

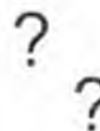
ALASKA LEGISLATURE COMMITTEE FILES, 2000-2000 80 / 2
11428 HOUSE HEALTH, EDUCATION & SOCIAL SERVICES

The existing regulation of long term care has not prevented instances of abuse and neglect.

- A supported living home provider was misappropriating funds from a resident. There is no requirement for the home to be licensed, and no background review had been conducted on the provider.
- An assisted living home attendant was fired for mistreatment, and the facts presented to law enforcement. No charges were filed and the case was dropped. This person remains eligible to work as a care provider.
- Three Alaska Nurse Aides were found by investigative agencies to be mistreating residents in a nine month period. Well after the mandatory reporting time period, two of these findings had not been entered into the registry.
 - One of the two involved physical violence.
- In another state, a person was involved in a stabbing in a convenience store. Months later, this person, recognized by someone who had been in the store, was found working as a long term care provider.
- Personal Care Attendants, who are typically listed by multiple employment agencies, must submit separate fingerprint-based background checks for each agency, at significant cost and duplication of effort.

Besides the gaps in the oversight process and risks to Alaskans in care, there is significant cost and effort to provide the required management of care programs.

- Currently, 19 programs are administered under at least 12 different statutory schemes for licensure by DHSS.
 - The complexity of the different standards and program compliance requirements have resulted in a cumbersome administrative structure.
 - Care providers are faced with a patchwork of regulations and sometimes conflicting requirements for service delivery, particularly the agencies that operate multiple types of care services.
 - For example, under current practices a Care Coordinator might be employable at one agency, but not acceptable to another agency. And an individual acceptable for Care Coordination would not be acceptable to an Assisted Living Home, or an Assisted Living Home employee might not be employable in Child Care.
 - Yet many of the care agencies operate in all these programs
 - Licensing and Certification surveyors/licensing staff must learn and deal with the variants of each service program.
 - A consolidated program promotes greater depth in staff expertise and cross training.
- Three licensing program units have been consolidated within Public Health, but the programs they manage still must be uniquely administered.

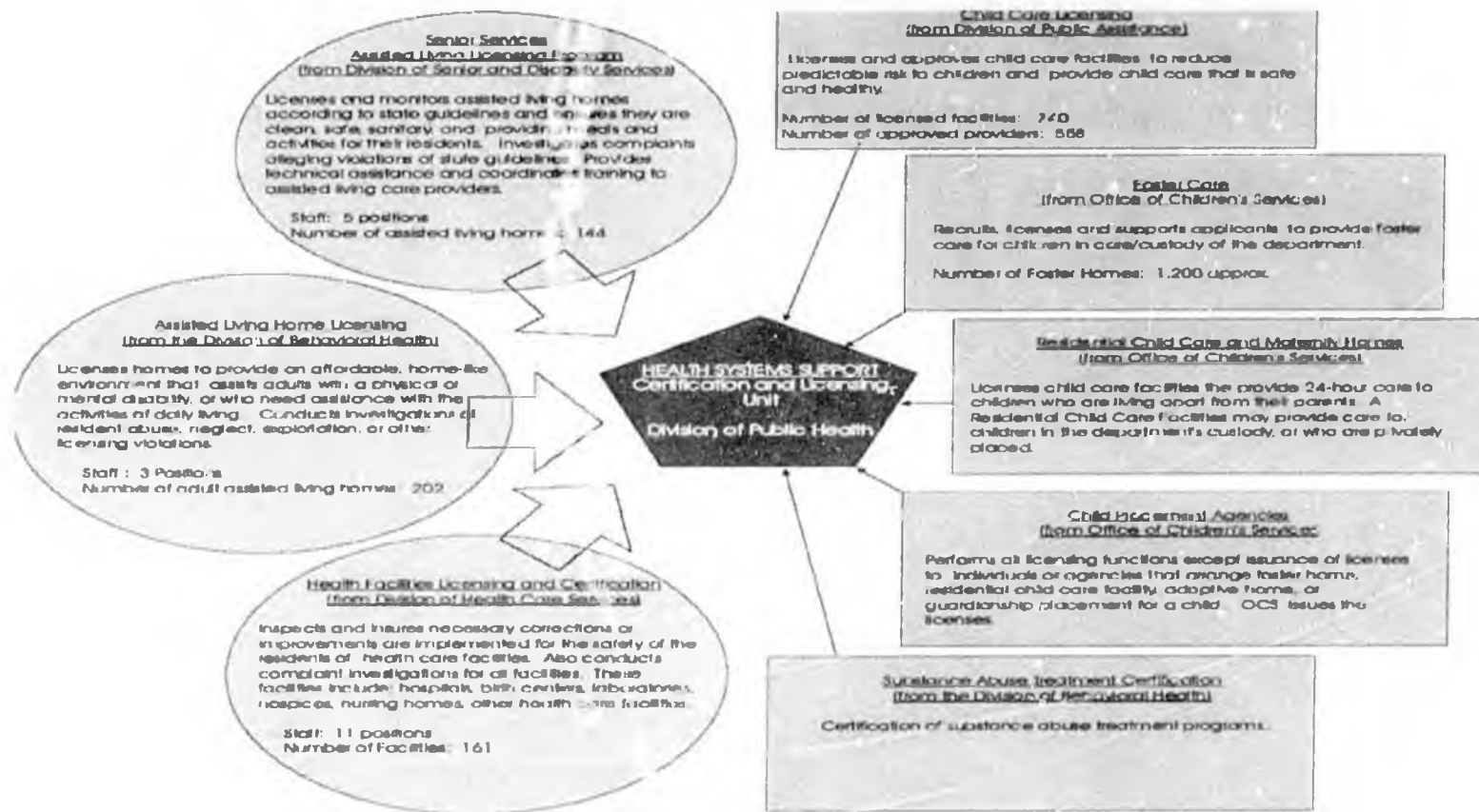


The three units that have been consolidated represent Phase I of the consolidation process.

Department of Health and Social Services Certification and Licensing Integration Project

Phase I – FY 2005

Potential Phase II - FY 2006 – 2009



Our aim is to reduce predictable risk, improve quality of care, foster patient rights, and advance public health, safety and welfare.

- **Centralized Licensing and Related Administrative Procedures, for:**

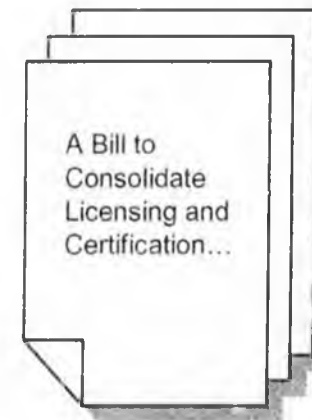
Ambulatory Surgical Centers	Home Health Agencies	Residential Child Care Facilities
Assisted Living Homes	Hospices	Residential Psychiatric Treatment Ctrs
Child Care Facilities	Hospitals	Rural Health Clinics
Child Placement Agencies	ICF/MRs	*Supported Living Homes
Foster Homes	Maternity Homes	*Personal Care Attendants
Freestanding Birth Centers	Nursing Facilities	*Case Mgmt/Care Coordination
		*Adult Day Care/Respite

- **Defines and Consolidates:**

- Definitions
- Requirements to get a license
- License renewal process
- Requirements for a background check
- Conditions for denial of license
- Complaints process and appeals
- Enforcement actions and penalties
- Confidentiality requirements

* Subject to background check provisions only

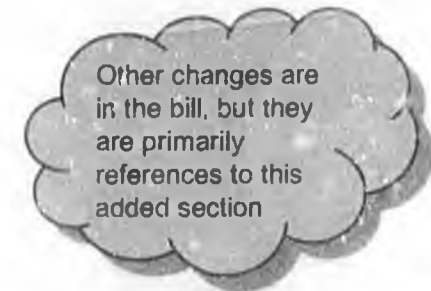
[Licensed Certified Both]



How HB 193 impacts the existing statutory definition of current DHSS licensed programs...

18.20.075-085	Hospital reg, risk mgmt, inspection
18.20.300	Nursing Facilities - state policy
18.20.305-390	Nursing regs, penalties, appeals, fines, ...
47.33.005-090	ALH Purpose, applicability, payments, rules, ...
47.33.200-360	ALH rights, grievances, contracts
18.18.100	Hospice licensing requirements
18.18.200	Volunteer Hospice licensing requirements
18.18.300-340	General Hospice requirements
18.18.390	Hospice definitions
18.18.490	HHA definitions
18.20.230-260	Hospital charges
14.43.148	Defines nonrenewal of licenses in general Amended to include children and A/DA licensing
18.20.130	Defines nonrenewal of licenses in general
47.33.990	ALH Definitions, removed references to controlled subs.
47.37.270	Removed selected definitions related to treatment facilities
18.05.040(a)(10)	Direct Entry Midwifery free standing birth centers
18.18.005-040	Hospice regulation
18.20.090-120	Disclosure of information, penalties
18.18.350	Hospice disclosure requirements
18.18.410-470	Home Health Agencies
18.20-18.20.070	Hospitals and intermediate care facility licensing
18.20.302	Criminal background check, nursing employees
47.33.100	ALH criminal background checks
47.33.400-920	ALH Licensing process & procedures
47.35.005-260	Maternity, RPTCs, childrens services process and procedures

Retained
Retained
Retained
Retained
Retained



moved to regulation
moved to regulation
moved to regulation
moved to regulation
moved to regulation



Revised Regulations

Amended



Amended
Amended
Amended



Repealed
Repealed
Repealed
Repealed
Repealed
Repealed
Repealed
Repealed
Repealed
Repealed



Note: "move to regulation" removes a regulatory level of detail from statute, but retains the spirit and intent of the statute in the forthcoming regulatory rewrite

Repealed provisions being deleted as a separate statutory action. The subject and content of the repealed provisions are preserved in the regulatory rewrite. Regulatory rewrites are not subject to the same legislative process as statutes. Regulatory rewrites are not subject to the same legislative process as statutes. Regulatory rewrites are not subject to the same legislative process as statutes.

3/15/2005

What's in HB 193?

- **Addition of a new chapter to centralize licensing and administration of covered entities (Section 1):**
 - Defines what entities must be licensed
 - Defines license conditions, appeals, complaint process
 - Defines DHSS rights and responsibilities
 - Provides confidentiality protections
 - Provides criminal penalties for violations
- **Addition of a new article to centralize background checks and registry functions (Section 17):**
 - Defines who is required to have background checks
 - Provides for regulatory definition of barrier conditions
 - Requires a centralized registry be created and maintained
- **Updates to existing statutes (see previous page)**
- **Establishes the timeline for implementation**
 - July 1, 2006 for Section 1
 - July 2, 2005 for Section 17

The key provisions of HB 193:

- Barrier conditions to employment in the care provider field will be defined in a consolidated *regulation* definition, with an objective of defining one, or as close to one as possible, common, consistent set of conditions to apply to all provider types.
 - There may be a need to distinguish between barriers to adult care vs. children's care.
- All service providers with direct patient contact must be background checked including volunteers
- Charges of a barrier crime are sufficient to bar employment.
- An employee misconduct registry will be implemented for maintaining employment barrier conditions that may not be reflected elsewhere.
- A standard waivers process will be defined.
- A standard appeals process will be implemented.



Excerpt from just one of the current regulatory crosswalks

1.1.1 SUMMARY OF EXISTING AND PROPOSED NEW SAFETY AND SANITATION STANDARDS TO CERTAIN FACILITIES PROVIDING CARE TO CHILDREN AND TO ADULT RESIDENTS February 16, 2005

NOTES TO READER: REQUIREMENTS, INCLUDING APPLICABILITY, ARE SUBJECT TO CHANGE AFTER REVIEW OF PUBLIC COMMENTS AND BEFORE ADOPTION.

Bracketed numbers = number of persons licensed for care, if requirements differ by size of facility

"E" = existing requirement (but may differ in proposal) "N" = new requirement "--" = not applicable (unless licensed for more than one category of care)
* = a more stringent requirement applies

ALH = assisted living home; FH = foster home; FGH = foster group home; RGH = residential child care group home, RCCC – residential child care center;
CCH = child care home; CCGH = child care group home; CCC = child care center; RPTC = residential psychiatric treatment center for children;
MH = maternity home; AP = approved provider (child care assistance)

REQUIREMENT	ALH	FH	FGH	RGH	RCCC	CCH	CCGH	CCC	RPTC	MH	AP
7 AAC 10.610. Life and fire safety											
<i>Based on existing child care licensing, 4 AAC 62.510; existing residential child care, 7 AAC 50.510; existing ALH, 7 AAC 75.270</i>											
(b)(1) -- Meet state code for fire safety in 13 AAC 50 and 13 AAC 55 or more stringent if required by local authorities	-- [1-5] E [6+]	E	E	E	E	E	E	E	N	N	
(b)(2) -- municipal building code approvals	-- [1-5] E [6+]	N	N	N	N	N	N	N	N	N	
(b)(3) and (c) -- fire safety inspection	E	E	E	E	E	E	E	E	E	E	
(d)--disaster preparedness emergency evacuation plan	E	E	E	E	E	E	E	E	E	E	
(e) -- emergency evacuation drills	E	E	E	E	E	E	E	E	E	E	
(f) -- keep records of emergency drills	E [1-5] N [6+]	E	E	E	E	E	E	E	E	E	
(g) notification of fire or other emergency	N	N	N	N	N	N	N	N	N	N	
(h) carbon monoxide detector	N	N	N	N	N	N	N	N	N	N	
(i)(1) --at least two means of emergency escape, at least one of which is exterior door	E [1-5] -- [6+]	E	E	E	*	E	*	*	E [1-10] * [10+]	E [1-10] * [10+]	
(i)(2) -- one means of escape from basement	N [1-5]	E	E	E [1-10] * [10+]	*	E [1-5] * [6+]	E [1-5] * [6+]	*	E [1-10] * [10+]	E [1-10] * [10+]	
(i)(3) -- fully-opening window in each bedroom	E	E	E	E [1-10] * [10+]	*	E [1-5] * [6+]	E [1-5] * [6+]	E	E [1-10] * [10+]	E [1-10] * [10+]	
(i)(4) -- screens do not prevent emergency escape	E	N	N	N	N	N	N	N	N	N	

NEW PROVISIONS IN HB 193 (LICENSING BILL)

<u>New</u> <u>nder HB 193</u>	<u>Current law</u>
1. (Sec. 1) AS 47.32.010(b)(8) makes all hospices and hospice programs subject to the same licensing and administrative provisions.	1. For-profit and volunteer hospice programs treated differently under licensing scheme.
2. AS 47.32.030(a)(9) allows the department to waive the application requirements for an entity if it can show it has otherwise met them.	2. No like provision.
3. AS 47.32.100(b) permits the department to consolidate complaints that an entity has violated an applicable statute or regulation.	3. No provision for consolidating complaints.
4. AS 47.32.120(b) allows the department to seek license revocation when an entity denies access to the department that is statutorily allowed.	4. No provision allowing the department to seek revocation of license when denied access.
5. AS 47.32.130(a)(2) requires the department to include in its report of investigation or inspection any enforcement action it intends to take.	5. No provision requiring the department to include enforcement action in report of investigation or inspection
6. AS 47.32.140(b) provides for a two-stage notice of immediate suspension or revocation of license.	6. No provision for a two-stage notice of immediate suspension or revocation.
7. AS 47.32.150(d)(7) allows the department to close an entity as an enforcement action regardless of whether the entity is licensed.	7. No provision allowing for closure of entities that are not licensed.

- | | | | |
|-----|--|-----|---|
| 8. | AS 47.32.150(d) allows the department to include an entity on the centralized abuse registry as an enforcement action. | 8. | No centralized abuse registry exists. |
| 9. | AS 47.32.150(i) permits the department to allow an entity whose license has been revoked to seek licensure if the ownership, control, or management of the entity changes. | 9. | No such provision. |
| 10. | AS 47.32.160(a) requires the use of an administrative law judge for hearings on certain enforcement actions. | 10. | Administrative law judge not required for any hearings. |
| 11. | AS 47.32.160(b) makes the Administrative Procedures Act apply to hearings on certain types of sanctions, while providing for informal hearings for other types of sanctions. | 11. | Administrative Procedures Act applies to all hearings, with the exception of hearings regarding nursing facilities. |
| 12. | AS 47.32.170(c) makes an entity immune from liability for employment decisions based on information obtained under a criminal history check. | 12. | No similar immunity provision. |
| 13. | AS 47.32.190(a) makes a complaint, investigation, inspection, and records related to these things confidential. | 13. | Only the identity of the complainant and the individual receiving services made confidential. |
| 14. | AS 47.32.200 gives the public health and public assistance divisions access to any information compiled or retained by other divisions of the department. | 14. | No similar access provision. |

- | | |
|--|--|
| 15. AS 47.32.210(c) requires an entity to notify the department within 24 hours of having knowledge of an <i>allegation</i> or <i>suspicion</i> of abuse, neglect, or misappropriation of money or property; it also requires the entity to conduct an investigation and make a written report to the department within five days. | 15. No similar provision for notification based on suspicion or allegation. |
| 16. (Sec. 17) AS 47.05.300 makes the background check and registry provisions applicable to entities that receive money from the state to provide services. | 16. Background check provisions not applicable to entities that are eligible to receive money from the state, only licensed or certified entities. |
| 17. AS 47.05.310(a) prohibits an individual from owning or being a principal, officer, director, member, or partner of an entity if the individual has been charged with, convicted of, found not guilty by reason of insanity for, or adjudicated as a delinquent for, a crime that is inconsistent with the standards of licensure or certification. | 17. No similar provision regarding individuals who own or have an ownership interest or control. |
| 18. AS 47.05.310(c)(2) prohibits the department from issuing or renewing a license or certification for an entity if the individual who is applying appears on the centralized abuse registry. | 18. No like provision. |

19. AS 47.05.310(d)(1) requires an entity to provide of release of information for a criminal history check for an individual who *intends* to become an owner, officer, director, partner, member, or principal.

20. AS 47.05.330 sets out the centralized registry, which will contain information regarding orders, judgments, and adjudications that an individual committed abuse, neglect, or exploitation of a child or vulnerable adult, and orders that an entity had its license revoked, suspended, conditioned, or denied.

19. No like provision.

20. No centralized abuse registry.

WHAT REGISTRY AMENDMENT DOES:

- It adds the registry to the list of things the Administrative Procedure Act covers. We envision that any hearings we conduct regarding whether someone's name will go on the registry will be conducted according to the APA process.
- It adds "volunteer" as someone who can be placed on the registry. It is our intent to define "volunteer" in regulation.
- It adds "decision" to "orders, judgments and adjudications," which are the documents that will provide the information that will go on the registry. This is designed to include administrative decisions (i.e. hearing officer's decision).
- It adds medical assistance fraud to the list of misconduct. This is meant to include Medicaid fraud and other billing fraud.
- It adds two mandatory reporting provisions: one a self-reporting requirement and the other a requirement that the provider report an allegation of misconduct.
- It makes the registry a confidential document except for approved providers and governmental agencies.
- It changes the immunity provision to include immunity for reporting misconduct, submitting information to the registry, and employment decisions made based on the registry.
- It defines "entity" as including an owner, officer, director, member, or partner.
- The remaining changes are conforming amendments because a new bill section was added.

How an entry is made in the Centralized Registry

- **Everything begins with a "report of harm"**. It can originate from a resident, another employee, a family member, or an officer or administrator of a facility. Reports are made to the Certification and Licensing (C&L) investigative unit. The owner or administrator of the facility may also choose to take action (i.e., terminate the employee, file a report with the police, or take other punitive action.) However, as a condition of licensure, the owner/administrator must report the incident to C&L investigative unit
- C&L will then conduct the same level of investigation as would be done for a report of abuse, neglect, fraud or misconduct involving a Certified Nurse Aide.
- If it is a "substantiated finding", the facility administrator, the complainant, and the subject of the investigation are notified in writing. At this point, the subject must be immediately terminated if still employed. The subject is informed that he/she has to appeal the substantiated finding within a specific time frame (to be determined in regulation.) This is an administrative hearing under the existing statutory definition of hearings.
- If the subject declines to appeal, the finding is immediately entered into the Centralized Registry. Entry consists of "identifying information" (i.e., name, DOB and/or SSN) and an indication of "substantiated finding" (as would be done in the Certified Nurse Aide Registry if the subject is a certified nurse aide).
- If the subject chooses to have a hearing, until the hearing is completed he/she is prohibited from employment as a care provider, but entry is not made on the Centralized Registry.
- At the completion of the hearing, if the finding is upheld, the subject is then entered into the registry and is permanently barred from employment in the caregiver field. If the finding is not upheld, the subject may reapply for employment as a caregiver. No entry will be made in the Centralized Registry.
- The Centralized Registry will not be accessible to the general public. Access will be password protected by the department and limited only to approved providers and governmental agencies



Effects of July 1, 2004
Regulation Changes on
Assisted Living Homes

FOUR KEY AREAS OF CONCERN

- 1 - Room and Board Rate Cap
- 2 - The Liability of the Assisted Living Homes due to the Medicaid Refinancing by the Department of Health and Social Services
- 3 - Administrative and General Costs Cap effective July 1, 2005
- 4 – Failed Notification Procedures

CONCERN #4

FAILED NOTIFICATION PROCEDURES

THE “HEADS UP” THAT WASN’T

- Although this is the 4th concern, we wanted to address it first.
- We don’t want to dwell on this aspect of the concerns being raised, but it was the failed notification process that demonstrates.....

HOW WE GOT HERE

- **Notification mentioned of new regulation changes and public comment period in a letter dated March 19, 2004 from Steve Ashman, Director of Senior and Disability Services**
 - **The letter states: “UNDER THE PROPOSED REGULATIONS, THERE WILL BE NO CHANGE TO THE ASSISTED LIVING PROVIDER’S CASH FLOW.”**
 - **When questioned on the concern of Medicaid liability and use of the refinance money, no staff at DSDS could answer the question.**

STATE OF ALASKA

DEPARTMENT OF HEALTH AND SOCIAL SERVICES

DIVISION OF SENIOR AND DISABILITIES SERVICES
OFFICE OF THE DIRECTOR

FRANK H. MURKOWSKI
GOVERNOR

P.O. BOX 110608

JUNEAU, ALASKA 99811-0608

PHONE: (907) 465-3372

FAX: (907) 465-1170

HOW WE GOT HERE, CONTINUED...

March 19, 2004

Dear Assisted Living Administrator:

The attached notice addresses changes to the Adult Public Assistance program. One of the proposed changes would have a direct effect on residents of assisted living homes. This change would result in the maximum payment for a resident of an assisted living home being reduced from \$362 per month to \$100 per month. In conjunction with this change, the proposed regulations will also modify reimbursement policy under General Relief Assisted Living and Medicaid. The net effect of these changes will be that the assisted living facilities should still receive the same combined amount of payment from a resident on Adult Public Assistance and the General Relief or Medicaid program as under the current regulations.

Additionally, under the proposed regulations the daily rate is changed to reflect the new room and board allocation. The Division of Senior and Disability Services will also change its procedures for calculating the rates under the cost-based method. As a result, differences between the two systems regarding room and board allocations will be minimized and, in the case of cost-based rates, no longer heavily influenced by the size of living quarters relative to common space.

Here is an example of how we envision this change working. Under the changes, a client who is currently receiving \$362 in APA would now receive \$100. The Medicaid payment would reflect the new allocation of costs to room and board. The information below shows the effect of the proposed regulation to an average assisted living home.

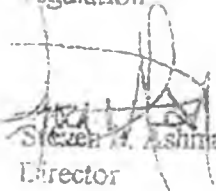
SSI Income	\$564	\$564
APA Income	362	100
Less Personal Needs	(100)	(100)
Client R&B	\$ 822	\$ 564
AL Cost (\$115/day)	\$3450	\$3712 (\$3450 plus \$262)

HOW WE GOT HERE, CONTINUED...

One effect of the new APA payment/assisted living rate system is that residents should be treated equally with regard to the amount of funds they have available to meet personal needs.

Under the proposed regulations, there will be no change to the assisted living provider's cash flow.

We look forward to hearing any comment you may have concerning the proposed regulation.


Steven M. Ashman
Director

HOW WE GOT HERE, CONTINUED...

- **There was a public hearing set for April 15, 2004. There were four different organizations represented.**
- **Throughout the course of the hearing, various organizations voiced their need to fully understand how the new Adult Public Assistance program regs were going to affect the various homes.**
- **The hearing moderator said there appeared to be a lot of confusion and that the state would post more information on their web site and they would have another public hearing in the future.**

HOW WE GOT HERE, CONTINUED...

- **A number of people and organizations repeatedly checked the web site and couldn't find anything new that had been posted after April 16, 2004.**
- **Around May 4th, a notice was sent out by DSDS that declared "New Regulations: New regulations that govern the Medicaid Waiver Program will be effective May 16. I know you have many questions about making the changes to comply with these regulations. Yes, things have changed and yes these regs implement some service limits. Read them for yourself by going to the Division's website...You may also want to attend one of the discussion sessions that we have planned for May 11 and 12th."**

HOW WE GOT HERE, CONTINUED...

- May 11, 2004 – attended meeting where nothing pertained to assisted living homes except the 25% Administrative and General Cost cap.
- A group continued to search the internet looking for more information regarding the regulation changes.
- June 11, 2004 the Director of DSDS attended a Senior Advocacy Coalition meeting where there was a lot of discussion regarding the regs. The meeting ran out of time.

HOW WE GOT HERE, CONTINUED...

- After the meeting a couple of the assisted living home providers spoke with the DSDS Director where they were informed that room and board was going to be capped under the new regulations at \$565.00 per month. The \$262.00 was going to the Medicaid side for services, and basically everything over \$827.00 per month was going to be lost.
- Thus the REST OF THE STORY.....

CONCERN #1

ROOM AND BOARD CAP

WHAT IS THE “ROOM AND BOARD CAP”

■ New Regulations went into effect July 1, 2004 that require all Medicaid Waiver recipients living in assisted living homes to repay the state all their entitlements received for their costs of care except:

- **\$100 For personal needs**
- **\$564 For room and board expenses**
 - **That equals \$18.54 per day to cover all room and board costs**

ROOM & BOARD COSTS AS ALLOCATED BY DSIDS

- Wages
- Work Comp
- Food Costs
- Food Supplies
- Food Equipment
- Housekeeping Supplies
- Housekeeping Equipment
- Building Maintenance
- Snow Removal
- Lawn Care
- Transportation
- Utilities
- Building & Insurance
- Business Taxes

DEFINITION OF ROOM AND BOARD COSTS

Wages

- **Approximately 12.5%**
- **Based on a calculated percentage of time assumed to be spent preparing/serving meals, doing laundry and housekeeping, home maintenance, and gathering/providing food, supplies, and equipment.**
- **Additional staffing requirements and wage increases are not allowed, due to cost based reimbursement freeze that is in place until July 1, 2005.**

DEFINITION OF ROOM AND BOARD COSTS, CONTINUED...

- Workman's Comp Insurance (%)
 - **Percentage of insurance premium expense based on wages allocated to Room and Board as previously stated.**
- Food Costs
- Food Supplies
 - **Storage bags, straws, napkins, silverware, dishes, paper towels/products, dish towels, tablecloths, drinking glasses, cups, foil, saran wrap, serving dishes, spatulas, pot holders, etc.**

DEFINITION OF ROOM AND BOARD COSTS, CONTINUED...

■ Food Equipment

- **Dishwasher, microwave, toaster, stove, oven, refrigerator, coffee maker, mixers, food saver, freezer, napkins holders, salt/pepper shakers, pots and pans, bake ware, processor, etc.**

■ Housekeeping Supplies

- **Cleaners, laundry detergent, cleaning rags, bath towels, washcloths, sheets, pillows/pillowcases, bedspreads, disinfectants, hand soaps, etc.**

DEFINITION OF ROOM AND BOARD COSTS, CONTINUED...

- Housekeeping Equipment

- **Washer, dryer, vacuum cleaner, brooms, mops, plungers, trash cans, hampers, etc.**

- Building Maintenance

- **Painting (inside/outside), general maintenance, staining decks, ramp repair, flooring replacement, furnace repair/replacement, hot water heater repair/replacement, plumbing repair, baseboard replacement, heater guard replacement, etc.**

DEFINITION OF ROOM AND BOARD COSTS, CONTINUED...

- Snow Removal
- Lawn/Garden Care
 - Lawnmower, weed whacker, lime, fertilizer, hoes, hoses, sprinklers, rakes, shovels, flowers, pots, gloves, seeds, bulbs, baskets, etc.
- Transportation
 - Percent of time vehicle is used for purchasing food and house supplies.
- Utilities
 - Electric, Gas, Water/Sewer, Trash, Cable.
 - Portion of costs attributed to the square footage of the bedrooms and bathrooms and kitchen

DEFINITION OF ROOM AND BOARD COSTS, CONTINUED...

■ Building

- **Mortgage Interest/Rent, Building Insurance, General/Professional Liability Insurances, property taxes**
 - **Portion of costs attributed to the square footage of the bedrooms, bathrooms, and kitchen**

■ Business Taxes

- **Portion of costs attributed to the square footage of the bedrooms, bathrooms, and kitchen**

Governor Murkowski's (MIS) Understanding

The following is an excerpt from a letter dated August 19, 2004 that Governor Murkowski addressed to various departments and legislators:

“While some assisted living home providers have been concerned about the maximum amount that a client will be able to contribute to their room and board costs, we believe that this amount is reasonable. The client will contribute the \$564 SSI payment and Medicaid Waiver payment was increased by \$265. The sum of these two figures is \$829 a month for room and board, or for a home with four Medicaid Waiver clients, \$39,792 a year. This is before the Medicaid Waiver reimbursement to the assisted living home and should be more than sufficient to cover the cost for food/preparation costs, supplies, equipment, and building maintenance.”

Governor Murkowski's (MIS) Understanding, continued...

The letter continued...

“it is important to note that the room and board payment is only for the cost of meals and bed space. The Medicaid Waiver program reimburses the assisted living home for all other costs such as transportation, utilities, equipment, legal and accounting, taxes and insurance, rent/mortgage, and personnel.”

We have added the colors to differentiate points of misconceptions regarding how costs are reimbursed to homes.

Governor Murkowski's (MIS) Understanding, continued...

“The Medicaid Waiver payments to the assisted living home providers range from \$36,000 to \$65,000 a year per client. These payments must be combined to understand the true state support of the Assisted Living Providers.”

- Again we must make the point that if Medicaid Waiver money is NOT used according to the cost based contract with the State, the monies MUST be paid back.
- It is a misconception to say that “payments must be combined to understand the true state support of the Assisted Living Providers.”
 - The money provided to assisted living homes goes toward client care. It is the client who is supported by the State, NOT the providers.

EFFECT OF ROOM AND BOARD CAP EXAMPLE 1

Resident receives

Entitlements

Used for Room and Board

\$ 1217 Retirement Income

- 100 Personal needs allowance

\$ 1117 Used for R/ B (*OLD* regs) Payment

- 564 Regulation Cap

\$ 553 Paid to State for Cost of Care (*NEW* regs)***

Tentative LOSS per month for this client = \$ 553

(A 49.51% tentative loss of Room and Board from this resident per month)

*****Pass through – Assisted Living Homes have to do the paperwork and bookkeeping and deduct from Medicaid payments**

EFFECT OF ROOM AND BOARD CAP EXAMPLE 1, CONTINUED...

Resident receives

Entitlements

Used for Room and Board

\$ 1217	Retirement Income
- <u>100</u>	Personal needs allowance
\$ 1117	Used for R/ B (old regs)
- <u>564</u>	Regulation Cap
\$ 553	Paid to State for Cost of Care (NEW regs)
- <u>262</u>	Refinance on Medicaid side (\$8.65)
\$ 291	TOTAL NET LOSS per month for this resident

(A 26% loss of CASH FLOW for this resident per month assuming there is sufficient proof that the \$8.65 per day refinance funds can be used for room and board)

ACTUAL SCENARIO:

	MAMA'S	MAMA'S II	MAMA'S III	MAMA'S IV
MONTHLY ROOM AND BOARD INCOME-CAPPED RATE (\$564 x 5 Residents)	2825	2825	2825	2825
LESS:				
EMPLOYEE	1936	2139	1460	1705
FOOD	1000	1000	1000	1000
JANITORIAL/HSKPING	400	400	400	400
MAINTENANCE	200	200	200	400
RENT	1200	476	831	1890
UTILITIES	176	128	145	220
WORK. COMP.	96	315	210	240
PROPERTY TAXES	150	40	115	195
BUILDING INSURANCE	75	30	34	55
LIABILITY INSURANCE	55	117	100	100
TOTAL	-2463	-2020	-1670	-2880
ADD: REFINANCE	1298	1298	1298	1298
TOTAL AFTER REFINANCE	-1165	-722	-372	-1582

WHERE WILL THE \$ COME FROM?

OPTION #1

LAY OFF EMPLOYEES

- **Assisted living homes throughout the state employ over 2000 people**
- **Results in about \$67,000,000 each year pumped directly into the Alaskan economy from salaries alone**
- **Reduces level of care provided to the residents**
- **Increases risk of injury to residents and remaining care providers as work load increases**
- **Unused wages must be repaid to the state under the provisions of the cost based reimbursement**

WHERE WILL THE \$ COME FROM?

OPTION #2

CUT FOOD COSTS

- Licensing regulations require homes to prepare 3 balanced meals per day plus 1 nutritious snack
- Menus and food consumption must be documented under licensing regulations
- Licensing actively investigates homes to meet these requirements
- **NOTE:** State per diem for meals alone = \$42



CASE IN POINT

MOREL 3102

MUSHROOMS 19.99 LB

WHERE WILL THE \$ COME FROM?

OPTION #3

USE MEDICAID FUNDS TO SUPPLEMENT CASH FLOW LOSS

- **Puts home operators into MEDICAID FRAUD**
 - **By using “SERVICE ONLY” funds for room and board**
 - **By not providing the services negotiated under the original costs based contract**

WHERE WILL THE \$ COME FROM?

OPTION #4

LIMIT OR REFUSE MEDICAID WAIVER RESIDENTS

- There are approximately 1,300 Medicaid waiver residents living in assisted living homes that would be affected or displaced
- Limited “PRIVATE PAY” residents could not support the number of assisted living homes – forcing most homes to choose a different option
- Using “PRIVATE PAY” residents to supplement the care of waiver recipients would be like placing a passive tax on those residents and their families to cover the Medicaid shortfall

WHERE WILL THE \$ COME FROM?

OPTION #5

CLOSE THEIR DOORS

- There are over 300 assisted living homes throughout the State of Alaska
- Closing the private homes would make the state run/funded Pioneer's Facilities the only choice for assisted living
- Approximately 80% of the homes polled stated that they would be forced to close if the regulations are not revoked or amended - **THEY SIMPLY CANNOT SURVIVE!!!**

CONCERN #2

**THE LIABILITY OF THE ASSISTED LIVING
HOMES DUE TO THE MEDICAID
REFINANCING BY THE DEPARTMENT OF
HEALTH AND SOCIAL**

QUESTIONS

- **Will the \$8.65 really be able to be used for Room and Board?**
- **Will a letter from the State (if one is issued) protect the providers from Medicaid fraud?**
- **How can the providers receive a legal opinion regarding the Federal Medicaid Regulation's stance on the use of these funds?**

CONCERN #3

**AMINISTRATIVE AND
GENERAL COST CAP
EFFECTIVE JULY 1, 2005**

ADMINISTRATIVE & GENERAL (A&G) COST RATE CAP

- Effective July 1, 2005 there will be an additional cap in place further reducing the assisted living homes' Medicaid reimbursement from waiver residents
- By adjusting the formula in which the cost based rate is calculated, DSDS will cap the amount reimbursed to assisted living homes for administrative and general costs to 25%. Currently unrestricted.

ADMINISTRATIVE & GENERAL COSTS AS ALLOCATED BY DSIDS

- **Administrative Salaries including office personnel**
- **Transportation costs associated with time allocated to administrative duties**
- **Utilities, rent, insurance, and taxes associated with office space**
- **Office supplies and small equipment**
- **Printing/Advertising**
- **Conference/Training**
- **Subscriptions/Dues**
- **Permits/Licenses**
- **Accounting/Legal**

ANY GOOD IDEA IS WORTH DUPLICATING!!

- **Following the example of the STATE run Pioneer Homes**
- **6 State run facilities with the highest A&G rate being only 13.68%**
- **Over 300 private assisted living homes with A & G rates up to 55% (and possibly over) desire to follow their example**
- **The cost allocations between administrative and general costs, non-direct costs (room and board), and direct costs are the main driving force on the determination of the administrative and general rate.**

ADMINISTRATIVE & GENERAL (A&G) COST RATE CAP

A sampling of 21 facilities that have a Cost Based Reimbursement in place revealed that 81% will be affected by the A & G Cap.

Out of those 21 homes, 17 (or 81%) will have a potential total loss of \$535,184.25. That is an average LOSS of \$31,481.43 per home per year.

Please refer to Attachment A

QUESTIONS

- Will a facility have the ability to resubmit their cost based reimbursement and re-categorize some of their present administrative and general costs?
- If not, will the added burden force homes to close and put the vulnerable population at further risk?

WHAT WE NEED TO SURVIVE

- Repeal/Suspend both sets of regulations regarding room and board and the administrative and general cap
 - **7 AAC 40 / 7 AAC 47**
 - **7 AAC 43**
- Request an Opinion from the Federal Medicaid program on the legal liability issue of the refinance.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

FRANK H. MURKOWSKI, GOVERNOR

P.O. BOX 110601
JUNEAU, ALASKA 99811-0601
PHONE: (907) 465-3030
FAX: (907) 465-3068

April 26, 2005

Honorable Lesil McGuire, Chair
House Health, Education and
Social Services Committee
Alaska State Capitol; Rm. 108
Juneau, AK 99801

Dear Representative McGuire,

The Department of Health and Social Services respectfully requests a hearing in the House Judiciary Committee on House Bill 193 "An Act relating to the licensing, regulation, enforcement, and appeal rights of ambulatory surgical centers, assisted living homes, child care facilities, child placement agencies, foster homes, free-standing birth centers, home health agencies, hospices or agencies providing hospice services, hospitals, intermediate care facilities for the mentally retarded, maternity homes, nursing facilities, residential child care facilities, residential psychiatric treatment centers, and rural health clinics; relating to criminal history requirements, and a registry, regarding certain licenses, certifications, approvals, and authorizations by the Department of Health and Social Services; making conforming amendments; and providing for an effective date."

The proposed bill will streamline the department's licensing processes by consolidating virtually all of the licensing functions related to standards, enforcement, and appeal rights into a single chapter of the Alaska Statutes.

The House Health, Education, and Social Services Committee heard the bill and recommends it be replaced with a House (HES) Committee Substitute with a new title. The department appreciates the work of the House (HES) Committee and supports a number of substantive improvements made in the underlying licensing-related provisions of the bill.

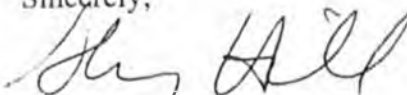
However the department cannot support the provisions of the House (HES) Committee Substitute establishing companion services as a new Medicaid-funded service for persons

on Medicaid waivers. These provisions have no bearing on the underlying purpose of HB 193 and would result in a significant increase in Medicaid costs that cannot be justified in light of budgetary constraints generally and competing Medicaid funding priorities in particular. Therefore the department urges the House Judiciary Committee to delete the companion services language from the bill.

The Governor's transmittal letter providing additional information about the bill and a zero fiscal note from the Division of Public Health addressing the licensing provisions of the bill should be on file with the committee. A new fiscal note addressing the companion services provisions of the House (HES) Committee Substitute has just been submitted to the House (HES) Committee.

Your favorable consideration of this request will be appreciated.

Sincerely,



Sherry Hill
Special Assistant

cc: Honorable Peggy Wilson, Chair
House Health, Education,
and Social Services Committee
Alaska House of Representatives

Kevin Jardell, Legislative Director
Office of the Governor

Dr. Richard Mandsager, Director
Division of Public Health

FRANK H. MURKOWSKI
GOVERNOR
GOVERNOR@GOV.STATE.AK.US



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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

April 8, 2005

The Honorable Gene Therriault
Alaska State Senate
Alaska State Capitol, Room 119
Juneau, AK 99801

Dear Senator Therriault:

Thank you for your letter we received March 31, 2005, regarding the regulations adopted by the Department of Health and Social Services dealing with payment to assisted living homes for services provides to state supported clients.

The Legislature directed the Department of Health and Social Services to continue cost containment for assisted living homes. I have enclosed the information from the FY 05 budget (Chapter 158 SLA 04) that is showing the cost savings measures that were adopted by the Legislature to refinance the cost for individuals residing in Assisted Living Facilities:

- In the Adult Public Assistance (APA) program two transactions were adopted by the Legislature. The first (enclosure 1) was a transfer out of \$1.2 million to Senior and Disability Services (SDS) Medicaid to cover the cost of care for Medicaid and non-Medicaid waiver recipients in assisted living homes; the second (enclosure 2) was a decrement of \$963,500 which was a general fund reduction to the budget.
- In the SDS budget there were two transactions also adopted by the Legislature. The first (enclosure 3) was a transfer to the SDS Medicaid budget to fund the cost of care for Medicaid waiver recipients; the second (enclosure 4) was a transfer to SDS Protection, Community Services, and Administration (PCSA) to fund the cost of care for non-Medicaid waiver recipients.

The intent of the full Legislature is clear. The regulations reflect this administration's commitment to follow the direction of the Legislature as reflected in the budget bill. Without change in this intent, and increased funding, the department does not have resources available to suspend the regulations.

Sincerely yours,

Frank H. Murkowski
Governor

Enclosure

The Honorable Gene Therriault

April 8, 2005

Page 2

cc: Senator Ben Stevens
Representative John Harris
Senator Lyda Green
Senator Lyman Hoffman
Representative Tom Anderson
Representative Sharon Cissna
Representative Mike Hawker
Representative Vic Kohring
Cheryl Frasca, Director, Office Management and Budget
Joel Gilbertson, Commissioner, Department of Health and Social Services
Steve Ashman, Director, Division of Senior and Disabilities Services
Kevin Jardell, Legislative Director, Governor's Office

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STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

October 12, 2004

Ms. Judith Norris
Centers for Medicare and Medicaid Services
OOM, AGG, Grants Management Staff
Mail Stop: C2-21-15
7500 Security Boulevard
Baltimore, MD 21244

Dear Ms. Norris:

This letter serves to document my support for the Department of Health and Social Services background check demonstration project grant application to the Centers for Medicare and Medicaid Services (CMS). My administration is committed to the safety and welfare of individuals receiving long-term care services. Through this demonstration project the department will implement a more efficient and effective fingerprint-based criminal history records investigation and fitness determination program that in the end will benefit the beneficiaries of Alaska's long-term programs.

I will sponsor legislation to consolidate and clarify Alaska's certification and licensing laws to give the department statutory authority to implement coordinated administrative services to expand our background check programs. The department will work with the long-term care provider community, The Department of Public Safety, the Long-Term Care Ombudsman, and others to improve monitoring and enforcement of life, health, and safety regulations for all long-term care programs in Alaska.

Thank you for this opportunity to apply for this grant. I am looking forward to working with you and the CMS project team as we build this model program to protect and serve vulnerable children and adults in care.

Sincerely yours,

Handwritten signature of Frank H. Murkowski in cursive.
Frank H. Murkowski
Governor

cc: Joel Gilbertson, Commissioner, Department of Health and Social Services

Change Record Detail - Multiple Scenarios With Description

Department of Health and Social Services

Component: Adult Public Assistance (222)

RDU: Public Assistance (73)

Change Record Title	Trans Type	Totals	Personal Services	Travel	Contractual	Supplies	Equipment	Land/ Buildings	Grants Claims	Misc.	Positions		
											PFT	PPT	NP
***** Changes From FY2004 Management Plan To FY2005 Governor *****													
Assisted Living Home Residents' Subsidies Transferred to SDS Medicaid & SDS Protection, Comm Svcs & Admin	Trout	-1,236.5	0.0	0.0	0.0	0.0	0.0	0.0	-1,236.5	0.0	0	0	0
1004 Gen Fund		-1,236.5											

This change record transfers \$1,236.5 from the Adult Public Assistance (APA) component to the SDS Medicaid & Protection, Comm Svcs & Admin components, Senior and Disability Services RDU for General Relief Assisted Living Home Subsidies

APA recipients living in assisted living facilities contribute all but \$100 of their monthly income towards their cost-of-care. The \$100 allowance is for personal needs. The difference between an individual's monthly cost-of-care in the facility and the individual's income is paid by a combination of state general funds and federal Medicaid matching funds. This proposal would reduce APA payments to residents of assisted living facilities to \$100 per month effective July 1, 2004.

The majority of assisted living facility residents also receive Medicaid waiver services. For individuals who receive Medicaid waiver services, the difference between the resident's cost-of-care and the reduction in their monthly income would be cost shifted to Medicaid, reducing the need for state general funds for these individuals by approximately 58%. \$1,623.3 of the total \$2,595.8 savings in APA payments will need to be transferred to the Division of Senior and Disability Services (DSDS) and the Division of Behavioral Health (DBH) to offset the resulting increase in expenditures that will be need to be paid to assisted living facilities as the state's share of an individual's cost of care when their income is reduced.

This is a Medicaid refinancing strategy and has no financial impact to individuals.

Potential savings are calculated as follows:

- \$2,595.8 Projected APA component savings
- (943.9) Transfer out APA GF savings to fund the cost of care for non-Medicaid waiver recipients (\$395.8 to DBH and \$548.1 to DSOS PCSA)
- (688.4) Transfer out APA GF savings to fund the cost of care for Medicaid waiver recipients (\$0.0 to DBH and \$688.4 to DSOS Medicaid)
- \$ 963.5 Net GF Savings ("Medicaid Refinancing" Reimbursement for Medicaid waiver recipients)

Note: DSOS will also need to incorporate federal reimbursement for the Medicaid portion into their budget components. Will require regulation changes, EIS programming, staff training and client & provider education.

#1

Change Record Detail - Multiple Scenarios With Description

Department of Health and Social Services

Component: Adult Public Assistance (222)

RDU: Public Assistance (73)

Change Record Title	Trans Type	Totals	Personal Services	Travel	Contractual	Supplies	Equipment	Land/ Buildings	Grants Claims	Positions			
										Misc	PFT	PPT	NP
..... Changes From FY2004 Management Plan To FY2005 Governor													
Refinance the Cost for Individuals Residing in Assisted Living Facilities		-963.5	0.0	0.0	0.0	0.0	0.0	0.0	-963.5	0.0	0	0	0

1004 Gen Fund -963.5

This change record deletes \$963.5 from the Adult Public Assistance (APA) component representing the net GF savings from Medicaid Reimbursement for Medicaid Waiver recipients.

APA recipients living in assisted living facilities contribute all but \$100 of their monthly income towards their cost-of-care. The \$100 allowance is for personal needs. The difference between an individual's monthly cost-of-care in the facility and the individual's income is paid by a combination of state general funds and federal Medicaid matching funds. This proposal would reduce APA payments to residents of assisted living facilities to \$100 per month effective July 1, 2004.

The majority of assisted living facility residents also receive Medicaid waiver services. For individuals who receive Medicaid waiver services, the difference between the resident's cost-of-care and the reduction in their monthly income would be cost shifted to Medicaid, reducing the need for state general funds for these individuals by approximately 58%. \$1,623.3 of the total \$2,595.8 savings in APA payments will need to be transferred to the Division of Senior and Disability Services (DSDS) and the Division of Behavioral Health (DBH) to offset the resulting increase in expenditures that will be need to be paid to assisted living facilities as the state's share of an individual's cost of care when their income is reduced.

This is a Medicaid refinancing strategy and has no financial impact to individuals.

Potential savings are calculated as follows:

\$2,595.8 Projected APA component savings
 (- 943.9) Transfer out APA GF savings to fund the cost of care for non-Medicaid waiver recipients (\$395.8 to DBH and \$548.1 to DSDS)
 (- 688.4) Transfer out APA GF savings to fund the cost of care for Medicaid waiver recipients (\$0.0 to DBH and \$688.4 to DSDS)
 \$ 963.5 Net GF Savings Decrement ("Medicaid Refinancing" Reimbursement for Medicaid waiver recipients)

Note: DSDS will also need to incorporate federal reimbursement into their budget components.

Will require regulation changes, EIS programming, staff training and client & provider education.

HC

Change Record Detail - Multiple Scenarios With Description

Department of Health and Social Services

Component: Senior and Disabilities Medicaid Services (2662)

RDU: Senior and Disabilities Services (487)

Change Record Title	Trans Type	Totals	Personal Services	Travel	Contractual	Supplies	Equipment	Land/ Buildings	Grants Claims	Positions			
										Misc	PFT	PPT	NP
***** Changes From FY2004 Management Plan To FY2005 Governor *****													
Assisted Living Home Residents' Subsidies transferred from Adult Public Assistance	Trin	688 4	00	00	00	00	00	00	688 4	00	0	0	0

1003 G/F Match

688 4

This change record transfers \$688 4 from the Adult Public Assistance (APA) component to the SDS Medicaid component for General Relief Assisted Living Home Subsidies

APA recipients living in assisted living facilities contribute all but \$100 of their monthly income towards their cost-of-care. The \$100 allowance is for personal needs. The difference between an individual's monthly cost-of-care in the facility and the individual's income is paid by a combination of state general funds and federal Medicaid matching funds. This proposal would reduce APA payments to residents of assisted living facilities to \$100 per month effective July 1, 2004.

The majority of assisted living facility residents also receive Medicaid waiver services. For individuals who receive Medicaid waiver services, the difference between the resident's cost-of-care and the reduction in their monthly income would be cost shifted to Medicaid, reducing the need for state general funds for these individuals by approximately 50%. \$1,623.3 of the total \$2,595.8 savings in APA payments will need to be transferred to the Division of Senior and Disability Services (DSDS) and the Division of Behavioral Health (DBH) to offset the resulting increase in expenditures that will be need to be paid to assisted living facilities as the state's share of an individual's cost of care when their income is reduced.

This is a Medicaid refinancing strategy and has no financial impact to individuals.

Potential savings are calculated as follows:

\$2,595.8 Projected APA component savings
 (- 943.9) Transfer out APA GF savings to fund the cost of care for non-Medicaid waiver recipients (\$395.8 to DBH and \$548.1 to DSDS PCSA)
 (- 688.4) Transfer out APA GF savings to fund the cost of care for Medicaid waiver recipients (\$0.0 to DBH and \$688.4 to DSDS Medicaid)
 \$ 963.5 Net GF Savings ("Medicaid Refinancing" Reimbursement for Medicaid waiver recipients)

Note: DSDS will also need to incorporate federal reimbursement for the Medicaid portion into their budget components. Will require regulation changes, EIS programming, staff training and client and provider education.

#3

Change Record Detail - Multiple Scenarios With Description

Department of Health and Social Services

Component: Protection, Community Services and Administration (2673)

RDU: Senior and Disabilities Services (487)

Change Record Title	Trans Type	Totals	Personal Services	Travel	Contractual	Supplies	Equipment	Land/ Buildings	Grants Claims	Misc	Positions		
											PFT	PPT	NP
..... Changes From FY2004 Management Plan To FY2005 Governor													
Assisted Living Home Residents' Subsidies transferred from Adult Public Assistance	Trin	548 1	00	00	00	00	00	00	548 1	00	0	0	0

1004 Gen Fund 548 1 This change record transfers \$548 1 from the Adult Public Assistance (APA) component to the SDS Protection, Comm Svc & Admin component for General Relief Assisted Living Home Subsidies.

APA recipients living in assisted living facilities contribute all but \$100 of their monthly income towards their cost-of-care. The \$100 allowance is for personal needs. The difference between an individual's monthly cost-of care in the facility and the individual's income is paid by a combination of state general funds and federal Medicaid matching funds. This proposal would reduce APA payments to residents of assisted living facilities to \$100 per month effective July 1, 2004.

The majority of assisted living facility residents also receive Medicaid waiver services. For individuals who receive Medicaid waiver services, the difference between the resident's cost-of-care and the reduction in their monthly income would be cost shifted to Medicaid, reducing the need for state general funds for these individuals by approximately 58%. \$1,623 3 of the total \$2,595 8 savings in APA payments will need to be transferred to the Division of Senior and Disability Services (DSDS) and the Division of Behavioral Health (DBH) to offset the resulting increase in expenditures that will be need to be paid to assisted living facilities as the state's share of an individual's cost of care when their income is reduced.

This is a Medicaid refinancing strategy and has no financial impact to individuals.

Potential savings are calculated as follows:

- \$2,595 8 Projected APA component savings
- (943 9) Transfer out APA GF savings to fund the cost of care for non Medicaid waiver recipients (\$395 8 to DBH and \$548 1 to DSDS PCSA)
- (688 4) Transfer out APA GF savings to fund the cost of care for Medicaid waiver recipients (\$0 0 to DBH and \$688 4 to DSDS Medicaid)
- \$ 963 50 Net GF Savings ("Medicaid Refinancing" Reimbursement for Medicaid waiver recipients)

Will require regulation changes, EIS programming, staff training and client and provider education

#4

MEMORANDUM

April 21, 2005

TO: Janet Clark, Director of Administrative Services
Dept. Health & Social Services

FROM: John Bitney

SUBJECT: Changes to "Assisted Living" Amendment – HB193/SB125

This is to follow up with you in writing based on the discussion at this morning's House HESS Committee Working Group on HB193. As you know, Amy Oney proposed a modification to the amendment and this is to provide a written description of the modification.

Amendment to Amendment 24-GH1016\G.2, Mischel, 4/19/05 (by Anderson, Cissna, and McGuire):

"On page 1, line 21, delete '\$28' and insert '\$18.64'."

This change lowers the minimum daily reimbursement rate to the assisted living home for room and board from the current proposal of \$28. For people who are not in the APA refinance, assisted living homes would still have to reduce billings by \$264/month for these people (ie. "300 percenters").

This modification is intended to reduce the funding requirements on the part of the State in order to address the needs of assisted living homes that resulted from the APA refinance (approved in FY05).

At this point, that is the only change being proposed to the amendment pending before the House HESS Committee. (Please know that Ms. Oney does have some questions regarding licensing language in the original version of the bill. We are hoping to discuss these questions with Virginia Stonkus at the earliest convenience.)

Additionally, we would like to offer some responses and suggestions to the Technical Concerns about Proposed Amendments to HB 193 distributed this morning by DHSS.

- 1) Legislative drafting has proposed placing the amendment under AS 47.07.070. If placing a new statute in a section of statute that is subject to litigation, we would ask if there is a different section of statute that would serve the Department better. For example, the current AS47.07.070(c) establishes exceptions by citing other areas of statute. Pending review by legislative drafting services, could .070 reference another area of statute where the amendment is made?
- 2) Hopefully the change to the amendment made above will help address the concern regarding the reversal of APA payment reductions. Again, the modification would establish a lower minimum reimbursement rate.
- 3) The last bullet point addresses whether assisted living homes should receive an \$8.65 per day raise for people above the APA income level. By the Department's direction, the homes could still report this amount received as "Third Party Insurance Claim" on the First Health Billing System and reduce the overages that

could occur. The Department would be responsible for adjusting the individual PA's for each applicable person so that no over billing would exist. The key in making this billing adjustment is that the Assisted Living Homes would not be responsible for collecting, on behalf of the Department, an unknown amount from their residents. Instead, the \$264 is a definite amount they can account for in their books and receivable accounting system.

Finally, we would ask you to consider the following clarification regarding the "Room and Board" liability issue. All existing cost reimbursement contracts for assisted living homes shall be officially reallocated to reduce room and board expenses versus direct costs in order to reflect a corresponding decrease of room and board liabilities, and an increase of direct care costs to reflect an \$8.65/day reimbursement rate.

Please don't hesitate to contact either myself (317-0038 cell) or Ms. Oney (301-0111 cell) for any additional information or clarification.

Northern Assisted Living Association

109 East 5th Ave
North Pole, AK 99705

To our Honorable, Senators & Representatives

Due to a change the Pioneer Homes were designated as an assisted living facility by the State of Alaska in 2004 and can now receive choice waiver payments for the residents who live there. The Pioneer Homes Projected Profit and Loss Statement were completed and approved by the Department of Health and Social Services, Division of Senior and Disability Services just recently and the Pioneers Homes will not be required to submit new Projected Profit and Loss Statement for at least two years. A large percentage of the private assisted living homes are required to resubmit new Projected Profit and Loss Statement in July of 2005. It is my understanding that the Department of Health and Social Services, Division of Senior and Disability Services will be instituting a cap of \$154,600.00 for total personnel cost for all 5 bed assisted living homes that will be submitting new Projected Profit and Loss Statement. Because the Pioneers Home has already received approval of their Projected Profit and Loss Statement prior to the cap taking effect the only ones who will be adversely affected will be the private assisted living homes that have to resubmit their Projected Profit and Loss Statements

The private assisted living homes will not be able to stay in business with the inequity that exists between the amount approved by the Division of Senior and Disability Services for the Pioneers Homes versus the cap imposed on the private assisted living homes.

We did a comparison of a 5 bed assisted living home with the Department of Senior and Disability Services personnel cost cap and the Fairbanks Pioneer Homes approved personnel cost and we compared the cost per employee.

As you can see there is a sizable difference.

Comparison of cost per resident

	Total Cost Allowed by DSDS	Number of Residents Per facility	Cost per Resident
Pioneer Home Fairbanks *	4,992,818.00	97	51,472.35
Private 5 Bed Assisted Living Home	154,600.00	5	30,520.00

* Taken from the Pioneers Homes approved Projected Profit and Loss Statement

Comparison of cost per employee

	Total Cost Allowed by DSDS	Number of Employees Per facility	Cost per Employee
Pioneer Home Fairbanks*	4,992,818.00	111.6	44,738.51