

ALASKA LEGISLATURE COMMITTEE FILES, 2003-2004 8672

1121 SENATE HEALTH, EDUCATION & SOCIAL SERVICES

23-LS0080H
Cook
2/21/03

CS FOR SENATE BILL NO. 25()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-THIRD LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): SENATORS WILKEN, Davis

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to the teachers' housing loan program in the Alaska Housing Finance
2 Corporation; and providing for an effective date."

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

4 * Section 1. AS 18.56 is amended by adding a new section to read:

5 Sec. 18.56.109. Teachers' housing loan program. (a) There is established
6 in the corporation the teachers' housing loan program to assist public school teachers
7 to purchase housing. A loan may be made under this program only for owner-
8 occupied, single-family housing. The loan may be made only to an individual
9 employed in a public elementary or secondary school in the state who is required to be
10 certificated and holds a position as

- 11 (1) a teacher;
- 12 (2) a counselor;
- 13 (3) an administrator; or
- 14 (4) a provider of special education or related services.

1 (b) The corporation shall adopt regulations under this section that establish
2 terms and conditions for teachers' housing loans, including those relating to the
3 number of loans that may be made to a single borrower and borrower eligibility
4 requirements. A teachers' housing loan must be equal to 100 percent of the value of
5 the property for which the loan is made. However, the corporation may require the
6 borrower to pay costs associated with the loan.

7 * Sec. 2. This Act takes effect immediately under AS 01.10.070(c).

**SENATE COMMITTEE REPORT
First Committee of Referral**

DATE: 1/21/03

FURTHER: Finance

Date of 5-Day Notice: 2-06-03
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 2-24-03

Health, Education and Social Services Committee considered

SENATE BILL NO. 25

SB 25 AHFG LOANS TO EDUCATORS

"An Act relating to the teachers' housing loan program in the Alaska Housing Finance Corporation; and providing for an effective date."

and recommends:

- be replaced with _____ CS SB 25 (HES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
REV	2/11		X	1

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	Do PASS	Do NOT PASS	No REC	AMEND
<i>Paul Ryan</i>	✓			
<i>Betty Davis</i>	✓			
<i>Cony Allen</i>	✓			
<i>Linda Green</i>				✓
<i>Theresa Hansen</i>			✓	
CHAIR:				

SB

30

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB 30(HES)
 () Publish Date: _____
 Dept. Affected: Health & Social Services
 BRU: State Health Services
 Component: Bureau of Vital Statistics

Revision Date/Time (Note if correction): _____
 Title: INFORMED CONSENT FOR ABORTION

Sponsor: DYSON
 Requester: _____

Component No. 961

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual	30.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	30.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	30.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
TOTAL	30.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would add a requirement to the report of Induced Termination of Pregnancy (ITOP) program that the Bureau of Vital Statistics (BVS) collect and record data on whether or not each reported patient requested and received a written copy of information on reproductive options required to be maintained on the Internet.

CONTRACTUAL: \$30.0 in GF for contractual service costs would be required in Year 1 (one-time costs) to provide for 1) a contract to revise the BVS ITOP computer program (\$20,000); 2) to produce, print and distribute revised ITOP reporting forms to providers throughout Alaska (\$2,000); and 3) to contract for the drafting of regulations to implement AS 18.50.245(e) (\$8,000).

Prepared by: Doug Bruce, Director Phone: 465-3090
 Division: Public Health Date/Time: 04/16/2003
 Approved by: Joel S. Gilbertson, Commissioner Date: 04/17/2003
 Agency: Department of Health and Social Services

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CSSB 30(HES)
 () Publish Date: _____
 Dept. Affected: Health & Social Services
 BRU: State Health Services
 Component: Maternal, Child, & Family Hlth

Revision Date/Time (Note if correction): _____
 Title: INFORMED CONSENT FOR ABORTION

Sponsor: DYSON
 Requester: _____

Component No. 290

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual	20.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	20.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
1002 Federal Receipts						
1003 GF Match						
1004 GF	20.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
TOTAL	20.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 This bill requires that information be prepared and made available via the Internet, to every woman seeking an abortion, on the medical risks of abortion, pregnancy, and where services can be sought, by geographic region. The Department of Health & Social Services already produces, procures and disseminates a range of materials regarding how to have a healthy baby and ways to keep the baby safe and healthy after birth. In addition, the Department maintains a 24-hour referral line for services. Ensuring the intent of this bill is addressed will require resources for the production of the additional informational materials on abortion.
 CONTRACTUAL: \$20.0 for a professional services contract in Year 1 for the production and posting of the web-based materials required under this bill.

Prepared by: Doug Bruce, Director Phone 465-3090
 Division: Public Health Date/Time 04/16/2003
 Approved by: Joel S. Gilbertson, Commissioner Date 04/17/2003
 Agency: Department of Health and Social Services



SENATOR FRED DYSON

SB 30 SPONSOR STATEMENT

"An Act relating to information and services available to pregnant women and other persons; and ensuring informed consent before an abortion may be performed, except in cases of medical emergency."

Since the early 1970's, Alaskan physicians who perform or induce abortions are required, in regulation, to inform patients "of the medical implications and the possible emotional and physical sequelae of the procedure" (12 A.A.C. 40.070). SB 30 raises these regulations into statute, and standardizes the information presented to the patients by means of a pamphlet designed by the Department of Health and Social Services. This pamphlet will list accurate, nonbiased information that explains resources available to a pregnant woman that may assist her in making and implementing her own reproductive decisions. This bill will enable women to make healthy, educated choices regarding their own individual and private circumstances.



SENATOR FRED DYSON

SB 30 SECTIONAL ANALYSIS

"An Act relating to information and services available to pregnant women and other persons; and ensuring informed consent before an abortion may be performed, except in cases of medical emergency."

Section 1 directs the Department of Health and Social Services to develop a pamphlet that will be presented to women considering having an abortion, or other reproductive choices. This pamphlet will provide resources for women to make and implement these decisions. This section also defines the following terms: fertilization, gestational age, informed consent, and unborn child.

Section 2 adds that an abortion may not be performed unless the informed consent provisions of Section 4 of this bill are met.

Section 3 adds civil liabilities for a person performs or induces an abortion without meeting the informed consent provisions of Section 4 of this bill.

Section 4 states the terms of qualification for consent to an abortion to be informed and voluntary. The information presented to the patient shall be given, at least 24 hours before the procedure, in an individual, private, and confidential setting, and focused on the women's individual circumstances. This section also defines the terms: informed consent and medical emergency.

Section 5 provides severability of this legislation.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB30
 () Publish Date: _____
 Dept. Affected: Health & Social Services
 BRU State Health Services
 Component Maternal, Child, & Family Hlth

Revision Date/Time (Note If correction): _____
 Title INFORMED CONSENT FOR ABORTION

Sponsor DYSON
 Requester SENATE (HES)

Component No. 290

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual	42.0	22.0	22.0	22.0	22.0	22.0
Supplies	2.0	2.0	2.0	2.0	2.0	2.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	44.0	24.0	24.0	24.0	24.0	24.0

CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	44.0	24.0	24.0	24.0	24.0	24.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
TOTAL	44.0	24.0	24.0	24.0	24.0	24.0

Estimate of any current year (FY2003) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill requires that information be prepared and made available, to every woman seeking an abortion, on the medical risks of abortion, pregnancy, and where services can be sought, by geographic region. The Department of Health & Social Services already produces, procures and disseminates a range of materials regarding how to have a healthy baby and ways to keep the baby safe and healthy after birth. In addition, the Department maintains a 24-hour referral line for services. Ensuring the intent of this bill is addressed will require resources for the production and distribution of the additional informational materials on abortion.

(continued)

Prepared by: Karen E. Pearson Phone 465-3090
 Division Public Health Date/Time 02/10/2003
 Approved by: Joel S. Gilbertson, Commissioner Date 02/10/2003
 Agency Department of Health and Social Services

FISCAL NOTE
FN #

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO.SB3

ANALYSIS CONTINUATION

CONTRACTUAL: \$30.0 professional services contract for development and distribution of materials (reduced to \$10.0 in subsequent years for update of existing materials) \$2.0 postage for distribution of materials \$10.0 printing costs for production of materials SUPPLIES: \$2.0 mailing supplies for distribution of materials.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CS SB30
 () Publish Date: _____
 Dept. Affected: Health & Social Services
 BRU State Health Services
 Component Maternal, Child, & Family Hlth

Revision Date/Time (Note if correction):
 Title INFORMED CONSENT FOR ABORTION

Sponsor DYSON
 Requester SENATE (HES)

Component No. 290

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual	122.0	47.0	47.0	47.0	47.0	47.0
Supplies	2.0	2.0	2.0	2.0	2.0	2.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	124.0	49.0	49.0	49.0	49.0	49.0

CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	124.0	49.0	49.0	49.0	49.0	49.0
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
TOTAL	124.0	49.0	49.0	49.0	49.0	49.0

Estimate of any current year (FY2003) cost:
 Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
 This bill requires that information be prepared and made available, to every woman seeking an abortion, on the medical risks of abortion, pregnancy, and where services can be sought, by geographic region. The Department of Health & Social Services already produces, procures and disseminates a range of materials regarding how to have a healthy baby and ways to keep the baby safe and healthy after birth. In addition, the Department maintains a 24-hour referral line for services. Ensuring the intent of this bill is addressed will require resources for the production and distribution of the additional informational materials on abortion.

(continued)

Prepared by: Doug Bruce, Director Phone 465-3090
 Division: Public Health Date/Time 04/07/2003
 Approved by: _____ Date 04/07/2003
 Agency: Department of Health and Social Services

FISCAL NOTE

FN #

STATE OF ALASKA
2003 LEGISLATIVE SESSION

BILL NO. CS SB30

ANALYSIS CONTINUATION

CONTRACTUAL: \$30.0 professional services contract for development and distribution of the English-language pamphlet (reduced to \$10.0 in subsequent years for update of existing materials); \$10.0 for layout and printing for production of the English-language pamphlet (\$10.0 in subsequent years for reprints); \$2.0 postage for distribution of the pamphlet. Additional contractual expenses would be incurred for translation and production of the pamphlet in other languages. While there are as many as 117 languages in use in Alaska if not more, this budget is based on translation and production of the pamphlet in the 10 most predominately used languages in the state (to be determined). Estimated costs in Year 1 are: \$30.0 for translation services (\$3.0/language); and \$50.0 for layout and printing (\$5.0/language). Subsequent years estimated costs for periodic update and reprint of the pamphlet are \$5.0 for translation (\$0.5/language) and \$20.0 for revised layout and reprint (\$2.0/language). **SUPPLIES:** \$2.0 for mailing supplies required for distribution of pamphlets would be incurred each year of the program.

FISCAL NOTE

STATE OF ALASKA
2003 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: CS SB30 (HES)
 () Publish Date: _____
 Dept. Affected: Health & Social Services
 BRU: State Health Services
 Component: Bureau of Vital Statistics

Revision Date/Time (Note if correction): _____
 Title: INFORMED CONSENT FOR ABORTION

Sponsor: DYSON
 Requester: SENATE (HES)

Component No. 961
 (Thousands of Dollars)

Expenditures/Revenues

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

OPERATING EXPENDITURES	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Personal Services						
Travel						
Contractual	40.0					
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	40.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)						
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FUND SOURCE

(Thousands of Dollars)

FUND SOURCE	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
1002 Federal Receipts						
1003 GF Match						
1004 GF	40.0					
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
TOTAL	40.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2003) cost:

Mark this box (X) if funding for this bill is included in the Governor's FY 2004 budget proposal:

POSITIONS

Full-time	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would add a requirement to the report of Induced Termination of Pregnancy (ITOP) program that the Bureau of Vital Statistics collect and record data on whether or not each reported patient received a pamphlet that describes information on reproductive options.

\$40.0 in GF for contractual service costs would be required in the first year (one-time costs) to provide for 1) a contract to revise the BVS ITOP computer program (\$28,000); 2) to produce, print and distribute revised ITOP reporting forms to providers throughout Alaska (\$2,000); and 3) to contract for the drafting of regulations to implement AS 18.50.245(e) (\$10,000).

Prepared by: Doug Bruce, Director
 Division: Public Health
 Approved by: Elmer A. Lindstrom, Special Assistant to the Commissioner
 Agency: Department of Health and Social Services

Phone 465-3090
 Date/Time 04/07/2003
 Date 04/07/2003

SB

41

ALASKA STATE LEGISLATURE



Interim:
600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 376-3370
(907) 376-3157 Fax

Session:
State Capitol
Juneau, Alaska 99801-1182
(907) 465-6600
(907) 465-3805 Fax

SENATOR LYDA GREEN SENATE DISTRICT G

To: Senator Fred Dyson
Chairman, Senate HESS Committee

From: Senator Lyda Green *lgw*

Re: SB41 Medicaid Costs and Crimes

I respectfully request a hearing in Senate HESS on SB41, Medicaid Costs and Crimes.

Feb 26th, 1:30 lgw

ALASKA STATE LEGISLATURE

Interim:

600 East Railroad Avenue
Wasilla, Alaska 99654
(907) 376-3370
(907) 376-3157 Fax

Session:

State Capitol
Juneau, Alaska 99801-1182
(907) 465-6600
1-877-465-6601
Fax (907) 465-3805

SENATOR LYDA GREEN

SENATE BILL 41 SPONSOR STATEMENT

An Act relating to medical care and crimes relating to medical care, including medical care and crimes relating to the medical assistance program

Since 1999, the costs of the Medicaid program have risen throughout the nation at an average rate of 11 percent per year. Alaska's Medicaid program has averaged annual increases of 20 percent, or more than \$100 million per year, bringing the total projected program costs in FY2004 to just under \$1 billion (\$695 million in federal funds and \$289 million in state funds).

Factors such as increased participant enrollments, increased use of health services, and the increasing costs of pharmaceuticals and long-term care are the greatest contributors to the rise in Medicaid program costs. While we have limited ability to contain these cost factors, we can control program integrity by targeting waste and fraud.

Nationally, the error rate of overpayments in the Medicare program is 7 percent, a number that could be inferred to the Medicaid program as well. In addition, the commonly held perception of the amount of fraud committed against the Medicaid program nationwide is 10 percent. Whether these two numbers are inclusive of one another or should be compounded, they represent a sizeable amount of spending -- between \$70 and \$170 million -- in Alaska's Medicaid program on activities that are, at best, questionable and at worst, criminal.

To preserve the integrity and fiscal viability of Alaska's Medicaid program, the system should be held to rigorous controls and frequent scrutiny. Relevant laws should be in place to prosecute those who commit fraud and abuse related to medical care. Alaska has no specific health care criminal theft statutes. Currently, in order to prosecute those who commit Medicaid fraud, prosecutors must use criminal statutes related to actions coincidental to the misconduct. Alaska theft statutes require proving the conduct was intentional, a very high standard to meet for a crime where there is no crime scene or physical evidence. Consequently, there have been relatively few prosecutions. Senate Bill 41 provides the legal tools for the fiduciaries of the Medicaid program to establish program integrity and maintain maximum fiscal control.

The legislation establishes three specific crimes of misconduct involving Medicaid services, defines the actions constituting those crimes, and classifies the type of crime committed as either a felony or a misdemeanor. It clarifies the circumstances under which controlled substances may be prescribed. It requires independent financial audits to identify errors, overpayments, and criminal violations made to, or by, Medicaid providers and requires administrative action within 90 days of receipt of each audit. It completes the loop between the Department of Health and Social Services and the Department of Law by requiring copies of all audits be provided to the Attorney General and by directing the Attorney General to notify the Department of Health and Social Services of any charges of misconduct filed against a Medicaid provider. Such notice requires the Department to suspend payment to, and undertake a complete review of, that provider. Finally, Senate Bill 41 provides that financing of the audits may be made from the recovery, due to the audits, of misspent funds.

Senate Bill 41
Sponsor Statement
Page 2

It is vital that the State of Alaska administer its Medicaid program in a manner that ensures effective, long-term cost containment while providing medically necessary services to its intended recipients. Medicaid providers must operate honestly, responsibly and in accordance with the law. Those who do not should be held accountable. Senate Bill 41 provides the State with the means to better implement this philosophy.

SB 41: *“An act relating to medical care and crimes relating to medical care, including medical care and crimes relating to the medical assistance program.”*

Section 1.

AS 17.30.080(a) is amended to require that administration, prescription, dispensing, and distribution of a controlled substance must be for a purpose that is “solely medical.” It further adds that such authorized use of a controlled substance must be “reasonably necessary for treatment” and “provided within the usual course of professional medical practice.”

AS 17.30.080 (b) is amended to add that the attorney general shall notify the commissioner of health and social services of any charge against a Medicaid provider for misconduct involving a controlled substance.

Section 2.

A new subsection (c) is added to AS 17.30.080 to require the commissioner of health and social services to immediately suspend payment to, and undertake a complete review of, any Medicaid provider charged by the attorney general with misconduct involving a controlled substance.

Section 3.

This section puts new language in AS 47.07.010 amending the purpose of the statutes that govern the State’s Medicaid program.

The purpose is amended to clarify that care provided to needy persons at public expense must be appropriate and cost-effective; that providers of care to such persons must operate with honesty and integrity and be held accountable if they do not; and that the department of health and social services administer this chapter for effective, long-term cost containment while providing medically necessary services to recipients.

Section 4.

AS 47.07.074(a) is amended to change “health facility” to “provider,” and broadens the statutory reference to include all of AS 47.07 (“this chapter.”) The current statute is specific to payments to health facilities.

Section 5.

Adds new subsections to AS 47.07.074 regarding audits and inspections.

Subsection (c) requires the department of health and social services to contract for annual independent audits of Medicaid providers. It defines the parameters under which selections for audit shall be made, and defines the qualifications of a contractor awarded under this section.

Audit parameters:

- Shall be determined by DHSS, but may not be fewer than four percent of all enrolled and participating providers.
- Must include both on-site and desk audits.
- Must be of a variety of provider types.
- The ratio of on-site audits and desk audits to total audits selected shall be determined by the audit team given the advice of the commissioner.

At least one member of the contracted audit team must:

- Be an attorney licensed to practice Alaska law.
- Have been engaged in the active practice of law in Alaska for 5 of the preceding 10 years.
- Have significant experience in criminal prosecutions.

Subsection (d) requires copies of all audit reports be provided to the attorney general. Also, the department of health and social services shall begin administrative proceedings to recoup identified overpayments within 90 days of receiving each audit report, unless the attorney general advises that a provider is being, or will be, investigated for criminal activity as a result of the audit.

Subsection (e) indicates legislative intent that the State's share of recovered overpayments be deposited and accounted for in a separate fund, a portion of which may be appropriated to the department to pay for the annual audits.

Subsection (f) gives the meaning of "provider" as that found in the new section 47.07.790 (definitions).

Section 6.

This section establishes new criminal statutes relating to misconduct involving Medicaid services. There are crimes in the first degree, second degree, and third degree with classifications ranging from a class B felony to a class A misdemeanor.

Like its counterpart under section 1 of this bill, AS 47.07.730 is added to require the commissioner of health and social services to immediately suspend payment to, and undertake a complete review of, any Medicaid provider charged by the attorney general with a Medicaid crime.

Definitions specific to the new criminal statutes are set forth in the new section AS 47.07.730. The Medicaid crimes are as follows:

AS 47.07.700. Misconduct in the first degree is a class B felony if a person knowingly:

- 1) makes false statements in a Medicaid provider enrollment application used to determine eligibility;
- 2) conceals or withholds information the person knows would affect a benefit or payment;
- 3) uses any part of any payments received on behalf of another for other than what and for whom it was received;
- 4) makes false statements regarding the condition of a health facility;
- 5) makes false statements regarding any information required to be provided by law, regulation, ordinance, rule, or provider agreement pertaining to Medicaid; or
- 6) provides a product or service that is medically inappropriate or otherwise harmful.

AS 47.07.710. Misconduct in the second degree is a class C felony if a person knowingly:

- 1) requires additional remuneration as a condition to providing a service to a Medicaid recipient if any part of the cost of the service is paid for under the Medicaid program;
- 2) presents a claim for payment for a service provided by a person who is not licensed to provide the service;
- 3) makes a claim for a product or service not provided, not approved, or provided by a practitioner not acting within the usual course of professional medical practice or generally accepted standard of care;
- 4) engages in deception with the enrollment of a Medicaid eligible individual, or deceptively markets a person's services to a Medicaid eligible individual; or
- 5) falsifies income or expense documents used to determine a rate of payment for a product or service claimed to have been provided.

AS 47.07.720. Misconduct in the third degree is a class A misdemeanor if a person knowingly or recklessly:

- 1) fails to provide the correct type of license or identification number of the licensed health care provider who provided the service; or
- 2) fails to provide a benefit or service to an individual, or information to the department or other state agency, that is required by law, regulation, or contract.

Section 7.

Repeals AS 47.07.074(b) that currently reads:

"The department may establish the scope and timing of audits under this chapter. The department may provide that audits will be conducted less frequently than annually."

This language is rendered unnecessary by the new audit provisions of AS 47.07.074(c) established in section 5 of this bill.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101

State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329


MEMORANDUM

January 31, 2003

SUBJECT: Medical care and crimes relating to medical care, including medical care and crimes relating to the medical assistance program (SB 41)

TO: Senator Lyda Green
Attn: Janey

FROM: Terri Lauterbach
Legislative Counsel



You have requested a sectional summary of the above-described bill.

As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill and the bill itself is the best statement of its contents. If you would like an interpretation of the bill as it may apply to a particular set of circumstances, let me know.

Section 1. The first sentence of AS 17.30.080(a) is amended to require that administration, prescription, dispensing, and distribution of a controlled substance must be for a purpose "that is solely medical." Current law says these activities may not be performed "other than for a medical purpose." I do not know how a court would interpret the difference, if any, between "solely medical" and "not [for] other than a medical purpose." The second sentence of AS 17.30.080(a) is new language that requires that use of a controlled substance "must be reasonably necessary for treatment" and provided within the usual course of professional medical practice..." This new language does not appear to allow use of controlled substances for research projects. See, for instance, the definition of "practitioner" in AS 11.71.900, which is a definition used for the Medicaid program on the last page of this bill. The definition of "practitioner" in AS 11.71.900 uses the phrase "in the course of professional practice or research in the state." You may wish to consider whether "research" purposes should be added to AS 17.30.080 in order to harmonize these laws.

AS 17.30.080(b) is amended to require notification to DHSS when the AG files a charge under this section.

Section 2. This bill section adds a new subsection to AS 17.30.080 that require DHSS to take certain actions upon receiving the AG's notice under AS 17.30.080(b).

Section 3. This bill section puts new language in the "purpose" section that appears in the chapter of the Alaska Statutes that governs the state's Medicaid program.

Section 4. This bill section substitutes "provider" for "health facility" and broadens the statutory reference to include all of AS 47.07 ("this chapter").

Section 5. This bill section requires DHSS to contract for annual independent audits of Medicaid providers. The new subsection (e) on page 4 indicates a legislative intent to use money obtained from overpayments discovered by these audits to pay for future auditing contracts.

Section 6. This bill section establishes new criminal statutes relating to misconduct involving Medicaid services. There are crimes in the first degree, second degree, and third degree with classifications ranging from a class B felony to a class A misdemeanor. As with the amendments under bill section 1, the AG is required to notify DHSS if charges are filed under these new criminal statutes, and DHSS is required to take certain actions upon receiving the AG's notice.

Section 7. In light of the new auditing provisions established in sec. 5 of this bill. sec. 7 repeals AS 47.07.074(b), which currently reads as follows: "The department may establish the scope and timing of audits under this chapter. The department may provide that audits will be conducted less frequently than annually."

TML:med
03-086.med

SB 41: "An act relating to medical care and crimes relating to medical care, including medical care and crimes relating to the medical assistance program."

Section 1.

AS 17.30.080(a) is amended to more clearly define "medical purpose" as reasonably necessary and within the usual course of professional medical practice and within a standard of professionally recognized medical care.

Intent is to discourage unnecessary prescriptions and contain costs.

Legal Counsel Note: cautions that the change in language from "other than for a medical purpose" to "other than for a purpose that is solely medical" may preclude the use of controlled substances for research.

Staff Question: Does not "the usual course of professional medical practice" include research?

Subsection (b) is amended to add that the attorney general shall notify the commissioner of health and social services of any filing against a Medicaid provider under subsection (a).

Section 2.

A new subsection (c) is added to AS 17.30.080 to require the commissioner of health and social services to immediately suspend payment to, and undertake a complete review of, any Medicaid provider noticed by the attorney general under subsection (b).

Intent is to provide a further mechanism for the state to discover abuse and fraud by Medicaid providers and to recover overpayments.

Section 3.

This section puts new language in AS 47.07.010 amending the purpose of the statutes that govern the State's Medicaid program.

The purpose is amended to clarify that care provided to needy persons at public expense must be appropriate and cost-effective; that providers of care to such persons must operate with honesty and integrity and be held accountable if they do not; and that the department of health and social services administer this chapter for effective, long-term cost containment while providing medically necessary services to recipients.

Intent is to set the groundwork for the cost recovery actions and the criminal portions of the chapter.

Section 4.

AS 47.07.074(a) is amended to change "health facility" to "provider," and broadens the statutory reference to include all of AS 47.07 (rather than AS 47.07.070 specifically).

Intent is to capture all Medicaid providers under the audit and inspection rules, not just those that meet the definition of a health facility. "Medicaid provider" is defined in a new section added under section 6 of this bill (47.07.790).

Section 5.

Adds new subsections to AS 47.07.074 regarding audits and inspections.

Subsection (c) requires the department of health and social services to contract for annual independent audits of Medicaid providers. It defines the qualifications of a contractor awarded under this section, and defines the parameters under which selections for audit shall be made.

Subsection (d) requires copies of all audit reports be provided to the attorney general. Also, the department of health and social services shall begin administrative proceedings to recoup identified overpayments within 90 days of receiving each audit report, unless the attorney general advises that a provider is being, or will be, investigated for criminal activity as a result of the audit.

Subsection (e) indicates legislative intent that the State's share of recovered overpayments be deposited and accounted for in a separate fund, a portion of which may be appropriated to the department to pay for the annual audits.

Subsection (f) identifies the meaning of "provider" as defined in the new section 47.07.790.

Intent is to provide for independent audits of Medicaid providers to allow for maximum recovery of overpayments and identification of abuse and fraud.

Section 6.

This section establishes new criminal statutes relating to misconduct involving Medicaid. AS 47.07.700 Misconduct in the first degree is a class B felony. AS 47.07.710 Misconduct in the second degree is a class C felony. AS 47.07.720 Misconduct in the third degree is a class A misdemeanor. Each crime of misconduct is defined in detail.

Like its counterpart under section 1 of this bill, AS 47.07.730 is added to require the commissioner of health and social services to immediately suspend payment to, and undertake a complete review of, any Medicaid provider charged by the attorney general with a Medicaid crime.

Intent is to provide a further mechanism for the state to discover abuse and fraud by Medicaid providers and recover overpayments.

This section also provides definitions specifically for AS 47.07.700-47.07.790 (? circular reference ?)

Section 7.

Repeals AS 47.07.074(b) which is rendered unnecessary by the new audit provisions of AS 47.07.074(c).

ALASKA STATE LEGISLATURE
SENATE HEALTH, EDUCATION & SOCIAL SERVICES COMMITTEE
Health Care and Welfare Subcommittee Hearing
Mat-Su Legislative Information Office
November 8, 2001
9:00 a.m.

MEMBERS PRESENT

Senator Lyda Green, Chair
Senator Bettye Davis

MEMBERS ABSENT

Senator Jerry Ward

OTHER LEGISLATORS PRESENT

Senator Robin Taylor
Representative Fred Dyson
Representative Sharon Cissna

SUBCOMMITTEE CALENDAR

The future of health care costs and welfare reform in Alaska.

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ACTION NARRATIVE

TAPE 01-47, SIDE A

Number 001

CHAIRWOMAN LYDA GREEN called the Senate Health, Education & Social Services Subcommittee meeting to order at 9:00 a.m. Present were Senators Davis, Taylor, and Chairwoman Green. Chairwoman Green announced that the subcommittee is meeting to consider in what direction Alaska should go regarding Medicaid coverage and possible legislation. She noted that priorities regarding services to be covered under Medicaid have changed since the events of September 11. She pointed out that one item on the agenda today is rural health care. When looking through the budget last year, Senate Finance Committee members noticed there would be a budget item to provide a service at the state level that other groups were providing. They tried to find as many funding sources coming into rural health care sites to get them aligned and not duplicative. She asked a representative

from the Denali Commission to present to the committee.

MR. KRAG JOHNSON, the Alaska Legislature's staff representative on the Denali Commission, introduced Joel Neimeyer, the Commission's rural health expert. He distributed an update on Denali Commission activities to committee members and the public. The update contains a generalized list of projects the Denali Commission has been working on and funding levels for those projects. He noted Mr. Neimeyer came to the Denali Commission after 17 years with the Indian Health Service and has worked with the Alaska Native Tribal Health Consortium.

MR. JOEL NEIMEYER, program manager for the Health Facilities Program, informed the committee that since September of 1999, he has been working with the Denali Commission on infrastructure, originally with rural energy projects. When the health care program started developing, it was consuming so much time he became the Health Facilities Program Manager.

CHAIRWOMAN GREEN asked Mr. Neimeyer if he spent all 17 years with the Indian Health Service (IHS) in rural Alaska.

MR. NEIMEYER said all but three years, which he spent in Western Washington. He noted that he would address four bullet issues, one being the role of the state and federal government, the Denali Commission and Native non-profit health corporations in rural health care.

First, the Denali Commission was created by federal legislation in 1998 to look at training, economic development, and infrastructure development. The legislation allows the Commission to work with many different partners in many different areas. The legislation established an administrative cap at 5 percent, which does not allow the Commission to run its own program. That cap forces the Commission to find partners who are already doing the work and have the same mission.

CHAIRWOMAN GREEN asked who a typical partner would be.

MR. NEIMEYER said that varies by interest. In the Denali Commission's health care program, its two primary partners are the State of Alaska and the Alaska Native Tribal Health Consortium. In the Commission's rural energy program, it primarily partners with the Alaska Energy Authority and the Alaska Village Electric Authority. He said in 1999, Congress passed legislation [P.L. 105-277] that amended the Denali Commission act and focuses it particularly on health care programs. It gives the Commission the authority to plan, design

and construct hospitals, mental health facilities, elder care, childcare, and primary care facilities.

MR. NEIMEYER said one of the first things the Denali Commission did when that legislation passed was to put together a steering committee to do a needs assessment of primary care. Its original partners were the Alaska Native Tribal Health Consortium and Indian Health Service. The goal of the needs assessment was to quantify what the primary care needs are across the state. They chose to look at 288 communities without an in-patient care facility at the hospital and more than 20 year-round residents. The study results determined a need for \$253 million to address primary care facilities statewide.

CHAIRWOMAN GREEN asked him to describe some typical communities identified in the study.

MR. NEIMEYER stated that some communities have no health clinics, but many have very small clinics. The Steering Committee found that many clinics were built based upon available funds from HUD community development block grant funds and State of Alaska community development block grant funds. The Steering Committee found the small facilities restrict the amount of health care programs offered in the community so that health care access is restricted by capital funds, not by health program services that can be offered. The Steering Committee decided to change its perspective and requirement of a community for primary care services based upon geographic isolation and population size.

When the Steering Committee put together the needs assessment, it found that it could not compare the health care needs of large and small communities and felt it was unfair to make communities compete with one another. The outcome was to develop three funding processes as demonstrated in the following chart. Large clinics work for communities with a population larger than 750 or communities that serve as a sub-regional clinic or a multi-community clinic. Small clinics work in communities where that clinic is a "stand alone" clinic for that community. The third funding process is for the repair or renovation of existing clinics.

MR. NEIMEYER pointed out that none of the Denali Commission's projects to date have required a Certificate of Need but that will be incorporated into the program in case one is needed.

Where the Commission goes with funding these projects will be guided by the Health Care Steering Committee. That Committee was organized in early 2000 and is made up of four agencies: the

Denali Commission, the IHS, the Alaska Native Tribal Health Consortium and the State of Alaska. Over time, more partners were added: the Alaska Primary Care Association, the Alaska Mental Health Trust, the University of Alaska and the Alaska Native Health Board. The Steering Committee took on the responsibility for developing the Request for Proposals process for capital funding of health care facilities. Recently, the Committee was restructured so that it takes a more policy advisory role and less of a work-group function. Karen Perdue will represent the University of Alaska.

CHAIRWOMAN GREEN asked for a description of the Alaska Primary Care Association.

MR. NEIMEYER explained that it is a non-profit member organization made up of about 40 or 50 members, located in Anchorage.

MR. NEIMEYER informed the subcommittee that Karen Pearson is the chair of the Steering Committee.

CHAIRWOMAN GREEN noted the presence of Senator Taylor.

MS. KAREN PEARSON informed the committee that the primary role of the Alaska Primary Care Association (APCA) is to support its membership, which is made up predominantly of the rural community health centers and the two larger ones in Fairbanks and Anchorage. The APCA helps them to do joint purchasing and to help with board development.

CHAIRWOMAN GREEN asked if the APCA has any members from the private sector.

MR. NEIMEYER said several decisions were made about who would have a seat on the Steering Committee, one being that each seat would be filled by a representative from a statewide organization. The concern was that if a regional organization was selected, other regional organizations would fear that funds would be steered toward that region. The Steering Committee gives advice to the seven commissioners on the Denali Commission about what the Commission should be doing in the health care arena. The Steering Committee gets its advice from the seven member organizations.

CHAIRWOMAN GREEN asked how a conflict of interest is avoided if the Steering Committee is funding organizations that belong to it.

MS. PEARSON said that is a question the Steering Committee has grappled with and was partly responsible for the restructuring of the board. She pointed out the State of Alaska, University of Alaska and Native Health Board will not receive funding and all members work very hard to be cognizant of that issue.

MR. NEIMEYER said once decisions are made, it has to find partners because it has a 5 percent limit on administrative costs.

CHAIRWOMAN GREEN asked for an explanation of the administrative costs.

MR. NEIMEYER said administrative costs include utilities, staff, and whatever else it takes to run an operation. To put projects on the ground in rural Alaska takes more than five percent, so the Steering Committee finds partners to help. In the health care arena, the State (the Department of Health and Social Services - DHSS) is the pre-award partner. Ms. Pearson and her staff assist the Steering Committee in getting the RFPs out and in putting together evaluation teams to review the applications. Once the decision has been made about what projects should be funded, the Steering Committee works with its post-award partner, the Alaska Native Tribal Health Consortium (ANTHC), on small clinic projects and repair projects. The ANTHC represents the Steering Committee's interests in the individual communities. The Steering Committee found that many of the proposals for large clinics are from large organizations.

CHAIRWOMAN GREEN asked for an example of a large organization.

MR. NEIMEYER replied that the Steering Committee funded a large clinic through the Yukon Kuskokwim Corporation (YKC). YKC has a health facility manager, professional engineer, and several staff who run the project. The Steering Committee funded SEARHC projects in Angoon and Haines, who also have health facilities managers and contracting departments, so they are capable of putting the projects on the ground. The Steering Committee entered into agreements with those organizations for the large clinic funding. Routinely, small clinics are built in smaller communities.

CHAIRWOMAN GREEN asked if Mr. Neimeyer is referring to the large clinic in Kotzebue.

MR. NEIMEYER said he was not and that, in general, a small clinic is about 1,500 to 2,500 square feet. Large clinics are 2,500 to 10,000 square feet.

CHAIRWOMAN GREEN asked if, in general, a clinic is a 24-hour, overnight stay facility.

MR. NEIMEYER said they are not. He explained that ANTHC represents the regional health corporations, such as YKC and the Tanana Chiefs Conference (TCC). When the Steering Committee selected ANTHC, it required ANTHC to agree to represent all communities in the state that the Denali Commission funds.

CHAIRWOMAN GREEN asked if ANTHC was pre-ordained to participate from the beginning.

MR. NEIMEYER said it was not. The Steering Committee looked into what different organizations could be program partners and everything pointed to ANTHC as being the organization most ready to take on this work. ANTHC agreed to serve all communities that the Steering Committee recommends projects in.

CHAIRWOMAN GREEN asked if they are audited regularly.

MR. NEIMEYER said they are; they fall under the federal single audit act so they are monitored regularly. He said this past fiscal year, the Steering Committee put 12 projects on a fast-track process; ANTHC represented the Steering Committee on those projects. Mr. Neimeyer told the committee that if the Denali Commission decides to expand its program to include health facilities other than primary care facilities, such as hospitals, it will have to explore the question of who to partner with.

CHAIRWOMAN GREEN asked if totally different standards would apply to a hospital program.

MS. PEARSON said that is correct and that is the reason the Denali Commission has not gone into that arena. The Denali Commission is only looking at communities that do not have a hospital. Primary care includes, in addition to physical care, mental health and substance abuse services. With the maturation of this process, communities are thinking about their total primary care needs.

CHAIRWOMAN GREEN asked if the Haines clinic, a one-person outfit, is an example of a primary care health care facility. She pointed out that managing a one-person clinic is a very stressful job.

MS. PEARSON said the Haines clinic is an example of a primary care facility. The Steering Committee is approaching the design of these facilities in a systematic way that focuses on physical

care first, but will build a one-person mental health facility so that residents will have total access to primary care.

CHAIRWOMAN GREEN asked Ms. Pearson if her participation is outside of her job at the Division of Public Health so that she wears two hats.

MS. PEARSON said that is correct.

CHAIRWOMAN GREEN asked Ms. Pearson how she considers both perspectives when she works on the division's budget.

MS. PEARSON said she believes it was a wise decision on the part of the Denali Commission to have the director of the Division of Public Health chair this group because to have the facility development work happen separate from the question of how to pay for services would not have worked well. All participants do the planning for the facilities and the services together in a coordinated fashion.

CHAIRWOMAN GREEN stated that she would like to have a follow-up session, perhaps in April, to update the committee on the impact of the Steering Committee's work on the budget.

MR. NEIMEYER continued his presentation. For projects managed by ANTHC, communities have six funding-construction options. A community, regional health corporation or ANTHC can manage a project using a force account or by contract. If a community wants to take the lead, it can, if it can demonstrate that it has the ability to do so. The Steering Committee has found that when it partners with ANHTC, it receives quarterly status reports, it manages the funds, and it has engineers in the field. In fiscal year 2000, the Steering Committee put \$1,000,000 into four demonstration projects and learned to have the construction plans in hand and to do site control. Those lessons were applied in fiscal year 2001, when the Steering Committee had \$20 million to spend. In fiscal year 2002, the Steering Committee has committed \$12.5 million for small clinics. It plans to have \$20 to \$30 million so it is developing mechanisms to select projects.

TAPE 01-47, SIDE B

MR. NEIMEYER explained that the Steering Committee had to devise a way to translate services to square footage. Emergency Medical Services categories are used; the first of three being an isolated community, which includes most of the 288 communities, and the two highway communities. Based upon isolation and population, the Steering Committee decided how large a facility

should be. For example, a community relatively close to a large urban center with a hospital and other health care service was deemed to not need as much space as a community far from an urban center. The Steering Committee designated clinic sizes as small, medium and large within the small clinic program. A small clinic is 1500 square feet, a medium is 2000 square feet, and a large clinic is 2500 square feet. The Steering Committee found, when developing these guidelines, access to inpatient services became a much more important factor in the health care needs of larger communities. For that reason, the Steering Committee created two categories so that those communities would have to compete individually and demonstrate their service delivery needs.

CHAIRWOMAN GREEN asked Ms. Pearson if any of the Division of Public Health's budget is used for the administrative costs of the Denali Commission.

MS. PEARSON said it does not. The Steering Committee worked out an arrangement whereby it has about \$300,000 that it can tap into as needed for support activities. It has worked very hard to dovetail this program with programs already in place, which is why the Denali Commission asked the division to be the pre-award partner. The division administers a lot of grants every year and has a process established that can easily be duplicated. Ms. Pearson noted that during the past year, the Steering Committee worked very hard, with support from Senator Stevens' office, to access federal community health money (Section 330 money). While the Steering Committee was successful in partnering with certain clinics to get money directly to communities, it was also successful in persuading the federal Health Resource Services Administration (HRSA) that the State of Alaska needs an ongoing stream of funds to ensure that communities get the necessary support to compete for Denali Commission dollars or for other federal dollars. The Steering Committee received \$250,000 for that purpose. That will support the additional work it takes to support the Denali Commission without using any state funds.

SENATOR TAYLOR referred to the Denali Commission's needs assessment, which projects a need for \$253 million, and asked if that amount will provide a full clinic in every community in the state.

MR. NEIMEYER said that amount will provide a full clinic in 288 communities. He pointed out that communities with fewer than 20 year-round residents and communities with hospitals are not on the Commission's "radar screen."

SENATOR TAYLOR asked if communities are expected to participate

in the needs assessment.

MR. NEIMEYER said there is a required cost share match in legislation of 25 or 50 percent, depending on the economic status of the community and the Steering Committee has found that to be a barrier to getting communities funded.

There was no further testimony from, or questions for, Mr. Neimeyer.

Number 958

MS. CYNTHIA NAVARRETTE, President and CEO of the Alaska Native Health Board (ANHB), stated that Sally Smith, the ANHB Chair, was unable to present to the committee today because of a schedule conflict. She clarified that the ANTHC is a member organization of ANHB, which is a privately owned, non-profit organization. It advocates on behalf of health organizations throughout the state of Alaska. ANHB was established in 1968 with the sole purpose of promoting the spiritual, physical, mental, social and cultural well-being and pride of Alaska Native people. The Board of Directors include Alaska Native regional and village health providers from across the state. In most cases, these organizations are the only health care providers in the communities and, in fact, they not only serve Native people but they serve all community members. She informed the committee she would present her testimony in four parts: an overview of the Alaska Native health system; an overview of the funding providing to operate the programs, functions, activities and services; an overview of Medicaid; and the effects of the IHS beneficiaries in the use of the Medicaid program.

Overview of The Alaska Native Statewide Health Care Delivery System

The heart of the Alaska Native Health System is the 468 Community Health Aides working in 178 village clinics throughout rural Alaska. The IHS beneficiaries in remote villages do not have daily access to physician care. They rely on the medical attention of the Health Aide.

There are six regional hospitals operated by the following Native regional organizations: Maniilaq, Inc. located in Kotzebue, Yukon-Kuskokwim Health Corporation located in Bethel, Norton Sound Health Corporation located in Nome, Bristol Bay Area Health Corporation located in Dillingham, Arctic Slope Native Association located in Barrow, and Southeast Alaska Regional Health Consortium located in Sitka.

The Alaska Native Health Care Delivery System consists of both consortiums and individually operated service units. A typical consortium infrastructure includes village clinics, possibly several sub-regional clinics, and a regional hospital. The rural health organizations typically serve areas as sole community providers. They may also serve the entire population, regardless of race.

The Alaska Native Medical Center (ANMC) is located in Anchorage and provides essential tertiary care, acute care and specific statewide health services for all Indian Health Service beneficiaries. The Alaska Native Tribal Health Consortium and Southcentral Foundation jointly manage the facilities that provide the full continuum of care within the Alaska Native Health Campus.

The Alaska Native Health System reflects levels of care available within the village, the regional hospitals, and the Alaska Native Medical Center (ANMC), located in Anchorage. The Medivac is essential to receive the next step up of care from the village to the regional hospital. If the case is deemed serious enough, a Medivac can be directed from the village straight to ANMC. There are Medivac call-outs from regional hospitals to ANMC, and also from ANMC to more specialized hospitals in the lower-48.

Overview of Funding

With the construction of the new Alaska Native Medical Center and the Primary Care Center, there is a perception that Alaska Native Health Services are amply funded. The reality is that the system is significantly under-funded. Indian people have long experienced disproportionately low health status and a large gap in health care resources compared to other Americans. Recently, Congress requested a health status and resource deficiency report for each Indian tribe or service unit. The IHS charged a Level of Need Funded (LNF) Workgroup to develop the necessary methodology. This report, published April 2001, states that Alaska is only funded at 61% of the total need compared to the Federal Employee Health Benefits Package. It is important to know that the Medicaid reimbursement funding is included in this percentage.

Overview of Medicaid

The Medicaid Program is not out of control. It is a large cost in every state, second only to public schools. To save the Alaska Legislature money by reducing the Medicaid Program would actively harm people receiving care - either by eliminating services for adults, or cutting reimbursement to providers, which will reduce access. Medicaid provides insurance to individuals and families that have no other access to health care services. Reducing the program would be a huge detriment to the health of Alaskan

citizens.

Additionally, there is the economic impact that would be imposed on private health care providers to consider. Seventeen percent of the employees within the private sector are funded due to the Medicaid Program. Realistically, Medicaid within the State of Alaska is not a comparatively generous program. Other states in our nation provide more services and that should be the direction in which the Alaska Legislature heads as well.

The Effects of IHS Beneficiaries' Use of the Medicaid Program

IHS beneficiaries are a large user of the Medicaid Program. However, the fiscal reality this imposes on the Medicaid Program is not what one would think. The State of Alaska receives 100% reimbursement from the federal government for IHS beneficiaries that utilize Medicaid. This results in broader user access to a non-IHS beneficiary population. Additionally, the IHS beneficiary who utilizes the Medicaid Program actually has a positive impact on our State's economy. The federally reimbursed dollars create jobs in the private health care sector that may not be otherwise available.

The Alaska Native Health Care Delivery System encourages the Alaska State Legislature not to cut the Medicaid Program and lower the wellness of Alaskans for the benefit of fiscal conservation.

MS. SANDRA MIRONOV, health administrator for the Yukon Kuskokwim Health Corporation, made the following comments. Last spring, the Legislature had some questions about a budget request unit and how the money was used. A budget request unit is direct funding from the State of Alaska to different organizations across the state. It was established about 20 years ago to develop services in rural areas to provide better access to Alaskans that had no services. She noted that she distributed to members an overview of the Yukon Kuskokwim Health Corporation's (YKHC) use of the budget request unit and testimony from consumers in the region, prepared for the Legislature last April.

She provided the following highlights of the handouts. The budget request unit currently funds about one-third of the services of all mental health and substance abuse services in the region provided by YKHC. It also funds a significant portion of our community health services and the health aide program. It is the core of YKHC's services. Page 2 contains a graph showing how much of the actual services are covered by Medicaid that are provided in the region. The YKHC's concerns about the budget request unit are that if this funding was cut from the state budget, YKHC would be put at a very unfair disadvantage in a

rural community. YKHC does not have the capacity to write competitive grants in the rural communities that are often available to people in urban areas. The population in rural villages does not provide the skills necessary. If services are lost in rural communities, other communities would have to provide those services. YKHC is concerned that people might not seek services if they are not available until they get into a crisis situation, at which time they would have to be transported several hundred miles from home to get the necessary services. In addition, those people will have no follow-up services when they return home.

CHAIRWOMAN GREEN informed participants that today's hearing is not a budget hearing.

MS. MIRONOV said she understood but that the budget request unit is a very important income stream to YKHC and she wanted to get the information on the table for the committee's consideration throughout its deliberations on Medicaid.

CHAIRWOMAN GREEN asked Ms. Mironov if she is referring to the non-competitive grants.

MS. MIRONOV's answer was indiscernible.

CHAIRWOMAN GREEN noted that when the non-competitive grant process began, outline units were not billing or collecting all reimbursements or co-payments. That circumstance no longer exists. The Legislature is trying to figure out what to do with those facilities that are not built [billed], those without insurance, those without co-pay, yet have the same responsibilities of YKHC. Many of the larger facilities have the ability to bill Medicaid. The Legislature needs to decide how to use that pocket of money to serve those people who have no ability to get reimbursed. She pointed out the competitive grant process would still be available for more sophisticated organizations.

MS. MIRONOV concluded by saying there is still a significant population in rural Alaska that is not covered by Medicaid. The budget request unit funding stream helps those people access services in rural Alaska. It is very important as a supplement to the Medicaid program for rural Alaskans.

MR. DAN WINKELMAN, legal counsel to the YKHC, gave the following testimony.

Good afternoon Chair and Subcommittee members. My name

is Dan Winkelman, I am Legal Counsel for the Yukon-Kuskokwim Health Corporation located in Bethel. Thank you for this opportunity to participate at this Subcommittee meeting, to discuss the future of our State's health care and welfare.

YKHC is comprised of 58 federally recognized tribes operating pursuant to a compact with the federal government under the Indian Self-Determination Education and Assistance Act. We operate the only hospital in Bethel as well as 49 village-based clinics staffed with community health aide practitioners and 3 sub-regional clinics staffed with community health aide practitioners, registered nurses and mid-level practitioners.

YKHC urges this Subcommittee, when considering Medicaid cost-containment measures for the next fiscal year, to understand that under the Indian Health Care Improvement Act, the Federal government subsidizes 100% of the cost of providing medical services to Medicaid-eligible Alaska Native patients through Alaska Native tribe or tribal health organization facilities. Alaska's Federal Match Percentage, otherwise known as the Federal Medical Assistance Percentage or "FMAP", is 100% for health care services provided to Medicaid-eligible Alaska Native patients. Indeed, when Congress enacted this law, the U.S. Senate Select Committee on Indian Affairs stated in its Senate Report, and I quote:

Thus, the Federal Government would pay for 100% of the reimbursements to tribally-owned health facilities for services provided to Medicaid-eligible Indian patients. *This, in turn, would reduce the states' current share of Medicaid expenditures to 0% for these same facilities.* As a result, Native Americans will have better access to health care services and will be able to more fully utilize third party resources to which they are entitled.

Therefore, 100% of Medicaid costs for Alaska Native patients is 100% federal pass-through monies resulting in a State Medicaid expenditure of 0%. Accordingly, any reduction in Medicaid rates proposed by this Subcommittee would be a reduction of federal, not state monies for Medicaid eligible Alaska Native patients resulting in a decrease of health care services to Alaska Natives and contrary to Congress' intent. For

the foregoing reasons, YKHC strongly urges this subcommittee to not reduce the state's Medicaid Program.

Lastly, I would like to invite the Subcommittee to personally tour YKHC and meet with your rural constituents before the Subcommittee proposes health care legislation that would negatively [affect] rural Alaska.

Thank you.

CHAIRWOMAN GREEN announced that the committee would hear from a representative from Senator Murkowski's office.

MR. JOEL GILBERTSON, legislative director for U.S. Senator Frank Murkowski, stated that today's meeting could not be more timely because the Senate Finance Committee will be doing a mark-up of the economic stimulus package as put forth by Senator Baucus. He did not expect the economic stimulus package to have too much to do with state health care and welfare programs, but right now the committee is debating a bill that will provide \$75 to \$80 billion, to be paired up with \$20 billion of direct spending from floor amendments. Of that, provisions will affect states that administer Medicaid programs, unemployment insurance, and formula adjustments for the FMAR program. Those provisions were unexpected and may have an uphill fight once the bill reaches the Senate floor.

MR. GILBERTSON said when he first prepared his remarks to the committee, he focused on bills that have been pending at the federal level and the prospects for any true changes to some of the formula-driven, state administered health and welfare programs. That focus has changed in the last week because of the adjustment to what will be included in Senator Baucus's economic stimulus package. Originally, he thought there would be very few changes made at the federal level. A number of proposals have been brought forth to address issues with federal [indisc.] rates, and issues of what Medicaid expansions will be made optional for states, additional services, and modernization of the CMS infrastructure in Washington that replaced HCRA. Those issues were considered to be in a low priority category at the beginning of this year on the federal level. However, the events of September 11 have presented new priorities to Congress: aviation security; the economic stimulus package; a bio-terrorism bill; a few measures to fight against terrorism; and increased appropriations for the defense industry and the military. That put a lot of the health and welfare programs on a back burner and has created a lot of uncertainty as to what direction will be taken within the committee of jurisdiction on the Senate side and the Finance Committee under the new chairman, Senator Baucus. He

pointed out that two days ago, Senator Baucus included the following provisions:

- temporarily extend and broaden unemployment insurance benefits,
- create a new federal subsidy of 75 percent for COBRA continuation coverage,
- give new authority to states to expand the Medicaid program to cover displaced workers and their families,
- enhance the CHIP match rate for states,
- give states the option to use Medicaid funds at the CHIP match rate to subsidize the remainder of COBRA premiums for low-income individuals,
- adjust the federal medical assistance percentage (FMAP) for all states - it was originally drafted to hold harmless all states scheduled for an FMAP reduction in the coming year,
- provide a one point bonus for all states, and
- classify all states with an undefined level in the increase of unemployment debts an additional one point bonus. Last night that was expanded to a 1½ percent bonus for all states and another 1 1/2 percent bonus for states deemed to have an enhanced amount of unemployment as the result of a compromise with Senator Bingaman.

MR. GILBERTSON said everything has changed in the last 24 hours so he will answer questions to the best of his ability. In addition, the bill is undergoing a mark-up in the Senate Finance Committee right now. He informed the committee that over 140 amendments have been filed and Senator Murkowski has not yet expressed how he will vote on some of these issues.

MR. GILBERTSON said that Senator Murkowski is very sensitive to the unfair treatment that the current Medicare formula has created for rural states, particularly Alaska. The FMAP formula itself, from Senator Murkowski's position, was poorly drafted and has not been adjusted to reflect new data that shows that looking solely at per capita income and ignoring the cost of providing services is an inaccurate way to determine how states should be reimbursed for providing health care services. Senator Murkowski is not supportive of the proposal put forth by Senator Bingaman that was incorporated into Senator Baucus's bill to give an across-the-board FMAP increase to all states. Some states already receive more than they should while others receive less. That is one reason Senator Murkowski pushed a \$200 billion five-year adjustment last year of the states' FMAP rate. Unfortunately, it was followed up by a change in the Bureau of Economic Analysis's definition of "per capita income," which led to an artificial decrease.

MR. GILBERTSON repeated that Senator Murkowski does not believe

an across-the-board increase in the FMAP rate is the right approach. First it is only for one year. Second, after it sunsets, it does nothing to address the underlying problem. The formula itself has never been adjusted or modified to affect the realities of preventive care in Alaska. Senator Murkowski has informed the committee that this approach will waste billions of federal dollars and delay, for one year, the debate that needs to occur, that being to focus on fixing the formula so that it reflects the high cost of providing services in rural areas.

CHAIRWOMAN GREEN pointed out the latest outcome on the FMAP issue is certainly more optimistic than what she expected from their conversation several weeks ago.

MR. GILBERTSON said that obviously, if the current language passes, Alaska will benefit and that, 99 percent of the time, is the standard Senator Murkowski uses to decide whether to support legislation. The problem is that it is tied in with many things that are bad for the program, for example, to bring in a COBRA subsidy at the federal level to put pressure on states to expand coverage for displaced workers. He pointed out that this method of handling the COBRA subsidy issue would create an inefficient system. The Administration and the Republicans on the committee feel it is much more efficient to look toward national emergency grants already established under the energy program system to distribute funds to states pursuant to Department of Labor policies developed back in 1982 and refined in 1998. Those policies allow governors to step in, submit an application, and certify that the events are September 11 related. The states can use that money without having to provide matching funds to establish emergency assistance programs in communities that are disproportionately harmed. By instead providing a COBRA subsidy, funds will have to be distributed to the states only after the Departments of Transportation and Labor promulgate regulations to set up a program. In addition, states will have to establish infrastructure capable of administering the funds. New mandates will be put on states to identify and certify who is COBRA-eligible. It will require states to make payments to those recipients or to the insurance carrier. In addition, states may have to subsidize the cost of COBRA premiums as well. Again, Senator Murkowski believes a temporary across-the-board FMAP rate increase is not the right approach to fix Alaska's problem. That temporary boost will prevent the Senate Finance Committee from working on the problem over the next year, therefore it will be placed into another political cycle and will start from ground zero again.

SENATOR TAYLOR commented that Senator Murkowski has been the lead person in the Alaska delegation on the rewrite of the FMAP formula. He stated he appreciates the work of the staff members who helped with that project.

MR. GILBERTSON noted this has always been an uphill battle and that delegation members have done well channeling their energies within their areas of jurisdiction. The state was looking at some very difficult financial hardships going into 1997. At that time the match rate was 50/50. Senator Murkowski's first effort was to raise and get a three-year extension of the Alaska FMAP rate at 59.8 percent and, after that expired to secure another extension. He was able to put a five-year extension on to that which decreased Alaska's per capita income by five percent before being inserted into the formula. That will generate an extra \$40 million for the state over the next five years. Senator Murkowski's concern is what will happen in 2005 when that extension expires, which is why he feels it is most appropriate to fix the FMAP formula now.

CHAIRWOMAN GREEN thanked Mr. Gilbertson for his briefing.

MR. BOB LABBE, Director of the Division of Medical Assistance, presented a power point presentation on Alaska's Medicaid program to the commission, of which highlights follow.

TAPE 01-48, SIDE A

MR. LABBE discussed the following overview of the Medicaid program.

- Administered by each State under a host of federal rules, with both sharing in the cost of the program.
- Eligible groups per federal law
 - Mandatory: Family Medicaid; Newborns and Children in Lowest Poverty Levels; SSI recipients
 - Optional: APA recipients; Denali Kid Care; Pregnant women
- Services allowed per federal law
 - Mandatory
 - Optional
- Federal law requires each State to have a committee (MCAC) to advise the Medicaid agency in order to obtain federal matching funds.
- Established by the Social Security Act Amendments of 1965 to pay for medical assistance for certain individuals and families with low incomes and resources.

He explained that those the state is required to cover under Medicaid are temporary assistance recipients, recipients of Supplemental Security Income (SSI), pregnant women with incomes below 133 percent of the federal poverty level, and children who fall at different income levels depending on age. In addition, optional groups of people can be served. Currently, children whose family income is up to 200 percent of the poverty level are eligible, as well as certain aged and disabled recipients that

fit state-only cash assistance grants. About 40 different Medicaid-eligible categories exist; states must cover certain services but can elect to cover others. States are required to have a medical care advisory committee to receive federal funds.

The Alaska statutes that authorize DHSS to participate in the Medicaid program fall under AS 47.07 (.020, .030, .035).

MR. LABBE reviewed the eligibility criteria on the following chart and pointed out, for reference, that DHSS would be required to cover a pregnant woman in a family of three with an income under \$24,000.

Eligible Persons

Federally mandated groups include:

- Family Medicaid
- Newborns and children at lowest poverty levels
- SSI recipients
- Children at lower poverty levels
- Pregnant women at lower poverty levels

Optional groups include:

- Some APA recipients
- Children at higher poverty levels
- Pregnant women of higher poverty levels

Eligibility: In Simpler Terms...

Aged

Blind

Disabled

A Child

A Caretaker of a Child

A Pregnant Woman

CHAIRWOMAN GREEN asked if the SSI program is a federal program.

MR. LABBE said it is 100 percent federally funded and operated. States are required to provide a state supplement, which in Alaska, is the adult public assistance payment (APA). SSI recipients are then eligible for Medicaid. Some of the groups who receive APA payments are required by federal law, some are optional. The SSI program started in 1974. Prior to that, the program was administered by states and required a state match.

MR. LABBE pointed out that Alaska's Medicaid program does not cover everyone who is low-income. Some states have special grants and demonstration waivers to cover low-income groups that are excluded from Alaska's program.

REPRESENTATIVE DYSON commented that hospitals must spread the cost of treating folks without coverage. He asked if other jurisdictions have figured out how to solve that problem.

MR. LABBE replied that some states have concluded that making sure that everyone is covered in some way reduces the cost shifting. That is the theory behind Oregon's health plan that moved toward universal coverage. That program provides coverage in several ways; part-Medicaid, buy-in programs, part-insurance. The idea behind it is that if everyone has coverage, some level of payment takes place so there is less subsidization from cost-shifting.

REPRESENTATIVE DYSON asked if those states have seen the costs to third party payers decrease since cost subsidization isn't happening within institutions.

MR. LABBE said he does not have the answer to that question but can look into it. He added that he is not aware of any state in which everyone is fully covered but Hawaii and Tennessee seem to have the broadest programs.

CHAIRWOMAN GREEN recognized the arrival of Representative Cissna.

REPRESENTATIVE CISSNA pointed out, in reference to Representative Dyson's question, that the costs of health care have accelerated so quickly so that everyone is scrambling to keep up with the costs while nothing has been done to stabilize those costs. She asked if that is a correct assessment of what has been happening.

MR. LABBE said the fact that costs have accelerated rapidly is correct and is a national issue. He noted the rate of increase slowed down for a few years but it is now accelerating again.

MR. LABBE provided the following chart of federally mandated services. He pointed out that for children, all the services are mandatory as the result of a modification of the federal law in 1989. That modification required states to provide necessary services for a child to correct a condition, even if that service is not covered in general by the state's Medicaid program. An example would be physical therapy, which is not listed as a mandatory service.

**Federally Mandated Services - Mandatory Services: Sec. 1905,
Social Security Act**

Inpatient hospital services
Outpatient hospital services
Prenatal care
Vaccines for children
Physician services
Nursing facility services

Family planning services and supplies
Rural health clinic services
Home health care for persons eligible for skilled-nursing services
Laboratory and x-ray services
Pediatric and family nurse practitioner services
Nurse-midwife services
Federally qualified health-center (FQHC) services
Early and periodic screening, diagnostic, and treatment (EPSDT)

Children's Services

All medically necessary health care services must be covered for eligible children.

-Within the scope of mandatory or optional services under Federal law.

-Even if those services are not included as part of the covered services in that State's plan.

MR. LABBE then discussed the following optional services that states may elect to cover.

Optional Services

AS 47.07.030

(♦ Selected by the Alaska Legislature for coverage)

- ♦ Ambulatory surgery center services
- ♦ Case management services
- Chiropractic
- Christian Science sanatorium
- Clinic services
- Community supported living arrangements
- ♦ Dental (*adults limited to emergency treatment for pain and infection*)
- Dentures
- Diagnostic services
- ♦ Durable medical equipment
- Emergency hospital services (*for hospitals not enrolled*)
- ♦ Home and community care
- ♦ Home health
- ♦ Hospice services
- ♦ Intermediate Care Facility for the Mentally Retarded (ICF/MR)
- ♦ Services in an inpatient psychiatric facility for age 65 and older
- ♦ Medical supplies
- ♦ Occupational therapy
- Optometrist services
- ♦ Personal care services
- ♦ Physical therapy
- Podiatry
- ♦ Prescription drugs
- Preventive services
- Private duty nursing
- ♦ Prosthetics and orthotics
- ♦ Rehabilitation services (*mental health and substance abuse*)
- Respiratory therapy
- Screening services
- ♦ Speech, language and hearing services
- ♦ Vision services

MR. LABBE said some of the eligibility groups are up through age 18, but a disabled person who is 20 would be considered a child for the purpose of the Medicaid package.

CHAIRWOMAN GREEN asked how a minor who is a ward of the state would be treated.

MR. LABBE said the state currently covers 19 and 20 year olds under that system. He clarified that home and community based services are not considered medical services typically so the state is not required to cover those services for children but it does have waivers specific to disabled children.

MR. LABBE showed the following list of priority services in statute.

AS 47.07.035 Priority of medical assistance

Prior -ity	Type of Service	FY01 Recipients	Cost
1	Clinical Social Workers Services	0	\$0
2	Psychologists Services	0	\$0
3	Chiropractic Services	0	\$0
4	Advanced Nurse Practitioner Services	0	N/A
5	Adult Dental Services	4,798	\$1,699,255
6	Emergency Hospital Services	0	\$0
7	Midwife Services	0	N/A
8	Treatment of Speech, Hearing, and Language Disorders	1,686	\$920,912
9	Optometrists Services and Eyeglasses	9,407	\$1,135,807
10	Occupational Therapy	292	\$404,894
11	Mammography Screening	928	\$33,733
12	Prosthetic Devices	285	\$248,949
13	Medical Supplies and Equipment	1,874	\$2,564,022
14	Targeted Case Management Services	0	\$0
15	Rehabilitative Services for Substance Abusers and Emotionally Disturbed or Chronically Mentally Ill Adults	735	\$2,507,124
16	Clinic Services	4,005	\$42,516,123
17	Physical Therapy	9,316	\$918,404
18	Personal Care Services in a Recipient's Home	1,198	\$6,251,068
19	Prescribed Drugs	26,664	\$27,659,154
20	Hospice Care	5	\$7,494
21	Long-Term Care Noninstitutional Services	2,246	\$55,495,465
22	Inpatient Psychiatric Facility Services	490	\$13,845,681

23	Intermediate Care Facility Services for the Mentally Retarded	0	\$0
24	Intermediate Care Facility Services	0	\$0

Source: MMIS MARS MR-O-12 Reports

MR. LABBE said the big costs begin with clinic services, which are the community mental health clinics. The costs are borne by total fund dollars, not only general fund dollars which pays about 33 percent.

CHAIRWOMAN GREEN asked if Mr. Labbe has any suggestions regarding the list.

MR. LABBE said he does not; he showed the list to point out that when people talk about going down the list, the program will have to cut one dollar to save 33 cents, and a number of services will be eliminated, such as medical supplies and equipment. When he has looked at that approach in the past, the question of whether the Medicaid program will no longer cover mental health services or prescription drugs is the kind of question that has to be answered. He feels that approach is draconian.

REPRESENTATIVE DYSON asked Mr. Labbe to clarify what he meant by this approach.

MR. LABBE said he was referring to reducing costs by cutting services. He stated some services cannot be cut; so, to save \$50 million in general funds for example, the program would have to no longer provide prescription drug coverage and other services.

REPRESENTATIVE CISSNA said another way to look at that is to figure out what the real cost is. When the legislature looks at any kind of cuts, it needs to know the total cost because the state will lose if it cuts certain things.

MR. LABBE pointed out the list only shows what DHSS spent in a particular service. Several years ago, perhaps in 1994, adult dental services were added back into the program. At that time, DHSS found it was spending quite a bit of money on outpatient hospital services because people who could get no dental care would show up there when they had a dental emergency. He said although the Adult Dental Services program is not comprehensive, it provides relief from pain and infection and reduces the outpatient service cost. He said his point is that if something is cut, the cost will show up elsewhere.

CHAIRWOMAN GREEN asked if the amounts on the priority list reflect the amounts actually paid.

MR. LABBE said that is correct.

CHAIRWOMAN GREEN asked how the list of 24 services was prioritized.

MR. LABBE said the first service on the list would be the first to go so that the list is in reverse order of the importance of services. He noted the first three items on the list are not currently provided. He explained that number 23 refers to payments to Harborview and number 24 refers to nursing home payments. DHSS had no expenditures on FY 01. He indicated that number 24 should probably be removed from the statute since nursing facility services are mandatory.

CHAIRWOMAN GREEN asked if the first expenditure is number 22.

MR. LABBE said number 22 would be the last service cut.

CHAIRWOMAN GREEN asked, if DHSS ran out of money, would it quit paying for services for numbers 22, 21, and 20.

MR. LABBE said it would not happen that way and that this is a difficult issue. When he met with the Finance Committee over the last several years on this question, they discussed making this decision before the end of session. The discussion has revolved around whether it is better to project expenses low and come back for supplemental funding if necessary. He has found that DHSS cannot cut services without promulgating regulations and giving clients notice. In addition, some payments are in the "pipeline" and there is a payment lag. Therefore, to make a cut effective and generate the dollar, DHSS has to have this in place at the first of the fiscal year or shortly thereafter. Once the fiscal year begins, the regulation process, the client notice process, and the payment lag run into the next year.

SENATOR TAYLOR commented that legislators have been told during the session that DHSS will have to cut out adult dental services and other services if the legislature does not act immediately. However, that does not occur.

MR. LABBE said that happens when DHSS presents a budget and is told the program will only be funded at a certain level. DHSS then does an impact analysis and that is what it would have to do. He noted that changing the benefit package would not happen without a discussion with the legislature.

CHAIRWOMAN GREEN asked Mr. Labbe if he is prohibited from prorating payments if he foresees a shortage.

MR. LABBE said he believes there is a federal problem with proration but he would have to research that further. He said DHSS has state authority to adjust payment rates but certain rules

apply and the adjustments are not typically across the board. For example, Alaska statute requires DHSS to pay a fair rate for health facilities. The same requirement does not exist for physician rates. He knows in the past, when states have tried to do across the board cuts, the federal agency says a program cannot be driven by budget.

REPRESENTATIVE DYSON said he assumes DHSS cannot pro-rate the qualifying family income.

MR. LABBE said that is correct. Moving on with the presentation, Mr. Labbe explained each state is required to have a medical care advisory committee (MCAC), composed of six health care providers and six consumer representatives. DHSS has aimed for a fair geographic distribution as well as representatives from the different user groups and medical fields.

CHAIRWOMAN GREEN asked if a charge of the medical care advisory committee is to review Medicaid provisions and agencies and whether it comes up with proposed programs or changes.

MR. LABBE said the committee makes recommendations to DHSS for regulatory changes and on operational issues. He told committee members that the MCAC hears from the public and tries to advocate for all participants, both providers and consumers.

CHAIRWOMAN GREEN asked if the MCAC is supposed to act as an advocate or lobby.

MR. LABBE said he would not characterize the MCAC that way. He believes its members are very interested in health care but their primary role is to make sure the system is working well. For example, DHSS developed a survey of providers, which the MCAC reviewed and gave DHSS practical feedback and advice.

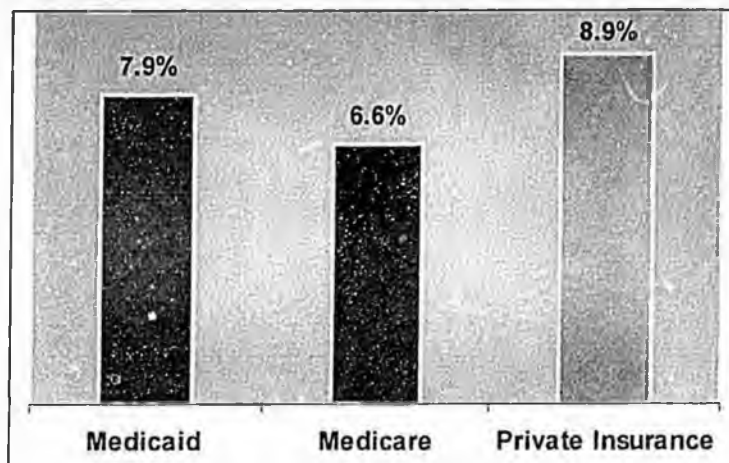
REPRESENTATIVE DYSON said he believes, by definition, the role of the MCAC is advocacy.

MR. LABBE said he brings the MCAC a lot of material for review..

CHAIRWOMAN GREEN asked if the MCAC's role is to advise DHSS or the legislature.

MR. LABBE thought the federal government envisioned the MCACs to advise the program and to allow program managers to have some input into the process.

REPRESENTATIVE CISSNA said she felt compelled to say that it is "sticky" because every single person in Alaska wants to advocate for help. Therefore, it is difficult to determine when one group may be asking too much.



MR. LABBE said his next chart speaks to what is happening nationally.

**Nationwide Medicaid Expenditure Growth
Converging Trends are Causing
Medicaid Expenditure Growth**

- Increasing Inflation in Health Care Market
 - Pressure to increase provider payments
 - Higher costs for brand and generic prescription drugs
- Changing Health Care Utilization
 - Reliance on home & community based services
 - Greater use of prescription drugs, new technology
- Expanding Enrollment
 - Eligibility expansions
 - Growth of the disabled population in Medicaid
 - Use of Upper Payment Limit (UPL) Arrangements

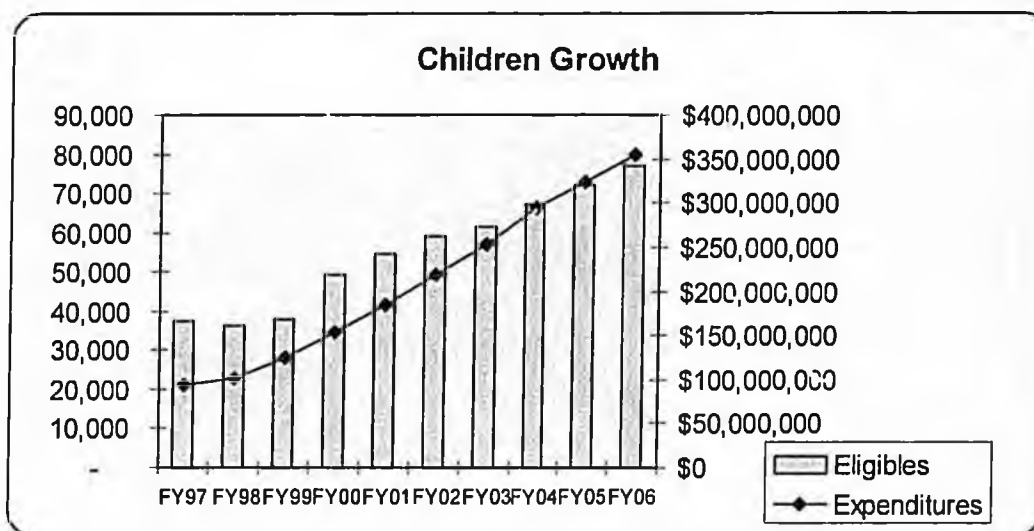
MR. LABBE said, regarding inflation, costs were fairly flat for awhile but are beginning to increase again. The big issue nationally is prescription drugs. He thought Mr. Gilbertson might discuss prescription drugs but he believes that agenda is on the back burner with Congress right now. He noted states would benefit if prescription drugs for seniors were covered.

**National Projected Average Annual Growth Rate in Medicaid,
Medicare, & Private Health Insurance, 2000-2005**

MR. LABBE stated:

I think if you look at the next page where it shows the growth rates projected - Medicaid, Medicare and private insurance - the one that I thought was interesting here was that Medicare was lower than Medicaid and private insurance and I think the Medicare, again, the areas like prescription drugs, which they don't cover, are one of the biggest drivers in Medicaid so Medicaid will go up. The other thing that Medicare doesn't really do much of is long-term care. It's a very short stay following hospitalization. They say up to 100 days but it's typically 8 to 10 days that Medicare will pay for

and then if the person stays in a nursing facility, the primary payer tends to become the Medicaid program, which is state match. The same thing in the home and community based services. Medicare does cover some home health benefit. Again that's more short term but if you get the longer term supports - personal care attendant services, some of these things, essentially it's a state Medicaid business. So I think that's partly - those areas are growing in Medicaid and the basic - the hospital and the doctor stuff is probably



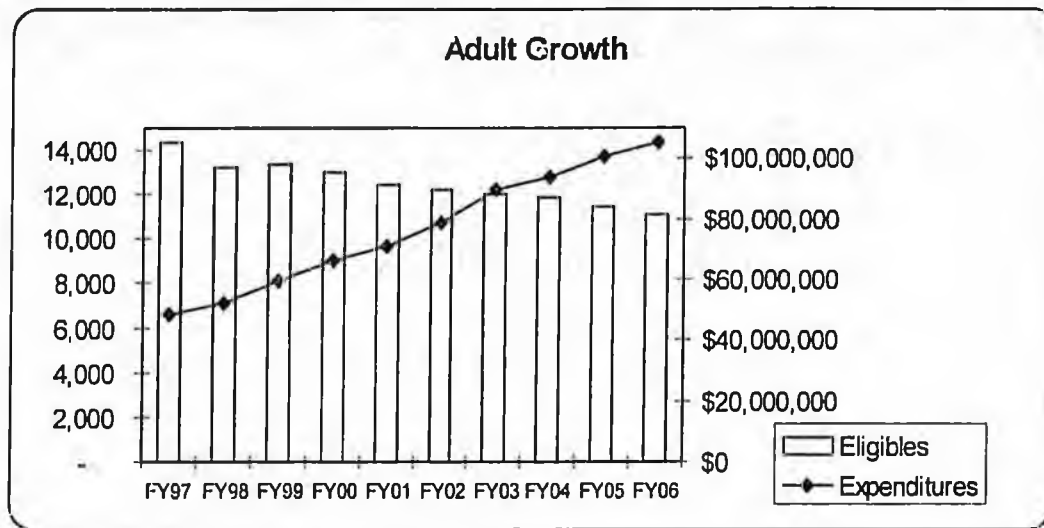
the same but when you add these prescription drugs, home care, nursing home care, Medicaid will be growing.

MR. LABBE then discussed the information on the following chart.

- **Children's eligible recipient numbers**
 - ✧ FY01 eligible numbers represent 24% of Alaska's total population ages 0 - 18
 - ✧ Average increase in eligible growth over last 4 years has been 10.4%
 - ✧ Children's eligible recipient rate of growth decreased by more than 50% in FY 01
 - ✧ FY01 average cost per month per eligible child was \$280
- **Children's expenditures:**
 - ✧ 35% of total FY01 Medicaid expenditures are attributed to Alaska's children.
 - ✧ Over the past 4 years, Medicaid's total rate of expenditure growth has averaged 15%
 - ✧ Over the past 4 years, the average increase in expenditure growth for children has been 18.8%
 - ✧ 55% of FY 01 expenditure growth was attributable to increased eligibles

FY04 through FY06 total projections are based on a simple linear trend with a 7.1%

Adult Growth



health spending growth rate applied. Source of Rate: March 2001 Center for Medicare & Medicaid Services' "National Health Care Expenditures Projections: 2000-2001". These projections assume no changes to the existing program.

MR. LABBE explained the chart projects the growth of the Denali Kid Care program through FY 06. The rate of growth increased more than 50 percent in FY 01; the future rate of growth is projected to be lower. DHSS expanded Medicaid services in the early 1990s when it began to cover children and pregnant women at a higher income level. DHSS served 77,422 children last year, about 24 percent of Alaska's children.

REPRESENTATIVE DYSON asked if any jurisdiction, other than private health, figured out how to reward and encourage healthy behaviors.

MR. LABBE said some programs encourage pregnant women to access prenatal care sooner but he did not think DHSS could reward certain behaviors.

REPRESENTATIVE CISSNA noted that Native health agencies are putting a lot of effort into education because many people do not know what healthy habits are.

SENATOR TAYLOR pointed out that the number of eligible participants will be less than the funding by FY 06. He asked for clarification.

MR. LABBE said when the program was implemented, that some of the costs per person dropped. The later years show that once the population is well covered, the costs will increase as health care costs increase so that expenditures will exceed the number of eligible people. He added that same scenario is more evident on the next chart with the adult population, where the population is decreasing but the expenditures are increasing.

He pointed out the adult population is made up, primarily, of the temporary assistance population and pregnant women. DHSS expanded coverage several years ago so that pregnant women with a

higher income level were eligible. At the same time, temporary assistance cases have been lower cost because those clients receive coverage based on the fact they receive cash grants: they do not necessarily apply for the purpose of health coverage. People move off of the temporary assistance program so that those who remain are those with the most difficulties in moving into the work force and frequently have more health problems and use more services. Consequently, the cost per person has increased while the caseload has dropped.

SENATOR TAYLOR said one of his concerns regarding the previous chart is how many of the 77,000 children are also covered by the Public Health Service or private insurance. He noted Medicaid has become the first payer.

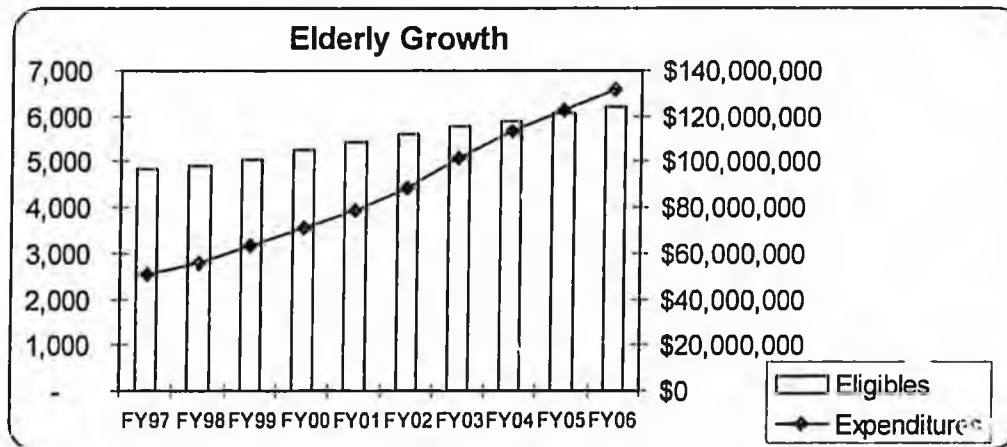
MR. LABBE explained that some children have other health insurance but that is not a factor that makes a person ineligible for the Medicaid program. If a client has other insurance, Medicaid acts as the last payer. In addition, the Medicaid program may offer some benefits that private insurance does not, for example dental services. He noted that many seniors are eligible for both Medicare and Medicaid. Medicare pays first but it does not cover prescription drugs so those drugs are paid through Medicaid. Payments for Medicare and Medicaid services are coordinated so that, for example, Medicare may pick up 80 percent of the costs while Medicaid pays the other 20 percent. He informed members that if private insurance is available, DHSS has a unit that goes after the insurance company and recovers for the state.

SENATOR TAYLOR asked why the Medicaid program would cover a bill for someone who is eligible for and fully covered by a Native health service. He questioned why, if the Native program is fully paid for with federal funds, the state should get a bill for any services for that person.

MR. LABBE said his understanding is that the federal law directs states to enroll and allow tribal programs to bill as a way to help supplement declining appropriations. However, when the state pays those providers, it claims that payment at 100 percent federal funds so no general fund payment is being made.

MR. WINKELMAN, legal counsel for the YKC Health Corporation, explained that Congress views the Alaska Native citizen as a citizen of Alaska and the United States, and a citizen with a trust relationship with the federal government. Therefore those citizens are entitled to both Medicare and Medicaid. The federal government pays 100 percent for their health care under the FMAP so no state funds are being expended for Alaska Native Medicaid-eligible patients.

MR. LABBE continued his presentation by describing Alaska's elderly in regard to the Medicaid program.



FY04 through FY06 total projections are based on a simple linear trend with a 7.1% health spending growth rate applied. Source of Rate: March 2001 Center for Medicare & Medicaid Services' "National Health Care Expenditures Projections: 2000-2001". These projections assume no changes to the existing program.

MR. LABBE pointed out the growth of Alaska's senior population in the Medicaid program has been very consistent. In terms of

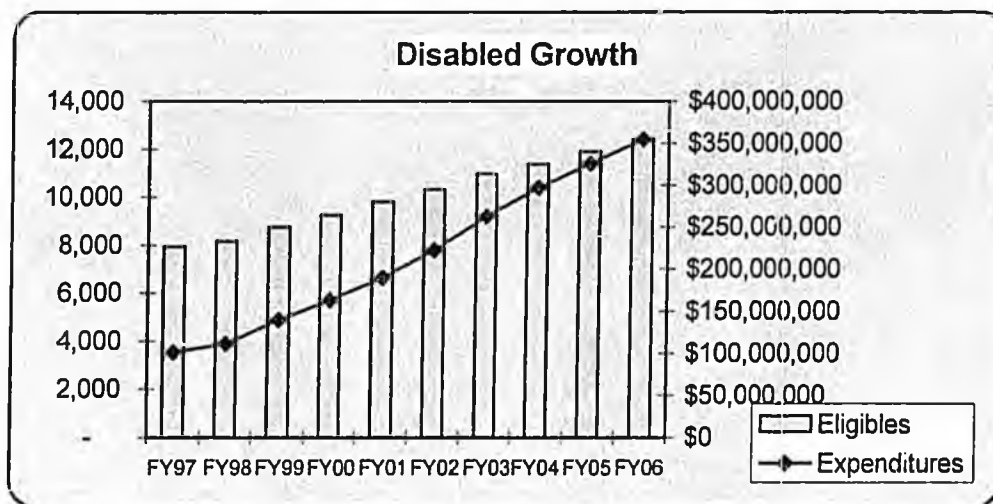
- **Elderly Eligible Recipient Number:**
 - Elderly eligible growth has averaged 3% for the past 4 years
 - Elderly Rate of growth is Medicaid's most consistent
 - FY01 average cost per month per eligible elderly person was \$1,209
- **Elderly Expenditures**
 - Expenditure growth for the elderly has average 12% for 3 years
 - 29% of FY01 expenditure growth was attributable to increased eligibles

demographics, he believes the general population is growing at a lower rate than the senior population. There has been concern expressed about long-term care needs in 20 years because of a large number of seniors who will be over age 85. However, the population that is aging in Alaska typically has more assets and higher income so they will not qualify for these programs until they are in need of nursing home services. The growth is very predictable. Services for Alaska's elderly comprise a fairly

expensive portion of the Medicaid caseload. Last year, Medicaid served 7,159 elderly individuals at a cost of \$70 million. However, the services they need are expensive, such as prescription drugs and long-term care. If those clients did not have Medicare coverage, Alaska's cost would be very high. DHSS is required to pay premiums for low-income Medicare beneficiaries. The federal government matches that payment.

CHAIRWOMAN GREEN asked where the costs for the assisted living services show up.

MR. LABBE said assisted living services fall under the home and community based waivers. He noted the charts show aggregate costs and that he would provide more detail later.



MS. RYNNIEVA MOSS, staff to Representative Moss, noted that assisted living homes take in vulnerable adults and apply for Medicaid waivers. Often, they provide medical services three months before the waiver is approved and they cannot be reimbursed for those three months. It is her understanding that could be changed at the federal level because assisted living homes are in the unique position of not being able to be reimbursed retroactively. She asked Mr. Labbe if he has talked to the federal government about those possible changes, which, to her understanding, will have to be made legislatively.

MR. LABBE said he has not talked to anyone in the federal government about retroactive payments. That issue has been under discussion in the Department of Administration. He stated the issue is that a person cannot be put on a home and community based waiver retroactively. If the services begin before a person has a level of care determination, those services cannot be paid prior to the date of determination. He said he has no new information on that issue but will find out.

CHAIRWOMAN GREEN announced that the committee would break in 20 minutes for lunch and reconvene at 1:30 p.m.

MR. LABBE continued his presentation and discussed the disabled clients in Alaska's Medicaid program. He referred to the following chart and stated that last year, the Medicaid program served 12,194 clients, both children and adults with disabilities.

- **Disabled Eligible Recipient Number:**
 - ↘ Disabled eligible numbers have maintained a steady increase of about 5% for 4 years
 - ↘ FY01 average cost per month per disabled recipient was \$1,624
- **Disabled Expenditures:**
 - ↘ Expenditure growth has averaged more than 17% for 4 years
 - 28% of FY01 expenditure growth was attributable to increased eligibles

CHAIRWOMAN GREEN stated the Mat-Su Valley is growing faster than any other area of the state, population-wise. She asked Mr. Labbe if his charts take that growth into account.

MR. LABBE said the projections are from DHSS data.

CHAIRWOMAN GREEN said the projections could be an underestimate.

MR. LABBE said they could go either way and, in fact, DHSS has been looking into the growth rate in the number of disability clients. A researcher suggested the disability growth for the adult public assistance population followed the birth rate plus 18 years. He suspects that as the birth rate dropped, the rate could level out. He pointed out this category is the most expensive on a per person basis. About 50 percent of these clients also receive Medicare.

REPRESENTATIVE DYSON commented, regarding Senator Taylor's question about expenditures increasing at a higher rate than enrollees, the services should be based on the needs of the people rather than what is available. He asked:

How do we keep new people providing services from being salesmen who are saying, oh my goodness, there's another program you can sign up for - you need to do this - just because the program is available as opposed to the needs of the client or patient?

MR. LABBE replied in the medical service area, DHSS is quite dependent on the physician prescribing services. DHSS also has case management programs to monitor utilization and to assist families in finding a more efficient use of services. He pointed out that one of the factors that is driving up the cost of prescription drugs nationally is not only new technology but direct advertising. He noted DHSS has a committee that works on these issues, including education.

REPRESENTATIVE DYSON said he is on a crusade to create a process where every person who receives assistance from the state only has to deal with one agency and minimal paperwork. He asked Mr. Labbe if he believes that is an impractical goal.

MR. LABBE said he believes it is an ambitious goal but it may not be impractical, especially in some areas. The Division of Medical Assistance does not directly interact with consumers, for the most part. Clients submit a public assistance application. During that process, a client may encounter multiple agents.

REPRESENTATIVE DYSON said he is aware of people who receive temporary assistance and, in addition, need child care assistance. Those people have to recap all of their information and comply with schedules that are very difficult, particularly in light of the fact that they are dealing with child care and transportation problems. He said he longs for the day when those people can fill out one form that would qualify them for several programs and in which one person acts as the broker for the family. He asked if any jurisdiction in the country uses such a process.

MR. LABBE said the State of Oregon is moving into that model and he believes one or two other states are moving in that direction.

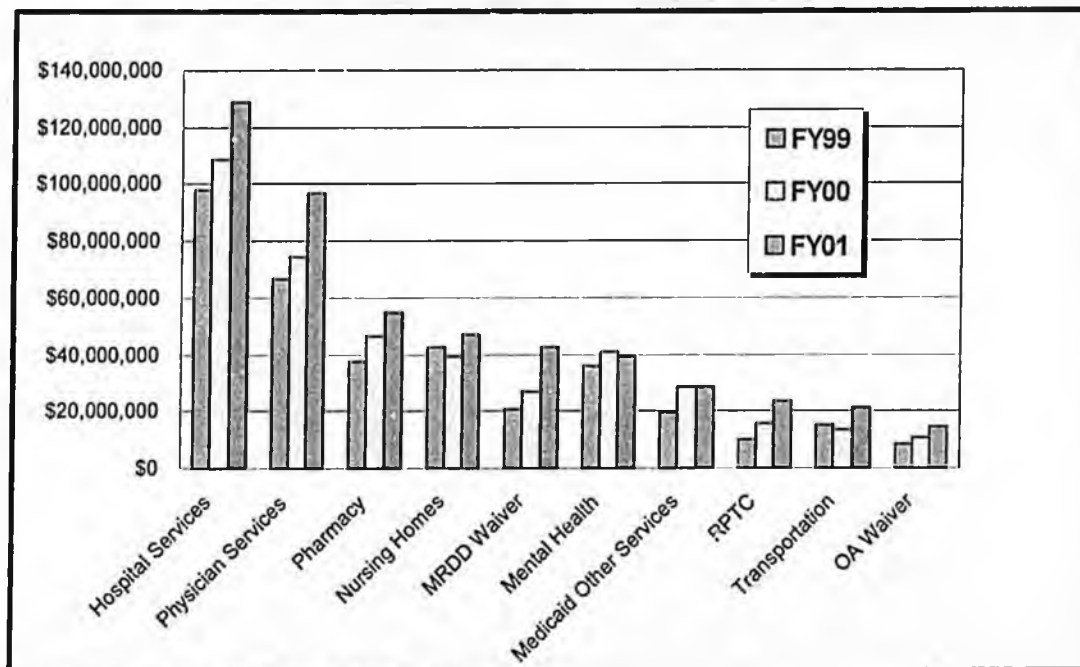
REPRESENTATIVE DYSON said if the state made it work better for recipients, the delivery of services would become more efficient and possibly reduce costs.

MR. LABBE pointed out the Division of Public Assistance has a web page but he has not been involved in that project.

REPRESENTATIVE CISSNA said she did some volunteer work for a program for the long-term mentally ill that was established by the California State Legislature to find a solution similar to what Representative Dyson suggested. Funding stays with the client so that if money is saved by hospitalization so that, for example, some of the clients were able to receive college educations with the extra funds saved. She felt such a program is worth looking at.

MR. LABBE drew attention to the following chart.

Cost Center Growth Top Ten Expenditure Categories



Categories include Indian Health Services

He explained that the category entitled "Medicaid Other Services" includes lab work, x-rays, medical supplies, vision, home health, family planning, physical and speech therapy, and personal care attendants. He noted that clearly, the largest expenditure categories are for hospital and physician services. He said the one area that has remained fairly level is the nursing home category.

SENATOR TAYLOR asked why such a dramatic increase in hospital services in two years.

MR. LABBE said that reflects an increase in the caseload of children.

SENATOR TAYLOR asked if that is due to Denali Kid Care.

MR. LABBE said it is. DHSS has added about 18,000 to 20,000 children since 1999. DHSS has also added a new group of disabled workers that can buy into the program. In addition, costs have increased.

SENATOR TAYLOR said he is floored by the almost 50 percent increase in costs of physician services over three years and asked how that can be rationally budgeted for in the next three

years.

REPRESENTATIVE CISSNA maintained that insurance costs are rising in the same manner.

SENATOR TAYLOR disagreed and said insurance costs have not increased 50 percent in two years.

MR. LABBE pointed out the chart shows the total dollars expended, including Indian Health Service costs. The tribal programs have had an increasing ability to bill the Indian Health Service so the data is coming in now. In addition, there have been some rate increases from the federal government.

SENATOR TAYLOR asked Mr. Labbe if those factors may have skewed those categories a bit.

MR. LABBE said they have.

CHAIRWOMAN GREEN felt the rate of growth should be fairly static and that the chart is reflective of what she saw on the Finance Committee last year - a \$40 to \$60 million increase in one year in Medicaid participation. That amount equals half of the Department of Public Safety's budget. She said that regardless of how endearing these programs are, the legislature has to ask if this is the best way to provide those services.

MR. LABBE presented four pie charts to demonstrate service use by the four population groups. He noted the population group of children includes newborns; he would prefer to split the group in two because expenses are much higher for the first year of life.

CHAIRWOMAN GREEN asked Mr. Labbe if he would prefer to separate out the high incidence children.

MR. LABBE said yes and, similarly, he would like to separate out costs for pregnant women from the adult category. He plans to split the groups because the current categories mask what is going on.

REPRESENTATIVE DYSON asked what percentage of the total state population are disabled, what percentage are children, and what percentage is classified as adult.

MR. LABBE offered to get that information from the Census Bureau data.

CHAIRWOMAN GREEN announced the committee would recess until 1:30 p.m.

CHAIRWOMAN GREEN called the subcommittee back to order at 1:40

p.m. and announced the next item on the agenda was an overview of Medicaid fraud.

MR. STEVE BRANCHFLOWER, Director of the Alaska Medicaid Fraud Control Unit (MFCU), informed subcommittee members that he distributed a handout that he prepared in May of 2000 for the Medical Care Advisory Committee. He explained the essential difference between Medicaid and Medicare is that Medicaid is a health care program for low income and disabled people, funded by the state and federal government, while Medicare is 100 percent federally funded and provides medical benefits for retired people. State participation in Medicaid is optional. If states decide to participate, they must provide certain minimum health care services, establish a payment structure, and provide for oversight of the providers. Alaska's split was 50/50 until Senator Murkowski was able to enact legislation that changed the split to 60/40. Alaska's statutory scheme for its Medicaid program is embodied in AS 47.

MR. BRANCHFLOWER explained that each state that participates in Medicaid must have a Medicaid fraud control unit to investigate and prosecute crimes against the Medicaid fund. The MFCU is a separately identifiable legal entity. Although it functions as part of the Department of Law, it is separate from the Division of Medical Assistance.

The MFCU has three objectives:

- to conduct a statewide program to investigate and criminally prosecute providers who steal money;
- to investigate fraud in the administration of the program;
- to review complaints of abuse and neglect against patients in health care facilities receiving Medicaid funding.

The MFCU was created in 1992. It is funded with 75 percent federal funds and 25 percent state funds. The office is staffed with two investigators, an internal auditor, and Mr. Branchflower. He is cross-designated, meaning he can prosecute in either state or federal court. Alaska's criminal statutes are not tailored to the investigation or prosecution of health care crimes, therefore he often prosecutes in federal court.

REPRESENTATIVE DYSON asked Mr. Branchflower if he recommends changing Alaska's statutes.

MR. BRANCHFLOWER said he believes there is a lot of room for improvement and offered to provide suggestions.

REPRESENTATIVE CISSNA maintained that the cost factor of statutory changes should be taken into consideration.

MR. BRANCHFLOWER informed the subcommittee that the MFCU is located in the Office of Special Prosecution and Appeals within the Department of Law. He provided the following statistics to show the rising costs per participant:

In FY 99 -

- the total number of participating providers was 3,787
- the total number of recipients was 79,777
- the number of claims lines processed equaled 3,091,484
- the total reimbursements paid equaled \$378,451,845 equaling \$4,783.87 per recipient.

In FY 00 -

- the number of providers escalated to 10,345
- the number of recipients increased to 92,103
- the claims lines processed jumped to 4,683,421
- the total reimbursements paid was \$467 million which equates to \$5070 per recipient.

He pointed out the total expenditures progressed from \$257 million in FY 95 to \$467 million in FY 00. From 1995 to the present, the Medicaid claims paid amounts to almost \$2 billion. HCRA reports that, nationally, approximately 10 to 20 percent of health care dollars spent go to fraud, waste and abuse, amounting to a considerable amount of money.

MR. BRANCHFLOWER explained that DMA contracts with the First Health Services Corporation, to conduct the day-to-day business of DMA. They enroll Medicaid providers. He pointed out that any business that provides a service to a recipient can become an enrolled provider, such as an airline, hotel, or taxi cab company. First Health Services Corporation also processes Medicaid claims. DMA has a term contract with the First Health Services Corporation, which will soon be up for renewal.

TAPE 01-49, SIDE A

MR. BRANCHFLOWER told the subcommittee that providers can submit bills to First Health Services Corporation either on paper or electronically. More and more providers are submitting claims electronically because the reimbursement process is much faster. Essentially, a recipient goes to a provider who provides services and submits a bill to the First Health Services Corporation. The claim is processed and, if approved, a check is deposited directly in the provider's checking account. The turnaround time is relatively short and can take a matter of days. Because of the high volume of service and claims, the system does not allow for a check on whether or not services were actually provided. The whole system runs on good faith. It is only after the fact,

if an effort is made to reconcile the billings with patient charts, can fraud be found. Many checks have been put into the system, but the ability to steal large amounts of money in a short period of time is there.

CHAIRWOMAN GREEN asked if that is the case nationwide.

MR. BRANCHFLOWER said it is. He then noted that Alaska has what is called a "fee for service" program, as opposed to health maintenance organizations (HMOs). In the HMO scenario, the government gives a group of doctors a certain amount of money to provide services under a contract. Recipients may complain that the services are not being provided so the HMO is underutilized. Alaska is one of three states with a fee for service program. The problem here is over-utilization because anyone who provides a service gets paid for it.

REPRESENTATIVE DYSON maintained that with a fee for service system, services may outweigh demand.

MR. BRANCHFLOWER agreed. He said a reasonable medical necessity must be associated with the service but, from time to time, the MFCU sees over-utilization with no justification, for example over prescribing, over testing, and over medication.

REPRESENTATIVE DYSON asked if that occurs in non-profit organizations.

MR. BRANCHFLOWER said it does. He then went on to explain that the major components of a Medicaid claim are:

- a recipient number
- a provider number
- date of service
- diagnosis
- procedure code for the treatment provided
- reimbursement

He exhibited a chart of four columns: a description of services, such as whether the patient is new or established or the appointment was a consultation; the CPT code; the service category, which ranges from minimal to comprehensive; a description of the services provided; and the Medicaid reimbursement rate. He pointed out that if a doctor codes a bill for a comprehensive exam when in actuality the doctor only renewed a prescription, the doctor will be reimbursed at a much higher rate. In a case that he recently tried, a doctor billed Medicaid for consultations for almost 80 percent of all of his billings, which are reimbursed at a higher rate. His billings equaled \$180,000. This doctor did not have the training to

qualify as a consultant, no other physician had referred any patients to him for a consultation, and no consultation took place. He maintained that trusting providers to act in good faith works most of the time, but some people take advantage of the system.

CHAIRWOMAN GREEN asked if the time lag has always been the case with Medicaid.

MR. BRANCHFLOWER replied, "I think it's in the nature of the system because when you have hundreds of hundreds of thousands, there's no way that you can have a bureaucracy that would ever require proof of services provided."

He said it is difficult for him to accept because most people are used to receiving a service before it is paid for.

REPRESENTATIVE DYSON said he assumes the medical profession has not been proactive about weeding out the charlatans.

MR. BRANCHFLOWER said these cases are very tough to investigate and prosecute compared to rape and murder cases because there is no crime scene, no physical evidence, no eye witnesses and no lab evidence. In addition, everyone is opposed to rape and murder and jurors have no difficulty understanding the law in those areas. In Medicaid fraud cases, there is no crime scene, no witnesses, no physical evidence, and juries are dealing with issues they are not familiar with, such as quality of care. These fraud cases end up being a battle of the experts. Often, medical experts within the state do not want to get involved.

REPRESENTATIVE DYSON asked Mr. Branchflower if the medical profession is doing much to police itself, for example does the Alaska Medical Association's disciplinary process work well.

MR. BRANCHFLOWER said he sees a very high level of professionalism in Alaska's medical community but he does not know whether the profession is policing itself in an effective manner. He indicated that the medical board has been very cooperative.

REPRESENTATIVE DYSON asked if doctors report to the MFCU when they see fraudulent activity.

MR. BRANCHFLOWER said they do not. He acknowledged that reports can be made anonymously.

REPRESENTATIVE CISSNA asked if proving whether services have been provided is part of the problem.

MR. BRANCHFLOWER said it is. He informed the committee that in

1997, the DMA contracted with Deloitte and Touche to do some random audits over a three-year period. Of the 70 audits done, 40 were on-site. In an on-site audit, the auditing team visits the provider's office and looks at the patient charts to reconcile the patient chart entries with the billings. As a condition of enrollment in the Medicaid program, doctors must agree to make patient files available. Correspondingly, Medicaid recipients must waive their doctor-patient privilege. The patient populations of the doctors are usually considerable. So to do a full audit would be very costly and ineffective. Instead, the auditing firm consulted with a statistician about its findings and projected the loss to the entire patient population. A total of 164 were done. He maintained the single most effective deterrent to fraud and abuse of Medicaid funds would be to continue the audits. The total cost of the three-year audit was \$1,431,750. He has collected and put back into the state treasury \$2,741,126 since July of 1998. Of the total collected, \$2,112,980 came directly from the audits. In addition, he has eight audits sitting on his desk, which could bring in an additional \$18 million. One provider would be liable for \$16 million.

CHAIRWOMAN GREEN asked if the audits began after Mr. Branchflower became employed.

MR. BRANCHFLOWER said the first audit contract was let in October, 1997; he began in July of 1998. When he began, the audits were complete and he was the beneficiary of a great amount of information.

CHAIRWOMAN GREEN asked if the money collected comes through the court system.

MR. BRANCHFLOWER said he can do one of two things: he can either prosecute a person criminally, in which case he would ask for a jail term with restitution. He acknowledged that does not often happen because these cases are difficult to investigate and prove. More often he does civil recoveries. After he reviews an audit, he meets with the provider and his attorney and share the information in the audit. Usually, once they have reviewed the findings they find they have been overpaid. Regulations governing the Medicaid program require participants to reimburse for overpayments. Depending on the conduct of the provider, MFCU can employ a range of options, for example treble damages or filing a false claim act. He often, when settling a case, asks for double the reimbursement amount, recovery of investigative costs, plus interest.

CHAIRWOMAN GREEN asked what happens if the doctor settles but does not pay.

MR. BRANCHFLOWER said they always pay. He said many bad things can happen to providers, one being disenrollment from the program. If a hospital that is part of a national chain is disenrolled, the entire chain might be disenrolled. He indicated that most providers want to make restitution because many times the problems are caused by billing or human errors.

SENATOR DAVIS asked if the settlement money goes directly to the state or whether it is shared with the federal government.

MR. BRANCHFLOWER said that depends on the settlement but usually a portion goes to the federal government. In actuality, MFCU sends the check to the Division of Medical Assistance where the apportionment is made. Sometimes he also settles with the federal government in which it keeps the money. In one case, a national hospital chain settled a national case, which was filed by the federal government with help from the states. He received a check from which the federal portion had already been subtracted.

REPRESENTATIVE CISSNA indicated that Mr. Branchflower said it is incumbent upon the providers to know the rules but she expressed concern that when she was more actively involved in the Medicaid program in the early 1990s, the standards were a moving target. She maintained that many providers are small non-profit agencies.

MR. BRANCHFLOWER agreed that many providers are very unsophisticated regarding the rules and regulations.

REPRESENTATIVE CISSNA said that to be a player, a provider almost has to be affiliated with a national group to be safe and not make mistakes because of the sophistication that is required.

MR. BRANCHFLOWER responded that the larger the provider, meaning the more services that are provided, the greater the risk that when something goes wrong it will involve a major chunk of change. For that reason, those people hire experts to do their billing. On the other hand, the "mom and pop" business cannot afford to do that. That is a legitimate problem because all are required to play by the same rules. One of the ways the Medicaid program aids all providers is by drafting a provider manual. Every enrollee receives one of these "how to" books, depending on provider type. In his estimation, those manuals need to be revised. They are out-of-date and lack specificity. He suggested once revised, the manuals should be reviewed by a lawyer or someone who could be called upon to prosecute a case. He cautioned that provider manuals are often an abbreviated form of the regulations and he believes the manuals should be more "in sync." He feels a lawyer who might be called upon to prosecute someone should have a hand in reviewing the provider manual because a common defense is that the information in the provider

manual was unclear.

MR. BRANCHFLOWER felt another issue that merits follow-up is the fact that no record is kept when a provider calls First Health Services Corporation for clarification or information. Consequently, when he questions a provider about not following a procedure in the manual, he is told the provider called First Health Services Corporation and was told what he was doing was acceptable. The First Health Services Corporation provides assistance; however, it needs to document those calls.

REPRESENTATIVE CISSNA asked if e-mail responses to questions would be considered proof in court.

MR. BRANCHFLOWER said it would and that a copy of the message should be placed in the provider's file.

SENATOR TAYLOR asked what the acronym CPT represents.

MR. BRANCHFLOWER said it is an acronym for a current procedural terminology code. Providers agree to use a universal language of services. Each service is assigned a particular number so that instead of having to fully describe each service, a number can be assigned.

SENATOR TAYLOR asked if it was derived from the California code.

MR. BRANCHFLOWER said it was derived from the American Medical Association.

SENATOR TAYLOR commented:

Which was a code that they had to come up with when they first came up with the system because the gross abuse and thievery within the system and compounding of bills was so out of control that they actually went to California and other places in the United States tried to figure out what the average high price [indisc.] was for all services and then said to the doc, you're going to get to bill this amount for this procedural service.

CHAIRWOMAN GREEN asked who writes the manuals.

MR. LABBE answered, "First Health drafts the manual - it's kind of a joint effort."

CHAIRWOMAN GREEN asked if the manual is a regulatory interpretation of state law.

MR. BRANCHFLOWER said it is a summary of statutes and

regulations. He then explained that a major glitch in the system is that DMA does not send explanation of benefit (EOB) forms to every recipient. EOB forms are a way of informing recipients of the services providers are claiming to have performed. Medicaid patients almost never get an explanation of benefits. A random sample of 400 EOBs are sent out on a monthly basis by DMA, even though there are thousands of recipients and recipients are not required to respond and return the EOBs. Historically, DMA receives very few responses. Requiring Medicaid recipients to respond, as a condition of eligibility, would provide another layer of protection.

CHAIRWOMAN GREEN asked if such a requirement would require legislation.

MR. BRANCHFLOWER thought that could be done administratively.

CHAIRWOMAN GREEN recalled that in days past, when patients were expected to pay the bill at the time of service, the patient would notice when costs increased and payment acted as a form of approval. She felt that another condition of eligibility could be to require patients to fill out a form at the time of service.

MR. BRANCHFLOWER said he attends Medicaid conferences nationwide and is aware of what other states provide. He feels Alaska provides a "Cadillac" system in the level of services provided to recipients. He believes if recipients were required to answer EOBs and the number of EOBs is increased, that action would have a chilling effect on the ability of providers to file fraudulent claims.

CHAIRWOMAN GREEN asked Mr. Branchflower if the subcommittee could look at other states' models regarding what is required of recipients in relation to verification of services.

MR. BRANCHFLOWER said it could, and recipient responses would be successful especially if the form is one page and postage paid envelopes are provided. He noted an added benefit would be that those who do not respond could be tracked.

CHAIRWOMAN GREEN asked if that would require legislation.

MR. BRANCHFLOWER was not sure. He went on to explain that the Medicaid program does exclude payment for certain services, those being:

- expenses not reasonably necessary to the diagnosis and treatment of an illness;
- items and services not properly described;
- school check-ups;

- cosmetic surgery;
- telephone consultations;
- sex change operations;
- services for inmates who are in custody; and
- weight loss therapy.

MR. BRANCHFLOWER informed the committee that the federal laws are much more comprehensive than the laws of the State of Alaska. Federal laws include the False Claims Act, statutes dealing with false statements, mail fraud, wire fraud, money laundering, specific statutes that deal with Medicaid and Medicare fraud, the RICO statutes, the Health Insurance Portability and Accountability Act (HIPAA), conspiracy, theft of government property, obstruction of justice and anti-kickback statutes. In contrast, Alaska has theft statutes that are "one size fits all," and statutes dealing with forgery, scheme to defraud, falsifying business records, and misconduct involving a controlled substance statutes.

CHAIRWOMAN GREEN asked if Alaska statutes should specifically address welfare fraud.

MR. BRANCHFLOWER said he believes so. He noted Alaska has no statutes tailored toward health care crimes.

TAPE 01-49, SIDE B

MR. BRANCHFLOWER said he has been surveying statutes from all 50 jurisdictions during the last few days and when he retires in June, he plans to go through all of the statutes and come up with a model statutory scheme. He then listed the following common rip-offs used in Medicaid fraud:

- billing for goods and services not provided;
- billing for phantom patient visits;
- upcoding;
- unbundling;
- double billing;
- billing for medically unnecessary services;
- billing for non-covered services;
- billing Medicaid higher than other payers; and
- kickbacks.

In terms of crimes against persons and patient abuse, Alaska has a very good statutory scheme that deals with crimes of violence and endangering a welfare or vulnerable patient. He noted he prosecuted a doctor in Fairbanks earlier this year who was exchanging prescriptions with some of his female patients for

sex. The doctor was billing Medicaid for "services" that he was not actually providing and Medicaid was paying for the prescriptions.

MR. BRANCHFLOWER reviewed several slides that listed investigative tools available to him. Federal law requires DMA and the Department of Law to have a memorandum of understanding. The original memorandum of understanding dated back to 1992; in 1999 it was redrafted and renewed. He then informed the subcommittee that as of this morning, MFCU has 51 investigations open. He then reviewed a chart of the investigative process.

CHAIRWOMAN GREEN asked about the MFCU budget.

MR. BRANCHFLOWER said that MFCU spent \$460,000 last year and the unit was able to bring in over \$2 million. In addition, the MFCU budget is comprised of 75 percent federal funds and 25 percent state funds.

CHAIRWOMAN GREEN noted that if 10 to 20 percent of the Medicaid budget is used fraudulently, it would not take many years to add up to a few billion dollars. She then asked if anyone has been administratively sanctioned.

MR. BRANCHFLOWER said that DMA has a regulatory system that provides for sanctions, meaning the equivalent of an accusation is filed against a provider and a hearing is held to determine whether the accusation has merit. The provider can be disenrolled. He explained that it is similar to the adjudicatory process but is done at the administrative level.

CHAIRWOMAN GREEN asked if that is a common occurrence.

MR. BRANCHFLOWER stated that, to his knowledge, DMA has sanctioned one provider since 1995.

CHAIRWOMAN GREEN asked what happened to the others.

MR. BRANCHFLOWER deferred to Mr. Labbe for an answer to that question. He then indicated that of the 164 Deloitte and Touche audits, he has taken over less than 20. Federal law says that if the MFCU refers a case to DMA in which a loss has been identified, then DMA is required by law to institute an action to recover the identified overpayment.

CHAIRWOMAN GREEN asked if DMA reports back to the MFCU when cases have been resolved.

MR. BRANCHFLOWER said it does not. He said in the last three years, he has identified, with the assistance of the Deloitte and Touche audits, \$22,300,000 in overpayments. He has sent letters

to DMA in each case citing the federal statutes and asking DMA to undertake administrative hearings to recover that money. He does not know the status of those cases.

CHAIRWOMAN GREEN asked how many people work in the recovery effort at DMA.

MR. BRANCHFLOWER said he knows of one person.

CHAIRWOMAN GREEN asked if the federal agency acts as a watchdog to make sure overpayments are collected or whether that is a state function.

MR. BRANCHFLOWER said the watchdog agency is the Office of the Inspector General. Alaska is one of the only states that office does not have a presence in. In terms of requirements, states are required to follow federal regulations as a condition of funding the Medicaid program. One of those regulations says that if the MFCU refers a case to the DMA for recovery, DMA is required to try to get the money back. He repeated in the last three years he sent 140 letters to DMA, amounting to over \$22 million. He referred them to DMA because the cases are not sufficiently strong in terms of evidence for him to pursue in court. Those cases are better suited to be handled on an administrative basis. Different standards of proof, rules of evidence and rules of procedure apply.

CHAIRWOMAN GREEN asked why the Office of the Inspector General does not have an office in Alaska.

MR. BRANCHFLOWER said it seems to him that Alaska has a sufficient volume of dollars to merit its presence but he is not aware of the reason.

REPRESENTATIVE CISSNA asked if, regarding the audits, an appeal procedure exists.

MR. BRANCHFLOWER said that when he refers a case to DMA, they meet with the provider and offer them an opportunity to review the audit. Oftentimes there are explanations for findings, perhaps an x-ray was missing from a patient's file, so there are corresponding reductions in the overpayments. The findings are calculated on the basis of 100 patients. Perhaps the auditor finds a lack of documentation for \$150 worth of services. The mathematician then extrapolates to the entire patient population the probability that there are undocumented services throughout the patient population based upon that number. That formula motivates providers to get the first figure lowered.

REPRESENTATIVE CISSNA asked if a filtering process exists to separate those who may have made a mistake from those who

intentionally commit fraud.

MR. BRANCHFLOWER said that Representative Cissna put her finger on one of the most difficult jobs of his agency. They must judge the strength of evidence and decide which cases involve egregious conduct. It is very difficult to prove these cases in court because they often involve questions of medical necessity and medical judgment. He said defining fraud is also a matter of semantics. The problem occurs when one gets away from the extreme cases. Many of those cases lend themselves well to administrative hearings.

REPRESENTATIVE DYSON asked if he gets any referrals from the Ombudsman.

MR. BRANCHFLOWER said he does not. He said his jurisdiction is limited by institutions funded by federal dollars so he is not involved with the Pioneers' Homes. He noted that most of the MFCU's work deals with conduct of providers; recipient problems are investigated by another lawyer in the Department of Law.

CHAIRWOMAN GREEN asked how to go about continuing the audits.

MR. BRANCHFLOWER said he is unaware of the mechanics of the initial audits. He thought it was done via an executive decision.

SENATOR TAYLOR asked Mr. Branchflower when he will "run out" of new audits.

MR. BRANCHFLOWER said he just finished looking at the last batch of 33; of those he kept about 8. When he finishes working on those, the "grist for his mill" will be gone.

CHAIRWOMAN GREEN asked what percentage Deloitte Touche would have and how many prosecutors would be needed.

MR. BRANCHFLOWER said the first year Deloitte Touche did 70 and about 30 the second year. He pointed out that is a realistic number because a lot of factors are considered when selecting providers. He meets with the auditors once per month to discuss provider issues and fraud issues. If certain names continue to come up, an audit may be planned. He surmised that the audits have a high deterrent value on all providers.

SENATOR TAYLOR told Mr. Branchflower that the Senate Judiciary Committee would introduce legislation for him. He then asked Mr. Branchflower his opinion of using partial payment of claims as another tool to get recipients to respond to the EOBs. He pointed out if the patient must pay 5 percent of the cost of a visit, the patient may pay more attention to the amount of the

bill.

MR. BRANCHFLOWER said he feels that is a political question. He does not disagree with that approach, but said that some recipients are very poor.

CHAIRWOMAN GREEN thanked Mr. Branchflower for his presentation and asked Mr. Labbe to complete his.

MR. LABBE continued with his power point presentation (page 19) and discussed the ten fastest growing categories of service over the last three years. The number of persons on the "Adults With Physical Disabilities waiver (APD) grew rapidly, based on pent up demand.

CHAIRWOMAN GREEN asked when that category of individuals began to receive services.

MR. LABBE said it was in 1993 or 1994. The first year about 50 people were eligible for the APC waiver and then it went way up.

CHAIRWOMAN GREEN asked what has caused such an increase between 1999 and 2001.

MR. LABBE said that for a number of years the program was administered by the Division of Mental Health and Developmental Disabilities and the adult disabled were "submerged" into the much larger waiver for the developmentally disabled. The program was moved to the Division of Senior Services where people became more aware of the backlog. He said in addition, the Supreme Court issued a decision that stimulated a lot of interest in community-based services for people with disabilities. He said he does not believe the same level of growth will continue.

MR. LABBE explained the second fastest growing category of service is for residential psychiatric treatment centers (RPTC) for children. Two facilities are located within the state. Last year about 596 clients were served. Alaska clients are also being served in about 15 out-of-state facilities. DMA has been working with the Alaska Mental Health Board on a project to investigate how Alaska children ended up in out-of-state facilities. At one point in time, about 75 percent of those children were in state custody but the opposite is true now. DMA and the Alaska Mental Health Board are also looking at whether enough in-state capacity exists.

CHAIRWOMAN GREEN asked for a description of the type of child who would need these services.

MR. LABBE said these children are generally between 10 and 18 with serious emotional disturbances. They are sometimes

dangerous to themselves.

SENATOR TAYLOR asked, "Usually they are not in the custody of the state anymore, but the numbers have gone up. That's bizarre."

MR. LABBE said at one point that category was made up predominantly of children in custody and now about 75 percent are not in custody. That is one of the issues being studied and whether there are better ways to approach that.

REPRESENTATIVE DYSON noted that the residential treatment centers can be very expensive, up to \$700 to \$800 per day.

MR. LABBE said there have been a few at that level but now the rates are more uniform. The maximum rate for out-of-state facilities paid by the state is \$330 per day. Costs out-of-state are typically lower than in state.

REPRESENTATIVE CISSNA asked Mr. Labbe if there are other costs, such as educational fees.

MR. LABBE said he believes the Department of Education and school districts pay for educational costs of children in residential facilities.

REPRESENTATIVE CISSNA clarified that the school district in which the parents reside pay for the cost. She stated that legislators need to know the total cost of sending clients to residential facilities.

CHAIRWOMAN GREEN asked about the CCMC waiver category.

MR. LABBE explained it represents children with complex medical coverage, such as a child who requires a ventilator. He then referred to page 20 and explained that it compares waiver and nursing home costs. Looking at the demographics, Alaska can expect to have a large segment of its population in need of these kinds of services in the future. The legislative Long Term Care Task Force discussed that issue quite a bit. The chart illustrates the issue of developing community-based services as an alternative to more expensive institutional services. The condition to qualify for elderly community-based waiver service is the same as the condition to qualify for a nursing home. The chart demonstrates the cost-effectiveness or cost-avoidance of using community-based services waivers.

SENATOR TAYLOR said that waiver has only been in place for about two years, as he co-sponsored legislation to create it. He asked about the status of regulations for that waiver and then clarified that he was referring to the adult assisted living program.

MR. ELMER LINDSTROM, Deputy Commissioner, Department of Health and Social Services (DHSS), said an assisted living licensure bill first passed in about 1993. Facilities were licensed as assisted living facilities from that point forward and at this time, there are more beds in assisted living homes than in nursing homes. However, the funding mechanism is complicated because there are some private pay individuals, people who receive general relief, which is paid with general fund dollars, and people who receive some reimbursement for assisted living services through the Medicaid waiver. The bill that passed several years ago, Senator Mike Miller's bill, increased the general relief payment, which is outside of the jurisdiction of DMA. He noted regulations were promulgated with some provisions relating to licensing requirements and background checks. One phase of those regulations have been filed; another portion is still being reviewed internally and have not yet been adopted. Another set of general relief regulations pertain to general relief reimbursement. During the public comment period, many comments were received and a number of changes were proposed by the agency. The draft regulations then went out again for public comment. The comment period is now closed and the Departments of Administration and Health and Social Services are still reviewing the comments.

CHAIRWOMAN GREEN said one issue she believes will continue to surface is the concern that licensure falls under the jurisdiction of DHSS.

MR. LINDSTROM said it is particularly complex when two agencies are involved. The Department of Administration licenses assisted living homes primarily for the senior population. DHSS licenses assisted living homes under the same law and regulations for mentally ill individuals residing in assisted living homes.

TAPE 01-50, SIDE A

SENATOR TAYLOR said he believes the assisted living home amount needs to be increased three or four times.

MR. LABBE said, according to the 2000 Census, Alaska's total population is 626,932. The number of children under 18 is 190,587. The number of adults 18 to 65 equals 400,610. The number of elderly Alaskans over 65 equals 35,735.

MR. LINDSTROM told subcommittee members that the 2000 Census does contain disability status for the civilian non-institutionalized population in Alaska. He was not aware of what definition of "disability" was used. The Census designated approximately 12 percent of Alaska's population disabled, amounting to 75,735 individuals. That category does not contain a breakdown for

children under the age of 5, but the number of disabled aged 5 to 20 years was 12,387; the number of disabled aged 21 to 64 was 47,357; and the number over the age of 65 was 15,991.

REPRESENTATIVE DYSON asked if the folks that pay their own costs are included in the chart.

MR. LABBE said they are not; the chart only represents Medicaid clients. He pointed out the standard used for eligibility for the disability category is tied to the Social Security Administration's disability definition, which is fairly rigorous. Therefore, many people are disabled who do not meet that standard.

MR. LABBE referred to page 21 of his power point presentation and said on average, states spent 14.7 percent of their general fund expenditures on their Medicaid programs in FY 01 while Alaska spent 10.8 percent. Alaska was 46th in the nation for state fund spending during FY 98. In terms of total expenditures, Alaska ranks low because it has a small population.

CHAIRWOMAN GREEN asked if Alaska's number is skewed upward because it does not have a county system.

MR. LABBE said in terms of state Medicaid programs, a few states have a county share but most programs are centrally administered. He offered to provide more back-up material from the reports these numbers were generated from.

SENATOR TAYLOR expressed concern that when comparisons are made with Alaska's general fund expenditures,

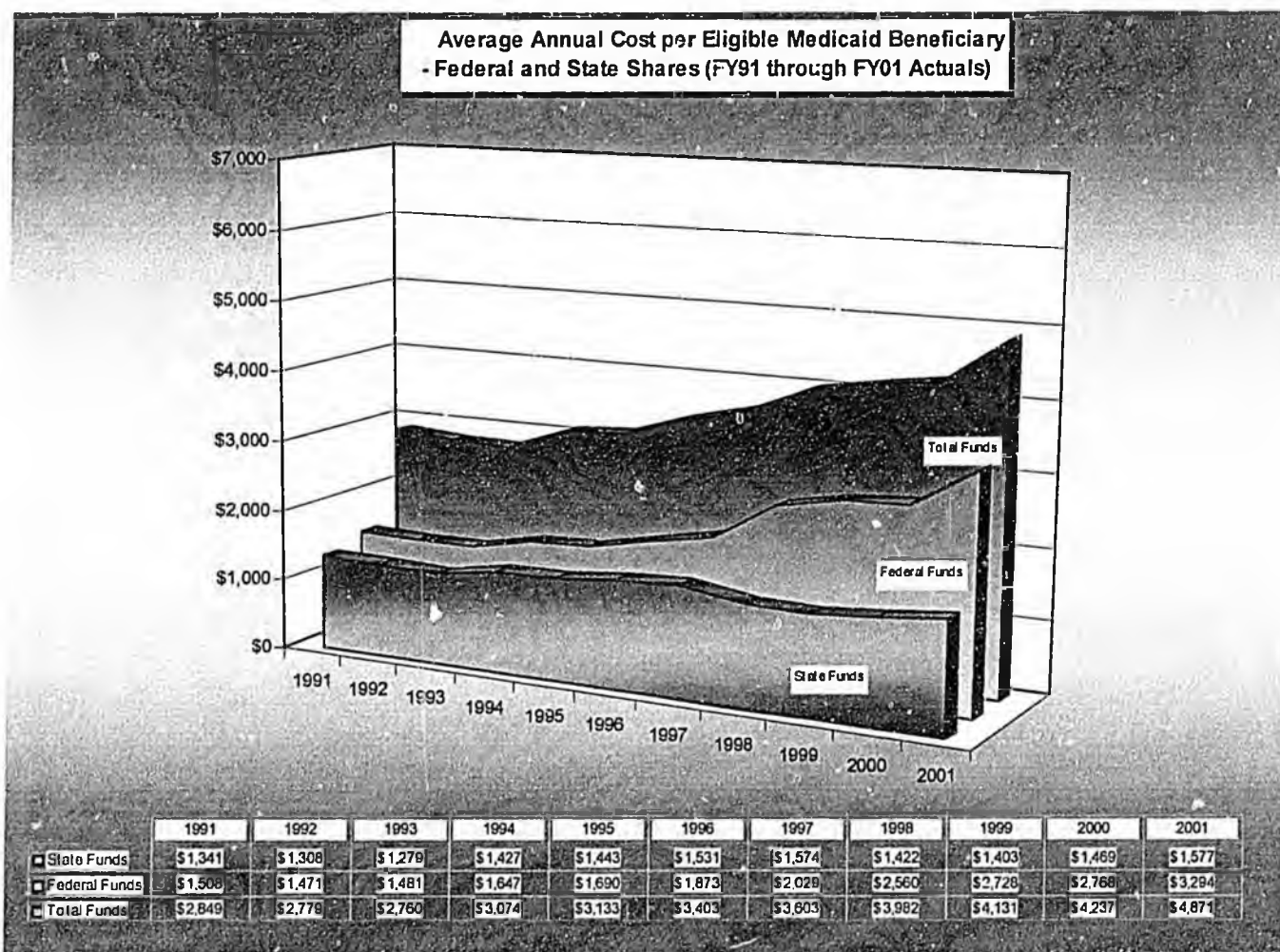
... for the last - gosh I don't know how many years now - we've been involved in an exercise in Juneau creating other quote, special funds. And every time a department or agency wanted to go out and [indisc.] a little more income for their agency, they went out and created a new fee schedule and their new fee schedule became part of their specific fund base for their agency - whether it was \$5 bucks additional per license for every person who wanted to catch a king salmon so the fish and game department got a significant increase. And rather than have the budget reflect the [indisc.] Department of Fish and Game had gone up, what we did was we called that other funds - not general funds, other funds. And that other funds [indisc.] we make certain it's not dedicated of course, we make certain it goes to the Department of Fish and Game. So their budget actually went up \$5 million bucks but does that reflect as a general fund? No, the general fund budget didn't go up. So when I see a comparison being

made between what is stated as general fund allocation, and a comparison is then made up of what our expenditures are either per capita or on a national level, it really is becoming less and less of a meaningful comparison is all I'm getting at....

MR. LABBE stated that would lower Alaska's percentage.

SENATOR TAYLOR said it should, and that is what he was getting at.

MR. LABBE referred to the following chart and said the purpose of



the graph is to show that over the last 10 years, the general fund outlay has not been extreme in terms of increases. Although the total cost of the program has increased, most of the increase has been with federal funds. He noted between 1994 and 1999, the average general fund increase was about 3 percent per year. The federal increase was 16 or 17 percent per year. He felt that was

primarily due to the match rate change, but also Alaska has been progressive in maximizing the 100 percent IHS reimbursement and in taking other cost containment measures. He said he is always concerned about the cost of the general fund. He stated that a 3 percent increase per year per person is not too bad. Essentially, the state is cost shifting and trying to avoid cost shifting by the federal government.

CHAIRWOMAN GREEN said if one looks at the increase from 1991 to 2001 in total funds, it amounts to about a 75 percent increase. She said she is concerned about accepting a prior year increase as the norm and that the federal match rate will continue because at some point, the state will have no control over the cost.

MR. LABBE said he agrees with Mr. Gilbertson's concern that Congress needs to take an honest look at that match rate. DMA has been doing some work internally to help support Senator Murkowski's effort by providing data and looking at what other private payers pay in Alaska relative to what they pay in other states. DMA now has access to a program that provides expenditures by codes in other areas and has started to compile information that shows that Alaska's payment per beneficiary is higher than most states. It is also higher for Blue Cross or Aetna by a similar percentage. He felt that demonstrates that costs are higher in Alaska, not that the state is overpaying.

SENATOR TAYLOR said:

You are living in a world that is so Alice in Wonderland, none of us are in Kansas anymore. As your local hospital what the bill is for a room for a day. Do you know what the answer is you're going to get back? You will find out that that local hospital has probably six or seven schedules for what that room is worth. It's worth this much if you're a Medicare patient, it's worth this much if you're a Medicaid patient, it's worth this much if you're Blue Cross. You'll find that's right at the top because everybody else has some advocacy group that comes in and negotiates with that hospital to set rates. Probably the most controversial thing I got my little nose stuck into for the last two or three years was when I took on you guys on the issue of the revolving door on rate hearings and when we were going to make some decisions and how are we going to set them and then Torgy jumped in too and says, look, if you don't want to just take care of part of the problem, I'll take care of all of it and I'll set your rates for you. All of a sudden people decided to get to the table.

I can guarantee you, the marketplace has absolutely nothing to do with anything going on out there. It's all bureaucracy and you as bureaucrats get to negotiate with hospitals what you're going to pay and they negotiate back with you guys and then the insurance industry shows up and they try and do some of the same stuff. There's literally a rate out there for the guy who has no insurance but has a business and can pay his bills. Then there's a separate rate, a different one for the insurance company and a different rate for each state agency so why take and compare based on zip codes what somebody may be paying in Arkansas? It's just that the Arkansas docs and the hospitals haven't raped their people down there yet but believe me, they're coming around the corner just like you guys have so badly in California that when the federal government started this whole process, they had to go down there and take an average because they were seeing a cost - or bills coming in from doctors, where in a six month period the price of the same process in surgery and so on had gone up 200 percent with the same doc because he was bidding each time to see, well, he'd tell the guy he's playing golf with, well gosh, I got \$200 for an appendectomy last week and the other guy said, well by gosh George, you get \$200, my appendectomy is worth \$300 so he would charge three and the next week the other guy charges four and it just kept evolving up.

So, I don't know where any of that gets us - what it gets me - it gets me very frustrated that we have an awful lot of state and federal bureaucrats involved in the process of setting rates which we then have to fund in the form of a budget that's going to cap out within the next year or two at a billion dollars just for this state....

SENATOR TAYLOR said he really believes that if we don't pay attention to this and find a solution, we will find a lot of people relying on services that the state will not be able to provide.

MR. LABBE said that across the nation Alaska ranks number 47 in total expenditures for Medicaid. He explained that a Supreme Court decision regarding the Americans With Disabilities Act said that the state would be required to provide services that would permit individuals to live in the community rather than an institution. The case called Olmstead involved a couple of women in Georgia who were in a state hospital. Their medical providers felt could leave the hospital, but the state wasn't moving them

out.

The plaintiffs won that and since that time, there has been quite a bit of work around the country. His division was told by the federal Medicaid Agency (HCFA) that the Medicaid Program can help states comply with the Supreme Court decision, because the federal government will help share in the expense with community based services. Alaska has moved further along than many states in terms of our community base care program and closed Harbor View, consistent with the view that people aren't inappropriately institutionalized and that there are options. They are still waiting lists of issues for services and significant capacity problems in terms of people providing supports in the community, especially in smaller communities. Medicaid can help these issues and that's what they have been doing through the home and community based waivers.

CHAIRMAN GREEN thanked him for his testimony and further discussions would be needed.

MR. LABBE added that there were several things that Steve Branchflower mentioned and he wanted to respond to one comment that was misunderstood. When he said we were only one of three states that operate in the fee for service Medicaid Program and all the rest have HMOs, every state has a fee for service program. Many of them also have an HMO. You have the same dynamic in 50 states of providers billing and some states have a percentage of their population signed up on the prepaid plan, but it's still less than 50% of the total national Medicaid population involving HMOs.

SENATOR TAYLOR said a Sitka constituent had a question about what an alcohol counselor can be called and how they get reimbursed based upon that. The legislature passed a law or there was a regulation saying that a person needed to have a master's degree or better to be in alcohol counseling.

MR. LABBE responded that the Mental Health has that kind of rule, but he didn't think that was required for alcohol.

SENATOR TAYLOR asked him to look into it and he agreed.

SENATOR DAVIS asked him to address the building manual and the audits.

MR. LABBE replied that they were directed by the legislature in '97 to initiate a series of cost containment actions, one of which was the provider audits. They have to work through backlogs.

SENATOR DAVIS asked if they have administrative procedures for

prosecution and how many people are working in that area. She also wanted to know how many cases he had been able to get funds for.

An unidentified woman responded that just doing this in the spirit of prosecution is sometimes a negative way to look at it, because there were built-in improvements.

MR. LABBE said that the focus was particularly on the patient and one of the problems with the \$22 million is what Mr. Branchflower perceives are the draft reports from the contractor concurrently with the state. The state had to make a number of policy changes, which is a lengthy process.

For the most part, we didn't do the extrapolation because this was like our first time really going out. What we are doing is working on compliance and correction...If you look at our physician expenditures, they're practically flat for about three years before we expand the populations. So, I believe the attempt of the legislature was to slow the growth of the program. It was not aimed so much at the recovery mode...We had some problems with it, too.

SENATOR TAYLOR thanked him for his excellent presentation and said they would next take public testimony.

4:09

MR. BILL HOGAN, Executive Director, Lifequest Regional Health Center, said he is also a member of the Alaska Community Mental Health Services Association, which is the mental health providers association. Today he is speaking for the Alaska Mental Health Board. He said:

Programs such as Alaska Temporary Assistance program, Adult Public Assistance and General Relief provide basic support for many Alaskans, helping them to meet fundamental expenses such as food, shelter, clothing and transportation. Whether transitional or long-term in nature, these programs allow participants to live as independently as possible and with dignity in their community of choice. These programs also help Alaskans avoid homelessness and minimize higher costs, more restrictive settings, including hospitalization, nursing home placement and incarceration.

The Board asked that the subcommittee as they review programs, do so based on the following principles:

- All Alaskans have the basic human need to achieve and maintain the highest possible level of independence.
- The State has a responsibility to address the basic human needs of individuals who do not have other means to meet those needs on either a short or long-term basis.
- Support levels should be sufficient to allow individual to live with dignity in the community
- Programs should be readily accessible to eligible applicants.
- Programs and services should be managed to promote efficiency and maximize resources.

MR. HOGAN recommended they review the programs in a thoughtful manner.

- None of the proposed changes have a negative impact on the ability of participants to meet basic living needs.
- Review of the programs should be on a program-by-program basis.
- No major changes should be made without meaningful input from the program recipients.

MR. HOGAN said he firmly believes that as a provider they have an obligation to the taxpayers of Alaska and the legislature to make sure they are getting the best bang for the buck. He said they are concerned about access.

In many instances publicly funded programs are the only source of health care for many Alaskans and that's not entirely true for a number of folks who have no insurance at this point. Without Medicaid and other publicly funded health care programs, many persons would have nothing.

He emphasized the importance of treating mental illness and mental health care in a similar way to physical health. The Surgeon General's Report on Mental Health from 1999 - 2000 advocates strongly for states passing mental health parity legislation and the federal government just passed a mental health parity law.

He wanted to comment on Representative Dyson's suggestion to begin looking at integrating primary care mental health and substance abuse. Most mental health and substance abuse providers feel that makes a lot of sense and many communities need a one-

stop shop where people can go and get everything they need without being shuffled.

Also, many mental health providers have undertaken an effort to develop corporate compliance plans in regards to Medicaid and Medicare fraud. They have had at least one consultant up from down south to help mental health centers begin to develop their compliance limits. The Medicaid regulations are very complicated and they are equally complicated for providers to comply with.

As a Mental Health Board member, they are concerned about out-of-state placement for kids. There are about 250 kids for about \$14 million.

We are committed to develop in-state capacity to keep kids in Alaska close to their own homes. It's pretty difficult to do family therapy with a kid and try to reunite a child with their family of natural origin if the kid is in Idaho or Montana...

MR.HOGAN next commented on the disabled and his best guess at prevalence of mentally disabled in Alaska is about 24,000 individuals or about 4% of the population. If the 75,000 figure is accurate, it might be safe to say about a third of those are mentally disabled.

An unidentified person asked how many were related to fetal alcohol syndrome.

MR. HOGAN guessed about 10 - 15 percent, but it could be higher.

MS. LILA BERRY, Manager, Circle of Care, said she wanted to discuss care coordination. She explained that Circle of Care began about 12 years ago in response to a community tragedy where an elderly woman who lived by herself had many people involved in her care, but no one really knew about her day-to-day activities. So there was no coordination. She died and was found several days later.

MS. BERRY said that geriatric care coordinators can be found in all parts of the United States and many parts of the world. They assist seniors and adults with physical disabilities with doing screenings, consultation and assessments to help people get through mazes of eligibility. She helps them problem solve and obtain services so that they stay as safe and healthy as possible. This may mean assisting seniors who cannot afford their current housing, their food or their medication and protect them from financial exploitation.

TAPE 01-50, SIDE B