pre-cancerous cervical lesions, and 660 cervical cancers. The overall goal of the NBCCEDP is to reduce mortality from breast and cervical cancers, and the success of this effort hinges on the identification and treatment of pre-cancerous conditions and early stage cancers.

Medicaid Program Requirements

It is difficult for many uninsured women who are screened and diagnosed through the program to obtain timely access to treatment services. The BCCPTA allows States to provide coverage to these women under Medicaid. The following outlines the basic rule regarding the new eligibility option.

Eligibility. The BCCPTA adds a new optional categorically needy eligibility group (Sec. 1902(a)(10)(A)(ii)(XVIII)), which is comprised of individuals described in §1902(aa)). In order to qualify under this new optional category, the Act requires that a woman will need to meet the following eligibility requirements:

1. The woman must have been screened for breast or cervical cancer under the CDC Breast and Cervical Cancer Early Detection Program established under Title XV of the Public Health Service (PHS) Act, and found to need treatment for either breast or cervical cancer; and
2. She must be uninsured, that is, she must not otherwise have creditable coverage (including current enrollment in Medicaid), as the term is used under the Health Insurance Portability and Accountability Act (HIPAA) (§2701(c) of the PHS Act (42 U.S.C. 300gg(c)), and she must not be eligible under any of the mandatory Medicaid eligibility groups. There is no requirement that there be a waiting period of prior uninsurance before a woman who has been screened under the CDC program can become eligible for Medicaid under this new option; and
3. She must be under age 65.

Breast and cervical cancer treatment programs have varied from state to state. Some states have run programs separate from Title XV and may wish to combine those programs with Title XV. It is anticipated that variations among states will continue and programs will continue to evolve.

We have been advised by CDC that a woman has been "screened under the program" if she comes under any of the following three categories:

1. CDC Title XV funds paid for all or part of the costs of her screening services.
2. The woman is screened under a state Breast and Cervical Cancer Early Detection Program in which her particular clinical service has not been paid for by CDC Title XV funds, but the service was rendered by a provider and/or an entity funded at least in part by CDC Title XV funds; the service was within the scope of a grant, sub-grant or contract under that State program; and the State CDC Title XV grantee has elected to include such screening activities by that provider as screening activities pursuant to CDC Title XV.
3. The woman is screened by any other provider and/or entity and the state CDC Title XV grantee has elected to include screening activities by that provider as screening activities pursuant to CDC Title XV. For example, if a family planning or community health center provides breast or cervical cancer screening or diagnostic services, the state would have the option of including the provider's screening activities as part of the CDC Title XV program.

overall CDC Title XV activities.

As long as the screening was performed by a provider under the state's Breast and Cervical Cancer Early Detection Program as defined above, the woman meets the Medicaid eligibility requirement. The programs operating in states under the CDC program will be able to provide Medicaid agencies with verification that the woman was screened under the CDC program.

In the context of BCCPTA, a woman is considered to "need treatment" if, in the opinion of the individual's treating health professional (i.e., the individual who conducts the screen or any other health professional with whom the individual consults), the screen (and diagnostic evaluation following the clinical screening) indicates that the woman is in need of treatment services. These services include diagnostic services that may be necessary to determine the extent and proper course of treatment, as well as treatment itself.

In addition to meeting these criteria, the woman will also need to meet any other general coverage requirements applicable to Medicaid beneficiaries (e.g., state residency and citizenship or immigration status). There are no Medicaid income or resource limitations imposed by federal law for this new Medicaid eligibility group, and no authority for states to impose such limitations.

Eligibility Period. As with other mandatory and optional eligibility categories, under §1902(a)(34) of the Act, a woman's eligibility for coverage under this new option begins up to three months prior to the month in which she applied for Medicaid, if as of this earlier date, she would have met relevant program requirements as described in the eligibility section of this letter. Her eligibility for coverage ends when her course of treatment is completed, or the state has determined that she no longer meets the criteria for this eligibility category (for example, because she has attained age 65 or has creditable coverage) and has determined in accordance with 42 C.F.R. §435.916 that she does not remain eligible for Medicaid under an alternate eligibility category.

A woman is not limited to one period of eligibility. A new period of eligibility and coverage would commence each time a woman who has been screened under the CDC program is found to need treatment of breast or cervical cancer, and meets other eligibility criteria.

Coverage. A woman whose eligibility is based on this new option is entitled to full Medicaid coverage; coverage is not limited to coverage for treatment of breast and cervical cancer.

As is the case with Medicaid coverage in general, states may use administrative methods such as prior review and approval requirements, to ensure that services furnished to women under this new option are medically necessary. Services furnished under this new option should be, to the maximum extent possible, consistent with optimal standards of medical practice. Such practice guidelines are located at the National Guideline Clearinghouse, Agency for Health Care Research and Quality: <http://www.ahrq.gov>. With respect to experimental treatments, States may cover experimental treatments although they are not required to do so. Furthermore, routine covered costs associated with the experimental intervention may be covered.

Presumptive Eligibility. Presumptive eligibility is a Medicaid option that allows states to enroll Medicaid applicants for a limited period of time before full Medicaid applications are filed and processed, based on a determination by a Medicaid provider of likely Medicaid eligibility. States have the option to use the presumptive eligibility procedure to facilitate the prompt enrollment and immediate access to services for women who are in need of treatment for breast or cervical cancer.

Under this option, states can certify entities that are eligible for payment under a state Medicaid program that the state determines are capable of making presumptive eligibility determinations. A certified entity can enroll women who appear to be eligible in Medicaid on a temporary basis.

Presumptive eligibility begins on the date that a qualified entity determines that the woman appears to meet the eligibility criteria described above. Presumptive eligibility ends on the earlier of the following two dates: the date on which a formal determination is made on the woman's application for Medicaid; or, in the case of a woman who fails to apply for Medicaid following the presumptive eligibility determination, the last day of the month following the month in which presumptive eligibility begins. Federal financial participation is allowed for services provided during this presumptive eligibility period regardless of whether or not the woman applies for Medicaid or is later found eligible for Medicaid.

Citizenship and Alienage. The usual rules which govern citizenship and alienage apply to the new optional Medicaid eligibility group. In general, to be eligible for Medicaid an individual must either be a citizen or a qualified alien. (See the web site at <http://aspe.hss.gov/hsp/immigration/restrictions-sum.htm> for a definition of "qualified alien" and a discussion of the restrictions on immigrants receiving federal public benefits including Medicaid, and for a list of exceptions to these restrictions.) Most states have elected to provide Medicaid to qualified aliens. However, many qualified aliens who are in the United States after August 21, 1996 are barred from receiving Medicaid for 5 years beginning with their date of entry with a qualified alien status. The 5 year bar does not apply to certain refugees, asylees, and certain other groups. Otherwise eligible qualified aliens who are subject to the 5 year ban as well as otherwise eligible non-qualified aliens may receive Medicaid coverage for treatment of an emergency medical condition but not including organ transplants and transplant-related services.

Women who do not meet the immigration-related eligibility criteria may still be able to receive Medicaid coverage related to an "emergency condition", other than services related to an organ transplant. Section 1903(v) of the Act permits states to obtain Federal match for services related to an "emergency medical condition" when furnished to an otherwise eligible individual. The term "emergency medical condition" means a medical condition manifesting itself by acute symptoms of sufficient severity (including severe pain) such that the absence of immediate medical attention could reasonably be expected to result in: (A) placing the patient's health in serious jeopardy; (B) serious impairment of bodily functions, or (C) serious dysfunction of any bodily part.

Breast or cervical cancers may be identified at various stages. Some women in need of treatment for breast or cervical cancer will have an emergency condition. As with other examples of emergency medical conditions, medical judgement and the facts of a particular case will form the basis for identifying those conditions in screened women. It amounts to an emergency medical condition.

Requirement to Submit a State Plan Amendment. In order to be eligible for payment under this new Act, a state or territory must submit a state plan amendment electing optional categorically needy eligibility group and/or to provide presumptive eligibility. enclose state plan preprint language that should be used by states electing these new options.

Matching Rate. The Federal matching rate for the new eligibility group is equal to the enhanced Federal Medical Assistance Percentage (FMAP) used in the State Children's Health Insurance Program (SCHIP) (described in §2105(b) of the Social Security Act (the Act)). That rate is published periodically in the Federal Register, and is posted on web <http://aspe.os.dhhs.gov/health/fmap.htm>.