

11822 SENATE HEALTH, EDUCATION & SOCIAL SERVICES

SB 210 – Alcohol: Transport, Manufacture; Forfeiture (Therriault) Currently in (S) Finance.

In local option communities, this bill reduces the quantity of distilled spirits an individual may possess that gives rise to the presumption of intent to sell, and makes barter of alcohol equivalent to a sale. The bill also gives law enforcement access to a civil process to seize and dispose of goods and property used to manufacture, transport or sell liquor illegally or goods and property purchased with proceeds from this illegal activity.

- This measure was recommended by the federally-appointed *Alaska Rural Justice and Law Enforcement Commission* charged with investigating various aspects of rural justice services.
- The significantly shorter civil forfeiture process (60 days compared to the criminal process of 6 months to a year) provides a further disincentive to bootlegging.

Companion: HB 373 – Alcohol: Transport, Manufacture; Forfeiture (Meyer)
Currently in (H) Rules.

SB 207 – Eligibility for Denali Kid Care (Elton). No hearing scheduled

This bill restores DKC eligibility to 200% of the poverty level and removes the fixed dollar amount so that eligibility can keep up with inflation.

- The DKC program serves children and pregnant women, for whom consistent medical care is crucial to healthy growth and positive birth outcomes.
- Program eligibility cuts made in 2003 caused more than 2200 children and 200 pregnant women to lose health coverage, saving the state about \$500,000.
- The cost to Alaska's health care system was far greater, as the state also loses the DCK federal matching funds of approximately \$3 to every \$1 of state funding.

CSHB 312 – Fetal Alcohol Syndrome Prevention (Weyhrauch).

This bill requires that DHSS to develop an FAS informational campaign and distribute information to schools and hospitals. It also requires that licensing boards for doctors, physician assistants and nurse practitioners develop standards for FASD education and require FASD training as a condition of licensure. In addition, FASD would be added as a condition reported to the current Birth Defects Registry.

- This bill builds on eight years of work done in the State of Alaska to address the epidemic of FASD.
- These measures will promote prevention of FASD through requirements for education of health care professionals.

CSHB 357 – Statutory References to Disabilities (Wilson).

This bill was heard and passed out of (H) Finance. It updates the statutes by modifying the terminology used to describe people with disabilities "in recognition of the ability of individuals to the society and to the state." The CS makes additional terminology changes. The bill is now in (H) Rules.

- These changes bring the language of the Alaska statutes into conformity with widely accepted terms.
- Language is powerful and the proposed revisions strengthen the state's commitment to dignity for people with disabilities.

Senate Committee Announcements

**Alaska State Legislature
Twenty-Fourth Legislature
Second Session**



Americans with Disabilities Act Notice - Persons with disabilities who require special accommodation or alternative communication formats to access committee meetings may contact the appropriate committee office or the Legislative Information Office in their community. Reasonable advance notice is needed to accommodate the request. For further information, call the ADA Coordinator at 465-3854 Voice/465-4980 TDD.

Published by the
Senate Secretary's Office - 465-3701

February 22, 2006

House Committee Announcements

Twenty-Fourth Alaska State Legislature

Second Session

Published by the Chief Clerk's Office - 465-3725
February 23, 2006

Committee announcements are published daily, with updates posted throughout the day. Please Check BASIS or the committee schedule display on the 2nd floor for the most current schedule.

Americans with Disabilities Act Notice - Persons with disabilities who require special accommodation or alternative communication formats to access committee meetings may contact the appropriate committee office or the Legislative Information Office in their community. Reasonable advance notice is needed to accommodate the request. For further information, call the ADA Coordinator at 465-3854 Voice/465-4980 TDD.

* first hearing in first committee of referral
+ teleconferenced
= bill was previously heard/scheduled

STANDING COMMITTEES

FINANCE

Feb 23	Thursday	Senate Finance 532	9:00 AM
		Joint with Senate Finance	
		Presentation by Callan Associates -	
		Re: PFD Five-Year Forecast	
Feb 23	Thursday	House Finance 519	1:30 PM
		-- Meeting Canceled --	
		Bills Previously Heard/Scheduled	

Examples of People First Language

Excerpted from Kathie Snow's booklet People First Language.

People with disabilities	the handicapped or disabled
he has a cognitive disability	he's mentally retarded
she has autism	she's autistic
he has Down syndrome	he's Downs
she has a learning disability	she's learning disabled
he has a physical disability	he's a quadriplegic/crippled
she's short of stature	she's a dwarf or midget
he has an emotional disability	he's emotionally disturbed
she uses a wheelchair or mobility chair	she's wheelchair bound she's confined to a wheelchair
he receives special ed services	he's in special ed
typical kids kids without disabilities	normal or healthy kids
congenital disability	birth defect
brain injury	brain damaged
accessible parking	handicapped parking
she needs or she uses	she has a problem with

SENATE COMMITTEE REPORT

DATE: 2/23/06

FURTHER: Finance

DATE TURNED
IN TO OFFICE: 2.27.06

Health, Education and Social Services Committee considered CS FOR HOUSE BILL NO. 357(FIN)

HB 357 STATUTORY REFERENCES TO DISABILITIES

"An Act updating the terminology in statutes for persons with disabilities; and providing for an effective date."

and recommends:

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

CS Senate Bill:

- Same Title
- New Title

SCS House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # _____

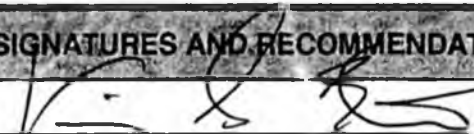
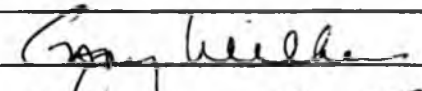
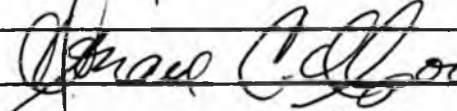
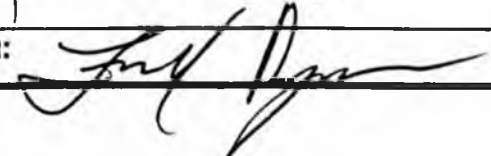
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
HSS	1/20			x	1
LWD	1/17			x	2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
			✓	
	✓			
			✓	
CHAIR: 	✓			

HB

379

REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

MEMORANDUM

DATE: March 1, 2006

TO: Representative Fred Dyson, Chairman
Senate HESS Committee

FROM: Representative Kevin Meyer

RE: Hearing Request for House Bill 379 *Controlled Substances, Including Analogs*

Please schedule HB 379 *Controlled Substances, Including Analogs* for a hearing in the Senate HESS committee at your earliest convenience.

HB 379 includes GHB and, when intended or used for human consumption, GHV, BD, GVL and GBL in schedule 1A of the Controlled Substances Act.

Included in this packet:

- HB 379 *Controlled Substances, Including Analogs* v. LS-1396\F
- Sponsor Statement
- Sectional Analysis
- Fiscal Note: HES 2/8/2006
- Change Summary
- HB 379 *Controlled Substances, Including Analogs* v. LS-1396\G
- Department of Law Memorandum
- Leg. Research Report on sentencing
- National Drug Intelligence Center Bulletin
- ADN Articles
 - 12/6/2006
 - 1/12/2005
- Project GHB Pamphlet

REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

MEMORANDUM

DATE: February 8, 2006
TO: Representative Kevin Meyer
FROM: Mike Pawlowski
RE: Sectional Analysis for CSHB 379 (JUD)
(Version No. 24 – LS1396\F)

As a preliminary matter, 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, please advise.

Section 1. Amends AS 11.71.140 to include GHB in schedule 1A of the Controlled Substances Act and adds a new subsection scheduling similar substances when intended or used for human consumption.

Section 2. Repeals GHB from schedule 4A of the Controlled Substances Act.

REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

MEMORANDUM

Change Summary

DATE: February 8, 2006

TO: Representative Kevin Meyer

FROM: Mike Pawlowski

RE: Changes to HB 379 incorporated in CSHB 379 (JUD)
(Version No. 24 – LS1396\F)

Title: Replaced with a new title.

Section 1. Replaced (2) and (3) a new subsection (2) scheduling GBL, BD, GHV and GVL when "intended or used for human consumption.

Section 2. Deleted.

Section 3. Renumbered as section 2

REPRESENTATIVE KEVIN MEYER

HOUSE DISTRICT 30

SPONSOR STATEMENT

HB 379

"An Act relating to controlled substances."

Taken first by bodybuilders in the 1980's when steroids were initially controlled, GHB was believed to enhance steroid production. A small amount of GHB, when ingested elicits feelings similar to intense intoxication and gained popularity initially as a way to get drunk without the calories.

Since it is easily added to a drink, difficult to detect, leaves the system quickly and is very difficult for law enforcement to identify, GHB has become a popular "date rape" drug. In February of 2000, GHB was elevated at the Federal Level to a schedule I narcotic. Like other drugs, GHB and its variations are sadly found in Alaska.

Late last year, three young men were charged in federal court in the death of a 16-year-old Chugiak High School Student. The young men were charged in Federal Court because the variation of GHB they were allegedly providing isn't covered in Alaska's controlled substances statutes.

House Bill 379 adds these variations of GHB to Alaska's controlled substances act and raises them, along with GHB to a schedule IA narcotic. Since this narcotic is addictive, dangerous, and popular as a "date rape" drug it deserves the harshest designation possible under state law.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 379(JUD)
 (H) Publish Date: 2/8/06
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title RELATING TO SCHEDULE IA CONTROLLED SUBSTANCES

RDU Departmental Support Services
 Component Commissioner's Office

Sponsor MEYER

Requester HOUSE (JUD)

Component No. 317

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (0)						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

The proposed changes to Schedule IA controlled substances will have no fiscal impact on the Department of Health and Social Services.

Prepared by: Sherry Hill, Special Assistant
 Division: Office of the Commissioner
 Approved by: Karleen Jackson, Commissioner
 Agency: Department of Health and Social Services

Phone 465-1618
 Date/Time 02/08/2006
 Date 02/08/2006

Controlled Substance	Misconduct Involving a Controlled Substance In the:	Class of Offense	Maximum Sentence / First Offense Presumptive Sentence	Crime
Schedule IA	First Degree	Unclassified Felony	99 Years / At Least 5 Years	Delivery to a person under age 19 who is at least three years younger than the delivering person.
	Second Degree	Class A Felony	20 Years / 5 to 8 Years	Manufactures or delivers or possesses with intent to do so.
	Third Degree	Class B Felony	10 Years / 1 to 3 Years	Possession on a school bus or within 500 feet of school grounds or a youth facility.
	Fourth Degree	Class C Felony	5 Years / 0 to 2 Years	Possession of any amount.
Schedule IIA	First Degree	Unclassified Felony	99 Years / At Least 5 Years	Delivery to a person under age 19 who is at least three years younger than the delivering person.
	Third Degree	Class B Felony	10 Years / 1 to 3 Years	Manufactures or delivers or possesses with intent to do so; or possession on a school bus or within 500 feet of school grounds or a youth facility.
	Fourth Degree	Class C Felony	5 Years / 0 to 2 Years	Possession of any amount.
Schedule IIIA	First Degree	Unclassified Felony	99 Years / At Least 5 Years	Delivery to a person under age 19 who is at least three years younger than the delivering person.
	Third Degree	Class B Felony	10 Years / 1 to 3 Years	Manufactures or delivers or possesses with intent to do so.
	Fourth Degree	Class C Felony	5 Years / 0 to 2 Years	Possession of three grams or more, 25 or more tablets, ampules, or syrettes.
	Fifth Degree	Class A Misdemeanor	1 Year / Not Applicable	Possession of less than 25 tablets, ampules, or syrettes; or possession of less than three grams.
Schedule IVA	Third Degree	Class B Felony	10 Years / 1 to 3 Years	Delivery to a person under age 19 who is at least three years younger than the delivering person.
	Fourth Degree	Class C Felony	5 Years / 0 to 2 Years	Manufactures or delivers or possesses with intent to do so; possesses three grams or more, 25 or more tablets; or possesses on a school bus or within 500 feet of school grounds or a youth facility.
	Fifth Degree	Class A Misdemeanor	1 Year / Not Applicable	Possession of less than 25 tablets, ampules, or syrettes; or possession of less than three grams.

Controlled Substance	Misconduct Involving a Controlled Substance In the:	Class of Offense	Maximum Sentence / First Offense Presumptive Sentence	Crime
Schedule VA	Third Degree	Class B Felony	10 Years / 1 to 3 Years	Delivery to a person under age 19 who is at least three years younger than the delivering person.
	Fourth Degree	Class C Felony	5 Years / 0 to 2 Years	Manufactures or delivers or possesses with intent to do so; or possesses six grams or more, 50 or more tablets, ampules, or syrettes; or possesses on a school bus or within 500 feet of school grounds or a youth facility
	Fifth Degree	Class A Misdemeanor	1 Year / Not Applicable	Possession of less than 50 tablets, ampules, or syrettes; or possession of less than six grams.
Schedule VIA	Third Degree	Class B Felony	10 Years / 1 to 3 Years	Delivery to a person under age 19 who is at least three years younger than the delivering person.
	Fourth Degree	Class C Felony	5 Years / 0 to 2 Years	Possession of one pound or more; or possesses on a school bus or within 500 feet of school grounds or a youth facility.
	Fifth Degree	Class A Misdemeanor	1 Year / Not Applicable	Manufactures or delivers, or possesses with intent to do so, one-half ounce or more; or manufactures or delivers, or possesses with intent to do so, one-half ounce or less for remuneration; or possession of one-half pound or more.
	Sixth Degree	Class B Misdemeanor	90 Days / Not Applicable	Use or display of any amount; or possession of less than one-half pound.

Notes: Please note that the maximum and presumptive sentences in Table 1 account for neither aggravating or mitigating circumstances nor multiple offenses or prior convictions, all of which may impact sentencing. For instance, AS 12 55 125(l) provides that a defendant convicted of an unclassified or Class A felony may be subject to imprisonment of at least 40 but not more than 99 years if that defendant has been previously convicted of two or more serious felonies.

Controlled substance schedules are contained in AS 11.71.140-190.

Sources: Misconduct involving a controlled substance sections--AS 11.71.10-60
Sentencing guidelines--AS 12.55.125 and 12.55.135

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Title:

Information Bulletin: GHB Analogs

GBL, BD, GHV, and GVL

Publication Date: August 2002

Document ID: 2002-L0424-003

This information bulletin provides an update on the availability of, demand for, production, transportation, and distribution of GHB analogs.

Your questions, comments, and suggestions for future subjects are welcome at any time. Addresses are provided at the end of the page.



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Table 2. Emergency Department Mentions for GHB and GBL in 22 Major U.S. Cities, 1994-2000



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Introduction

Because the criminal penalties associated with GHB (gamma-hydroxybutyrate) have been made more stringent and law enforcement pressure has rendered GHB more difficult to obtain, the distribution and abuse of GHB analogs have become an increasing concern. GHB analogs, which include GBL, BD, GHV, and GVL, are drugs that possess chemical structures that closely resemble GHB. The ingestion of any of these analogs produces physiological effects similar to the effects associated with GHB abuse--relaxation, mild euphoria, and drowsiness. Abusers who emerge from a deep sleep or coma caused by GHB analogs may become easily agitated and extremely combative. GHB analogs are of particular concern because they contribute to increasing numbers of auto accidents, sexual assaults, and deaths.

While federal law prohibits the sale of analogs for human consumption, GHB analogs are available legally as industrial solvents used to produce polyurethane, pesticides, elastic fibers, pharmaceuticals, coatings on metal or plastic, and other products. These analogs also are sold illicitly as supplements for bodybuilding, fat loss, reversal of baldness, improved eyesight, and to combat aging, depression, drug addiction, and insomnia. GBL and BD are sold as "fish tank cleaner," "ink stain remover," "ink cartridge cleaner," and "nail enamel remover" for approximately \$100 per bottle--much more expensive than comparable products. Law enforcement's efforts to identify the abuse of GHB analogs are hampered by the fact that routine toxicological screens do not detect the presence of these analogs. In addition, distributors continually develop new analogs to avoid law enforcement detection.

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Analogs

GHB analogs often are abused in place of GHB or are used to produce GHB. Common GHB analogs include GBL, BD, GHV, and GVL. (See Table 1.) Both GBL and BD metabolize into GHB upon ingestion. GBL is the most common precursor used in the production of GHB. GVL is abused in place of GHB because it metabolizes into GHV, which produces physiological effects similar to GHB.

Table 1. GHB Analogs

Analog	Chemical Name/Alternative Name	Precursor for Production of	Metabolizes Into
GBL	gamma-butyrolactone furonone di-hydro dihydrofuranone	GHB	GHB
BD	1,4-butanediol tetramethylene glycol sucol-B butylene glycol	GBL	GHB
GHV	gamma-hydroxyvalerate methyl-GHB	*	*
GVL	gamma-valerolactone 4-pentanolide	GHV	GHV

*GHV is not used as a precursor and is not metabolized into another drug.

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Abuse

GHB analogs are distributed as liquids and consumed orally. When ingested, these analogs produce effects such as relaxation, mild euphoria, and drowsiness. Such effects are similar to those associated with GHB abuse and may resemble the results of alcohol intoxication. GHB analogs also may increase libido, suggestibility, passivity, and cause amnesia--traits that make users vulnerable to sexual assault and other criminal acts. Users awakening or emerging from coma may exhibit extreme combativeness, a condition which is also observed among those in withdrawal from addiction to GHB.

and its analogs. GHB analogs are known to produce side effects such as topical irritation to the skin and eyes, nausea, vomiting, incontinence, loss of consciousness, seizures, liver damage, kidney failure, respiratory depression, and even death. GHB analogs are physically addictive, causing addicts to experience severe withdrawal symptoms if they miss a dose or attempt to stop using the drug.

Man Drugs Wife and Babysitter With BD

In March 2002 a South Dakota man was arrested for possession of BD and the distribution of BD to a minor. The man had purchased a dietary supplement containing BD from a Canadian company over the Internet. The man's wife believes that her husband drugged both her and their babysitter with the substance. The man allegedly experimented with the product on himself in order to determine the dosage, in relation to body weight, that would achieve the desired effects. On several occasions, after consuming mixed drinks her husband prepared, the wife fell into a deep sleep and vaguely recalled her husband's having sexually abused her. One evening, when both the husband and wife had separate plans to be out of the house, the wife returned home and found the husband at home with the babysitter who said she felt drowsy. The babysitter claimed that the husband had given her something for a headache and said she recalled him rubbing her back and touching her breasts. The wife immediately took the babysitter to the hospital and notified authorities.

Source: Sioux Falls Police Department.

Some GHB analog abusers begin consuming dietary supplements believing the claims made by manufacturers, and then find themselves addicted to the product. GHB analogs typically are abused in place of GHB by users who want to experience the effects associated with GHB and who find the analogs more widely available or easily obtained. Often users are unaware that they are consuming an analog and mistakenly believe that the substance they are ingesting is GHB. Many users mix the analogs with flavored beverages to mitigate their salty flavor and unappealing odor. Some users, however, simply ingest the drugs straight or mixed with water. It is often difficult or impossible to detect the presence of GBL, BD, GHV, or GVL when they are mixed with other liquids because these analogs are all clear and colorless. A quick test that indicates the possible presence of GHB analogs or GHB in a clear liquid involves shaking the liquid. If it becomes cloudy, GHB analogs or GHB may be present.

Because GHB analogs either are metabolized into GHB by the human body or produce similar physiological effects when ingested, healthcare providers often are unable to distinguish between the abuse of GHB and GHB analogs. Thus, the rising abuse of GHB, evidenced by the increase in Drug Abuse Warning Network (DAWN) emergency department mentions, reflects increased GHB analog use as well. (See [Table 2.](#))

Table 2. Emergency Department Mentions for GHB and GBL in 22 Major U.S. Cities, 1994-2000

Year	Total
1994	56
1995	145
1996	638
1997	762
1998	1,282
1999	3,178
2000	4,969

Source: Substance Abuse and Mental Health Services Administration, Drug Abuse Warning Network.

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Distribution

GHB analogs are readily available, and various methods are used to distribute these drugs. Because of legislation (see [Legislation](#) section), GHB analogs are legally available only in products not intended for human consumption. Abusers and distributors may obtain commercial products such as chemical solvents legally and then illegally consume or distribute them. Illegal distribution of GHB analogs often occurs at raves, concerts, nightclubs, health clubs, gyms, and on college campuses. At these venues GHB analogs usually are sold for \$10 to \$20 per capful (approximately 1 teaspoonful). When distributors sell these drugs, they may fail to specify which analog they are selling, or they may misrepresent the analog as GHB.

GHB analogs also are distributed at disreputable stores that sell health food and nutritional supplements. The analogs also may be marketed on the Internet and then shipped to purchasers via package delivery services. Typically, analogs are marketed as dietary supplements, sleep aids, and cleaning products. They are packaged in bottles containing 4 to 20 ounces and sold for \$40 to \$100 each. The products that are distributed as dietary

supplements usually contain GVL as the active ingredient, while the cleaning supplies usually contain GBL or BD. The concentration of the analog varies; therefore, the size of a dose may range from one-half teaspoon to one-half ounce, and the number of doses per bottle may range from 24 to 48.

BD Ingredient in Sleep Aid

On January 27, 2000, a Utah man died from taking Zen, a product containing sucol-B, an alternative name for 1,4-butanediol. The man initially purchased the product in July 1999 as a sleep aid from a local health food store and was unaware that the product contained a GHB analog. He realized he had become addicted to the substance and was trying to wean himself from it before his death. In April 2002 the man's widow reached an undisclosed settlement in a case filed in civil court holding the store responsible in the wrongful death of her husband, claiming they failed to warn consumers that the product contained an active ingredient that is processed by the body into GHB.

Sources: G. Erick Nielson and Associates (plaintiff's legal representative); *Associated Press*.

Individuals who illegally produce GHB analogs for human consumption often list alternative chemical names to disguise the ingredients. Most users recognize the analog by the brand name or through advertisements that tout the product as a replacement for a similar product that has been removed from the market. Products that contained BD or GBL such as RenewTrient II, Serenity, Inner-G, Soma Solution, and Blue Nitro are no longer sold, primarily because of law enforcement pressure, but comparable products with similar brand names are available.

GHB analogs often are sold with disclaimers that they are not for human consumption; however, many of the products have labels implying that the product may be ingested. One product marketed as an industrial solvent has a label that states "Warning! Accidental ingestion of [product] will produce GHB in your body. If you ingest some by mistake, don't take alcohol or any other drug!" Another product label states "Warning: Accidental ingestion may cause...euphoria...increases tactile sensitivity...". Many of the products are marketed as "Great Household Bargains" (GHB) in order to increase their exposure to individuals seeking GHB analogs.

In addition to the distribution methods discussed previously, supplies, kits, and recipes for producing GHB using the GHB analog GBL are marketed and sold on the Internet.

GHB Kits

Between March 22, 1999, and January 20, 2000, two brothers operating from Mississippi and South Carolina marketed "GHB kits" on the Internet disguised as computer-cleaning solvents. The kits included instructions for producing GHB from GBL and contained enough GBL and sodium hydroxide (the chemical used to convert GBL to GHB) to make 15 to 20 doses of GHB; the kits were sold for \$55. New Jersey Statewide Narcotics Task Force investigators made nine undercover purchases by communicating via web sites and an e-mail account. Police seized a 55-gallon drum of GBL and 10 pounds of sodium hydroxide from a home owned by the brothers in Mount Pleasant, South Carolina. On March 23, 2002, a New Jersey court sentenced the brothers to 4 years in prison under a plea agreement.

Source: *Associated Press*..

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Tests for GHB Analogs

Seized GHB analogs frequently are not identified because detection of such analogs requires specific field and laboratory testing. Three different color tests--cobalt nitrate, Marquis reagent, and Mandelin reagent--are useful for detecting the presence of GHB analogs. (Contact forensic laboratories to obtain specific instructions regarding utilizing these test kits.) Both the Marquis reagent and the Mandelin reagent tests are available commercially.

Routine toxicological screens do not detect GHB or GHB analogs; thus, law enforcement officers and medical personnel must order specific blood and urine tests when they suspect GHB analog abuse. The most common urine tests screen only for the "NIDA-5," five of the most commonly abused categories of drugs--amphetamines (amphetamines, methamphetamine), cocaine (powdered cocaine, crack), cannabinoids (marijuana, hash), opiates (heroin, opium, codeine, morphine), and phencyclidine (PCP). GHB in the blood or urine can result from the ingestion of GHB, GBL, or BD. To yield a reliable result, tests for GHB and GHB analogs must be performed not long after ingestion. Urine tests for GHB and GHB analogs must be performed within 12 hours after ingestion, and blood tests must be performed within 5 hours.

Federal, state, and local forensic laboratories may not routinely test for GHB in blood or urine. For example, the Florida Department of Law Enforcement (FDLE) began testing for GHB in urine on December 1, 2000, but tests are performed only if the suspect exhibits symptoms indicating the presence of GHB. FDLE does not have the resources to conduct blood tests; if blood tests are needed, the samples to be tested must be sent to outside laboratories--some of which are located in other states.

GHB Factor in Auto Fatality

On November 21, 2000, a Florida woman under the influence of GHB crashed head-on into another car, killing a passenger in the other vehicle. Hours before the incident, the woman had been arrested after passing out at a red light. A Breathalyzer test failed to detect alcohol; however, the woman admitted to having drunk from a bottle that contained GHB. She posted bond and was released. Two weeks before the fatal collision, the driver had been ticketed for careless driving; police did not detain her because the officer at the scene did not smell alcohol and did not know to test for GHB.

Source: Florida Department of Law Enforcement; *St. Petersburg Times*.

Because GHB analogs produce effects similar to GHB, driving under the influence of the analogs is just as dangerous as driving under the influence of GHB. As a result, some agencies have adopted aggressive strategies for identifying drivers who may have consumed GHB. The Pinellas-Pasco Medical Examiner's Office in Florida conducts GHB tests on drivers who are suspected of driving under the influence (DUI). In 2000 GHB was detected in approximately 8 percent of the suspected DUI cases that the office examined.

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Legislation

On February 18, 2000, the "Hillary J. Farias and Samantha Reid Date-Rape Prohibition Act of 1999" (Public Law 106-172) was signed into law, legislating GHB as a Schedule I controlled substance. GBL was also regulated under this law as a List I controlled chemical. Illicit use of GHB analogs may now be prosecuted as Schedule I substances under 21 U.S. Code § 813.

GHB analogs are treated as controlled substances under Federal law only if intended for human consumption. According to 21 U.S.C. § 813, "a controlled substance analog(ue) shall, to the extent intended for human consumption, be treated, for the purposes of any Federal law as a controlled substance in Schedule I." Thus, authorities can prosecute drug offenses involving GHB analogs in the same manner as offenses involving GHB. (See 21 U.S.C. § 802(32) for the definition of a controlled substance analog (ue).)

Outlook

Deterring the distribution and abuse of GHB analogs poses unique challenges. Some analogs have legitimate purposes and are legally available. Distributors of illicit GHB analogs will continue to develop new products to disguise their activities, and illicit producers will continue to develop new GHB analogs for the same reasons. Web sites advertising these products will continue to be deceptive and ever-changing. Distributors will develop new disguises for GHB analogs in addition to marketing them as cleaning fluids and dietary supplements. Sharing current information and associated trends relating to GHB analogs among medical personnel, law enforcement officers, and laboratory personnel is essential to stemming the distribution and abuse of these analogs.

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Porrata Consulting, Inc.

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St. Petersburg Times

U.S. Code Title 21, Food and Drugs

U.S. Department of Health and Human Services
Food and Drug Administration
National Institutes of Health
National Institute on Drug Abuse
Community Epidemiology Work Group
Substance Abuse and Mental Health Services Administration
Drug Abuse Warning Network

U.S. Department of Justice
Drug Enforcement Administration
Philadelphia Field Division
St. Louis Field Division

United Nations Office for Drug Control and Crime Prevention

WebMD Medical News, onhealth.webmd.com

Addresses

National Drug Intelligence Center
319 Washington Street, 5th Floor
Johnstown, PA 15901

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FAX (814) 532-4690
E-mail NDIC.Contacts@usdoj.gov

National Drug Intelligence Center
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Web Addresses

ADNET: <http://ndicosa>
DOJ: <http://www.usdoj.gov/ndic/>
LEO: home.leo.gov/lesig/ndic/

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Anchorage Daily News

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Suspect pleads guilty in fatal drug case**COOPERATION: Three charges will be dropped in agreement with prosecutor.**By JULIA O'MALLEY
Anchorage Daily News*(Published: December 6, 2005)*

Thairon Hawk, one of three men charged in connection with a 16-year-old Chugiak High School student's fatal drug overdose, admitted in federal court he helped friends conceal evidence they had provided the killer dose of a potent drug.

Hawk, 22, pleaded guilty Monday to being an accessory after the fact, a felony that carries a sentence of up to 15 years in federal prison. His sentence may be closer to six or seven years, according to sentencing guidelines.

Hawk originally was indicted on three other criminal counts related to lying about his involvement in the crime: obstruction of justice, making false material declarations under oath to a grand jury, and making a false statement. Those charges will be dropped at sentencing as part of a plea agreement.

"He learned that two people had overdosed on GHB. He also learned one of those people had died," assistant U.S. attorney Crandon Randell told U.S. District Court Judge Ralph Beistline on Monday. "He took possession of one or more bottles of what he thought was GHB. He assisted in the permanent disposal of those bottles."

Hawk, a 2001 Dimond High graduate, and his friends, Glade Lusk, 22 and Matthew O'Connor, 25, were charged in the fatal overdose at a Spenard apartment in summer 2003.

At a late-night gathering, Meghan Maroney, 16, and an 18-year-old girl took doses of 1, 4-Butanediol, or BD, a drug chemically similar to the date-rape drug GHB, according to police. Maroney died. The other girl became sick but recovered. Lusk and O'Connor are charged with providing the drug.

The next morning, Hawk took the drug bottles and threw them away, possibly into Cook Inlet, according to his plea.

"(Hawk's) role didn't begin until the drug had been distributed and people had gotten sick and overdosed," Randell said. "He saw what was going on, and made the decision to get rid of that stuff at Lusk's request."

Because the plea agreement is sealed, Randell would not say whether the other charges against Hawk were dropped in exchange for his testimony against Lusk and O'Connor.

"There is an agreement. He gets something out of it, we get something out of it," Randell said. "We get finality as far as Mr. Hawk is concerned. Hawk gets the benefit of getting three counts dismissed."

O'Connor was charged with distributing a controlled substance to a person under 21. Lusk was

charged with distributing a controlled substance to a person under 21 and possessing a controlled substance with intent to distribute, causing serious bodily injury and death. Their trial is scheduled for Jan. 17.

Both men have pleaded not guilty.

GHB and BD, made of gamma butyrolcatone and sodium hydroxide or potassium hydroxide -- chemicals found in degreasing solvent, floor stripper and drain cleaner -- can cause loss of muscle control, respiratory problems, loss of consciousness, temporary paralysis, and death, according to the drug information Web site projectghb.org.

Hawk will be sentenced at a hearing scheduled for Feb. 14.

Daily News reporter Julia O'Malley can be reached at jomalley@adn.com or 257-4325.

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Anchorage Daily News

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Provider of fatal pill gets 13 years**PLEA: Girl died after consuming drink spiked with date-rape drug.**By MEGAN HOLLAND
Anchorage Daily News*(Published: January 12, 2006)*

A 22-year-old man agreed to a plea deal Wednesday in which he'll serve 13 years in federal prison for bringing a "date rape" drug to a party in 2003 that killed a teenage girl.

Glade Lusk pleaded guilty to the federal charges of possession of the drug with intent to distribute it and accessory after the fact for trying to get rid of evidence the next day. He was one of three people charged in the case.

The drug, mixed in a drink and passed around at the party, killed a 16-year-old girl and injured two others at the gathering. The drug was a form of the drug GHB, which is colorless, odorless, and causes drowsiness, dizziness and loss of inhibition. It is sometimes called "liquid ecstasy."

"We hope this case sends a very loud message to Alaskan parents and young people first that GHB can kill you. And second, if you distribute it and give it to your friends, you face a very lengthy jail sentence," first assistant U.S. attorney Deborah Smith told a news conference at the U.S. Attorney's Office in Anchorage. "We plan to prosecute to the full extent of the law."

Anchorage Police Chief Walt Monegan said the case against the three men was the first in Alaska for which someone has been charged with the illegal distribution of the drug. Lusk was prosecuted federally because the particular form of the drug is not illegal in Alaska. Monegan said he wants to change that.

Earlier this month, Matthew O'Connor, 25, pleaded guilty to giving 16-year-old Meghan Maroney the drug and agreed to 10 years in prison. His brother brought her to the party, said John Murtagh, Lusk's attorney.

Last month, Thairon Hawk, 22, pleaded guilty to being an accessory after the fact, a felony that carries a sentence of up to 15 years in federal prison. His sentence may be closer to six or seven years, according to sentencing guidelines.

Murtagh said he and his client did not want to face a jury that might have convicted him of actually handing out the drug and giving it to Maroney, which would have carried a much stiffer federal prison sentence, possibly more than twice the sentence he agreed to. "We had to analyze possible outcomes of the trial," he said.

In June 2003, Maroney and a group of teenagers and young adults gathered at Lusk's apartment



Meghan Maroney, 16, died in 2003 after taking a drug-spiked drink. ()

on Roosevelt Drive in Spenard. Maroney, a Chugiak High School student, drank the drink containing the drug along with others at the party. Sometime that night or early the next morning, she died.

Prosecutors declined to say whether they believed Maroney knowingly drank the drug. They and police said that until the final court appearances for the defendants' sentencings, they would not discuss details of the case.

But Murtagh said there was nothing predatory about giving the drug to Maroney.

"I believe the evidence would have shown that (all the party-goers) knew it was going to be a (drug) party," he said.

Murtagh said his client was temporarily keeping the drug at his house for a friend, to whom he was going to return it. Lusk did not know Maroney, he said.

Lusk admitted in court documents that he had previously sold ecstasy and similar drugs.

"A lot of this reminds me of the last kid who makes the out in the Little League game," Murtagh said. "(Lusk) shouldn't have had it, it was a danger. But more of the issue is that kids ought to be more careful."

Meghan Maroney's father, Harold, was reached by phone at his Eagle River home Wednesday night.

"This is a big relief for us," he said "It's been a long time coming."

Sentencing for Lusk and O'Connor is scheduled for March 13. Sentencing for Hawk is scheduled for Feb. 14.

Daily News reporter Megan Holland can be reached at mrholland@adn.com.

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The Great American Chemical Chase

Don't be a part of the Great American Chemical Chase...Life can be lived without a "magic potion" for every ache and discouragement and problem confronting you.

Prescription pills that cause impairment, "sports" or "health" supplements that are unproven (and costly) or illegal drugs all have their risks. Stimulants, for example, can permanently damage serotonergic neurons, which control feelings of well being. Think about the consequences: Your current and future health, potential brain (or other organ) damage, and the ever-present risk of death.

Poison ivy is naturally occurring. Snake venom is naturally occurring. Just because a chemical exists in your body naturally does not mean that adding additional quantities of it to your body is safe, much less beneficial. **EVEN IF A LITTLE IS GOOD, THAT DOES NOT MEAN THAT A LOT MUST BE BETTER.** Be careful what you add to your body - consequences may be grave.

P R O J E C T
GHB

For more information, go to
www.projectghb.org

Gamma Hydroxy Butyrate

GHB

What you don't know,
can kill you.

They call it "carpeting out" when someone on GHB is dancing happily into the night, only to collapse in a heap and "hit the carpet" heading for a fit of vomiting, twitching or an unarousable coma. GHB is degreasing solvent (floor stripper) mixed with drain cleaner, and is a central nervous system depressant, with dangerous side effects. It is NOT a safe and fun drug as claimed on the Internet. Unfortunately, there is no validation process to protect you from false claims on the Internet. People have unknowingly taken GHB as a sleep aid, sexual stimulant or simply a recreational drug of abuse only to find themselves in intensive care in the hospital. Or, long-term to find themselves addicted to GHB. GHB gives a rapid onset of intoxication, comparable to alcohol but with a euphoric high and out-of-body experience. It often causes vomiting and muscle jerking. Breathing may slow to only six breathes per minute. Pulse/blood pressure will probably slow, or may increase. While most people do sleep off a GHB overdose, some will die without medical intervention. A GHB overdose IS a medical emergency.

More than 10,000 adverse reactions to GHB are documented. More than 72 deaths have been linked to GHB related by DEA (170 more to review), perhaps just a tip of the iceberg since routine testing does not detect it. Deaths include a college student who took it as a "safe" sleep aid and died in his sleep. A 15-year-old in California's high desert who gulped GHB at a RAVE died. A 32-year-old male in Atlanta, Georgia died from GHB only. A bodybuilder in Ohio died, with only alcohol and GHB use. A 15-year-old female in Michigan died from GHB/GBL use. Death is even more likely when alcohol or other drugs are added. Some would have lived IF their friends had called for help.

Taken first by bodybuilders in the 1980's when steroids were first controlled, GHB was believed to enhance steroid production. It doesn't work so easily. Many are lured into its use to get drunk without the calories of alcohol, but the risks are not worth it. GHB causes dangerous levels of impairment. An 18-year-old in California was given GHB by his sports trainer. He passed out, hit his head on the curb, and severed an optic nerve. He is blind in one eye. Others who have used GHB report an inability to maintain focus and stay in training, resulting in a lessening of physical conditioning, rather than a gain.

GHB is rapidly growing as a sexual assault problem because it is easily mixed into a drink, hard for a victim to detect, leaves the system quickly, and is difficult for law enforcement to identify. Drug-facilitated rape cases are difficult to prosecute. A victim's efforts to prevent such occurrences and a victim's actions if it does happen are crucial. Don't drink unusual drinks; don't take drinks from strangers; don't leave your drink unattended. If it happens, IMMEDIATE reporting is your best action. A urine sample is needed right away.

Remember too - Getting excessively drunk (alcohol or other recreational drugs) does NOT give anyone the right to rape you, but why volunteer to be a victim? **THINK!**

GHB has "analogs," chemical cousins with identical or very similar effects. GHB is controlled (illegal) federally and in most states. In many states where GHB is illegal, the analogs have been covered and are also illegal. In any case, GHB and its analogs are not safe. Some of the deaths are from analogs.

If you see words such as these on a "sports/health" food supplement you have purchased, BEWARE. These are analogs of GHB and just as dangerous: Gamma butyl lactone or gamma butyrolactone (GBL), 2(3H) furanone dihydro or dihydroxy, 1,4 butanediol, tetramethylene glycol. If the chemical names are different, but the product claims to be "safe" or "legal" or "herbal" GHB, BEWARE. It may be a different analog of GHB.



These products have been sold as Blue Nitro, Renewright, Revivarant, Remforce, Firewater, Enliven, Serenity, Revitalize Plus, Thunder Nectar, Rejoov, Flower Power, Dream On, Weight Belt Cleaner and several others - the names keep changing.

Under the influence of GHB, you may not be able to hear (respond to) a phone, pager or doorbell ring or a knock at the door or a baby's cry or a fire alarm. If driving under the influence, you may kill yourself or someone else in a traffic accident.

There is no antidote for GHB. Overdose victims may need to be placed on life support until it passes to assure their survival. In a GHB coma, you cannot get to save yourself if gum in your mouth falls to the back of your throat. You may not hear a fire alarm and save yourself.

MEMORANDUM

STATE OF ALASKA DEPARTMENT OF LAW

TO: All Legislators

DATE: February 21, 2006

FILE NO:

TEL. NO: 465-2132

FROM: Dean Guaneli
Chief Asst. Attorney General
Criminal Division

SUBJECT: HB 379

The Department of Law supports passage of HB 379, that would make gamma-hydroxybutyric acid (GHB) and, when intended or used for human consumption, similar iterations of GHB, a Schedule IA substance in Alaska law. It is commonly used as a "date-rape" drug. GHB is currently a Schedule IA substance under federal law.

Sadly, the death of a 16 year old Chugiak High School student, who without her knowledge was given GHB at a party, shows that GHB is available in Alaska. GHB and similar variations are particularly dangerous because they are often manufactured in home laboratories. These laboratories have no safety controls on the chemical combinations that determine the strength of the product. Further, the drug is usually odorless and nearly tasteless so it is virtually undetectable in a drink. These factors make GHB a dangerous substance.

cc: Susan Parkes

SENATE COMMITTEE REPORT

DATE: 2/27/06

FURTHER: Judiciary

DATE TURNED
IN TO OFFICE: 3.13.06

Health, Education and Social Services Committee considered CS FOR HOUSE BILL NO. 379(JUD)

HB 379 CONTROLLED SUBSTANCES, INCL. ANALOGS

"An Act relating to scheduling as a Schedule IA controlled substance gamma- hydroxybutyric acid and certain similar substances."

and recommends:

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

CS Senate Bill:
 Same Title
 New Title

SCS House Bill:
 Same Title
 Technical Title Change
 New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
HSS	2/08			X	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
	✓			
Gary Wilber	✓			
Lynne Green	✓			
Paul Collier	✓			
CHAIR:	✓			

CORRECTION

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



Rev. 6/98

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

SENATE COMMITTEE REPORT

DATE: 2/27/06

FURTHER: Judiciary

DATE TURNED
IN TO OFFICE: 3.13.06

Health, Education and Social Services Committee considered CS FOR HOUSE BILL NO. 379(JUD)

HB 379 CONTROLLED SUBSTANCES, INCL. ANALOGS

"An Act relating to scheduling as a Schedule IA controlled substance gamma- hydroxybutyric acid and certain similar substances."

and recommends:

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- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:

- Same Title
- New Title

SCS House Bill:

- Same Title
- Technical Title Change
- New Title w/ SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
HSS	2/08			X	1

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>[Signature]</i>	✓			
Gary Wilber	✓			
Lynne Green	✓			
<i>[Signature]</i>	✓			
CHAIR: <i>[Signature]</i>	✓			

HB

393

ALASKA STATE HOUSE OF REPRESENTATIVES

Labor & Commerce Committee, Chair

Judiciary Committee, Vice-Chair

Health, Education, Social Services

Administrative Regulation Review, Chair



State Capitol Building
Room 432
Juneau, AK 99801

(907) 465-4939 phone
(907) 465-2418 fax

Representative Tom Anderson

MEMORANDUM

Date: April 18, 2006

To: Sen. Fred Dyson, Chair – Senate HESS Committee

From: Rep. Tom Anderson, Chair – House Labor and Commerce Committee

Re: Scheduling Request for House Bill 393 - *"An Act requiring that certain health care insurance plans provide coverage for the costs of colorectal cancer screening examinations and laboratory tests; and providing for an effective date."*

Attached you will find a committee packet for CSHB 393(HES). I would appreciate it if you would schedule this bill at the committee's earliest convenience.

Please feel free to call my office at 465-4939 if you have questions about the bill or this request.

Thank you.

ALASKA STATE HOUSE OF REPRESENTATIVES

Labor & Commerce Committee, Chair

Administrative Regulation Review, Chair

Judiciary Committee, Vice-Chair

Health, Education and Social Services



716 W 4th Ave
Suite 610
Anchorage, AK 99501

Phone (907) 269-0265
Fax (907) 269-0264

Representative Tom Anderson

HB 393

Explanation of Changes

"An Act requiring that certain health care insurance plans provide coverage for the costs of colorectal cancer screening examinations and laboratory tests; and providing for an effective date."

HB 393 v. CSHB 393(L&C) –

Changes can be found beginning on Page 2, Line 3.

The original language that specified the list of approved procedures was replaced with more general language that the appropriate testing procedures would follow the guidelines of the American Cancer Society or the United States Preventative Services Task Force. The rationale behind this change is that the guidelines established by these organizations do incorporate all of the procedures specified in the original version of the bill, however their standards will change to reflect advances in medical science and thus the guidelines included in the new language will have the effect of keeping statutory language current with new medicine.

CSHB 393(L&C) v. CSHB 393(HES) –

Changes can be found on Page 2, Lines 3-7.

Similar to the amendment made in Labor and Commerce, the reference to the United States Preventative Services Task Force was removed. The rationale is that there may be some confusion between the two guidelines and that the American Cancer Society guidelines are the most current. Also, the "current" was removed at the suggestion of the drafter believing it to mandate Alaska Statute to comport with external guidelines thus raising some concern of unconstitutional delegation of legislative authority.

Change can be found on Page 2, Lines 21-25.

In addition, the language requiring that each covered individual be notified of the new coverage was amended to clarify that the employer and not the insurer would be responsible to provide notification of the additional benefit.

CSHB 393(HES) v. CSHB 393() -

Changes can be found on Page 2, Lines 21-28.

Similar to the changes to the policy notification made in the House HESS committee, this language has been further clarified as a result of concerns expressed by insurers and technical advice from the division of Insurance and Legal Services.

ALASKA STATE HOUSE OF REPRESENTATIVES

Labor & Commerce Committee, Chair
Administrative Regulation Review, Chair
Judiciary Committee, Vice-Chair
Health, Education and Social Services



716 W 4th Ave
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Phone (907) 269-0265
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Representative Tom Anderson HB 393 Sponsor Statement

"An Act requiring that certain health care insurance plans provide coverage for the costs of colorectal cancer screening examinations and laboratory tests; and providing for an effective date."

Current Alaska state law requires that health insurance policies cover screening for breast, cervical, and prostate cancer. ***Colon cancer is the only cancer with a recommended screening test available that is not on this list.*** This bill completes the list, increasing Alaskans' access to all life-saving, recommended cancer screenings.

Colon cancer (technically known as colorectal cancer) is the second leading cause of cancer deaths in Alaska and across the nation. An estimated 57,000 Americans died from the colon cancer in 2005. Screening has the potential to drastically reduce this number. Consider these facts:

- When caught through routine screening at the localized stage, the 5-year survival rate from colon cancer is over 90%.
- If not caught until it has distant metastasis, when symptoms are likely to appear, the 5-year survival rate is only 10%.
- Colonoscopy is over 90% effective at detecting colon cancer and can remove pre-cancerous polyps, actually **preventing cancer** from ever developing.

In addition to saving lives, colon cancer screening is cost-effective. National studies confirm that the cost of these screenings spread across the insured population is minimal. Covering screenings also has the potential for long-term savings by avoiding treatment costs. These long-term savings will likely continue to grow as new and dramatically more expensive drugs become the standard treatment for this disease. Some of these newer drugs are estimated to cost \$250,000 a year, making the case for screening and prevention all the more pressing. In practice, many insurance plans cover some, but not all of the range of recommended screening options listed in the nationally-recognized American Cancer Society guidelines. While not the right test for everyone, access to colonoscopy is critical because of its ability to actually prevent cancer by removing polyps. For the general population, ***colonoscopies are required only once every ten years starting at age 50.*** Medicare picks up coverage for the full range of screenings, including colonoscopy, when a person becomes Medicare eligible. These facts underscore the cost-effectiveness of covering what for most people will be two colonoscopies between ages 50 and 65.

The promise of screening in reducing suffering and death from colon cancer is tremendous. ***The Institute of Medicine reports that the death rate from colon cancer could drop by up to 80% if the majority of Americans***

were regularly screened. Screening can be cost-prohibitive to an individual without insurance coverage for these procedures. Eighteen states, including Texas, Missouri and Nevada, have already adopted similar legislation requiring screening coverage. Alaskans deserve access to all recommended cancer screenings, including life-saving colon cancer screening tests.

I urge your support of this legislation.

24-LS0780AL

Bailey

4/13/06

CS FOR HOUSE BILL NO. 393()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVES ANDERSON, Lynn, Gruenberg, LeDoux, Kapsner, Guttentberg, Crawford, Kerttula, McGuire, Wilson, Gara, Gardner

A BILL

FOR AN ACT ENTITLED

1 **"An Act requiring that certain health care insurance plans provide coverage for the**
2 **costs of colorectal cancer screening examinations and laboratory tests; and providing**
3 **for an effective date."**

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

5 *** Section 1.** The uncodified law of the State of Alaska is amended by adding a new section
6 to read:

7 **SHORT TITLE.** This Act may be known as the Colorectal Cancer Screening Coverage
8 Act of 2006.

9 *** Sec. 2.** AS 21.42 is amended by adding a new section to read:

10 **Sec. 21.42.377. Coverage for colorectal cancer screening.** (a) Except for a
11 fraternal benefit society, a health care insurer that offers, issues for delivery, delivers,
12 or renews in this state a health care insurance plan shall provide coverage for the costs
13 of colorectal cancer screening examinations and laboratory tests under the schedule
14 described in (b) of this section. The coverage required by this section is subject to

1 standard policy provisions applicable to other benefits, including deductible or
2 copayment provisions.

3 (b) The minimum coverage required under (a) of this section for colorectal
4 cancer screening includes coverage for colorectal cancer examinations and laboratory
5 tests specified in American Cancer Society guidelines for colorectal cancer screening
6 of asymptomatic individuals. Coverage shall be provided for all colorectal screening
7 examinations and tests that are administered at a frequency identified in the American
8 Cancer Society guidelines for colorectal cancer.

9 (c) Coverage provided under this section applies to a covered individual who
10 is

11 (1) at least 50 years of age; or

12 (2) less than 50 years of age and at high risk for colorectal cancer.

13 (d) All screening options identified in (b) of this section shall be covered by
14 the insurer, with the choice of option determined by the covered individual in
15 consultation with a health care provider.

16 (e) For individuals considered at average risk for colorectal cancer, coverage
17 or benefits shall be provided for the choice of screening, so long as it is conducted in
18 accordance with the specified frequency. For individuals considered at high risk for
19 colorectal cancer, screening shall be provided at a frequency determined necessary by
20 a health care provider.

21 (f) An employer that provides a health care insurance plan under this section
22 shall notify each covered individual of the coverage for colorectal cancer screenings
23 unless coverage for colorectal cancer screening previously exists. The notice shall be
24 included in the health benefit handbook or be provided by written or electronic
25 communication between an employer or health plan administrator and a covered
26 individual. However, if the covered individual purchases the health care insurance
27 plan from the insurer issuing the policy, the insurer is responsible for notifying the
28 covered individual of the coverage for colorectal cancer screening under this section.

29 (g) In this section, "individual considered at high risk for colorectal cancer"
30 means an individual who faces a high risk for colorectal cancer because of

31 (1) family history;

- 1 (2) prior experience of cancer or precursor neoplastic polyps;
- 2 (3) a history of chronic digestive disease condition, including
- 3 inflammatory bowel disease, Crohn's Disease, or ulcerative colitis;
- 4 (4) the presence of any appropriate recognized gene markers for
- 5 colorectal cancer; or
- 6 (5) other predisposing factors.

7 * Sec. 3. This Act takes effect January 1, 2007.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 393(L&C)
 (H) Publish Date: 2/8/06

Revision Date/Time (Note if correction): _____ Dept. Affected: Commerce
 Title: Insurance for Colorectal Cancer Screening RDU: Insurance (116)
 Component: Insurance Operations
 Sponsor: Anderson et al
 Requester: House Labor & Commerce Component No.: 354

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This legislation requires certain health care insurance plans to provide coverage for the costs of colorectal cancer screening examinations and laboratory tests. It does not impact the operations of the division.

Prepared by: Linda S. Hall, Director
 Division: Insurance
 Approved by: William Noll, Commissioner
 Agency: Commerce, Community and Economic Development

Phone 907 269 7900
 Date/Time 2/1/06 4:13 PM
 Date 2/1/2006

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 393(HES)
 (S) Publish Date: 4/5/06

Revision Date/Time (Note if correction): 4/4/06 @ 12:00 am Dept. Affected: Administration
 Title: Insurance for Colorectal Cancer Screening RDU: Centralized Administrative Services
 Component: Group Health Insurance
 Sponsor: Representative Anderson
 Requester: (S) Labor & Commerce Component No: 2152

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0
Travel						
Contractual						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

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

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2006 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Colorectal cancer screening and other preventive services (other than mammogram, pap smear and prostate specific antigen screening tests) are not covered under the retiree group health plan. This plan provides coverage for the treatment of illness, injury or disease. Coverage is currently provided to retirees for diagnostic testing for colorectal cancer if the patient exhibits symptoms. The active group health plan covers one routine health exam per covered person every benefit year, including colorectal screening, if ordered by the provider of services and the service is performed within 30 days of the routine health exam.

The AlaskaCare Plans are not regulated under the Division of Insurance AS 21.42. Therefore, the mandated colorectal cancer screening found in CSHB 393 will not have a financial impact on the AlaskaCare Plans.

Prepared by: Melanie Millhorn, Director Phone (907) 465-2334
 Division: Group Health Insurance Date/Time 4/4/06 12:00 AM
 Approved by: Michael Tibbles, Deputy Commissioner Date 4/4/2006
 Agency: Administration



Colorectal Cancer Screening Coverage Saves Lives

The Promise of Screening:

Almost 57,000 people died from colorectal cancer in 2005. If the majority of Americans age 50 or older were screened regularly for colorectal cancer, the death rate from colorectal cancer could plummet by up to 80%.¹

This stunning drop in mortality is possible because colorectal cancer is easily prevented through the identification and removal of pre-cancerous polyps, detectable only by screenings. Yet, despite the lifesaving potential of colorectal screening tests, a majority of Americans are not screened for the disease. Only half of US adults 50 or older have been screened recently for colorectal cancer.²

The Need for Insurance Coverage:

While there are many reasons for the low rate of colorectal cancer screening, low insurance coverage is a contributing factor, since lack of coverage creates a financial barrier to screening.

Thanks to the American Cancer Society, Medicare already covers the full range of colorectal cancer screening tools, but coverage remains an issue for many in the under 65, privately insured population. To date, 18 states and the District of Columbia have enacted legislation ensuring coverage for the full range of colorectal cancer screening tools. However, there are still many Americans in the other 32 states and those covered by health plans outside of state jurisdiction who do not have the full range of coverage. In addition to anecdotal evidence from people who have personally experienced the frustration of being denied coverage for colorectal cancer screening tools – colonoscopy in particular -- studies have shown that limits on covered benefits impede an individual's ability to benefit from early detection of or screening for cancer.^{3,4} The less extensive the prevention coverage, the less likely a person is to get screened. Furthermore, doctors often do not refer people for tests if they believe those tests are not covered by insurance.⁵

A report prepared for the Health Insurance Association of American (HIAA), acknowledges that health plans are currently not providing coverage for the full range of screening tests. Specifically, the report notes that, "Most private insurers will only cover colonoscopies for high risk populations." The report also confirms that health insurance coverage is a factor in low

¹ Institute of Medicine. Curry S., Byers T. and Hewitt M., eds. 2003. *Fulfilling the Potential of Cancer Prevention and Early Detection*. Washington, DC: National Academy Press, p. 403.

² Behavioral Risk Factor Surveillance System Public Use Data Tape 2004, National Center for Disease Prevention and Health Promotion, Centers for Disease Control and Prevention, 2005.

³ Agency for Health Care Policy and Research. *Women's Use of Preventive Screening Services: A Comparison of HMO Versus Fee-for-Service Enrollees*. July 1997.

⁴ Faulkner LA, Schaffner III. The Effect of Health Insurance Coverage on the Appropriate Use of Recommended Clinical Preventive Services. *Am J Prev Med* 1997;13(6):453-8.

⁵ J.D. Lewin and D.A. Asch, "Barriers to Office-Based Screening Sigmoidoscopy: Does Reimbursement Cover Costs?" *Annals of Internal Medicine*, vol. 130, no. 6 (Mar. 1999), pp. 525-30.

screening rates.⁶ Furthermore, an analysis by The Lewin Group of the many health plans participating in the Federal Employee Health Benefit Program (FEHBP) in 2002 confirms that while most plans were covering FOBT and flexible sigmoidoscopy, hardly any were covering colonoscopy screening. While ACS has worked hard to ensure that health plans participating in the FEHBP now provide coverage, the bottom line is clear: without intervention, plans do not tend to cover screening colonoscopy and are not covering the full range of colorectal cancer screening tools according to the American Cancer Society's guidelines.

We know that colorectal cancer screening saves lives and that too few Americans are currently being screened for colorectal cancer. Ensuring coverage for these tools removes financial barriers and puts the decision about appropriate screening back into the hands of physicians and patients.

Colorectal Screening is Cost Effective:

Mathematical models prepared by the Congressional Office of Technology Assessment and others have shown that the cost-effectiveness of colorectal screening is consistent with many other kinds of preventive services and is lower than some common interventions.⁷ For example, a polyp can be removed during screening for about \$1,500, but if the patient is not diagnosed until the disease has metastasized, the patient's survival drops to 10 percent and the costs of care can add up to \$58,000 over the patient's lifetime.⁸ With sharp cost increases possible as new treatments, such as Avastin and Erbitux, become standards of care, the cost-effectiveness of screening is likely to become even more attractive.⁹

Our nation is missing an opportunity to achieve a large health impact for good value in colorectal cancer screening. In the interest of saving lives, the legislative solution to colorectal cancer is clear: make colorectal screening coverage available for all according to ACS screening guidelines.

Interestingly, The Lewin Group conducted a study of the cost of colorectal cancer screening, measuring costs in terms of per member per month costs – the price tag of a benefit to a health plan member. The data indicate that colonoscopy done once every 10 years is actually less costly in terms of Per Member Per Month (PMPM) costs than flexible sigmoidoscopy every 5 years combined with annual FOBT. Over the short term, colonoscopy every 10 years is actually *11 cents less* costly in terms of PMPM costs. A more detailed explanation of the study is attached.

When the cost study is considered together with the Lewin analysis of the Federal Employee Health Benefit Program mentioned above, it becomes readily apparent that expanding coverage to include colonoscopy can save additional lives at little or no additional cost to insurers. Given that insurers largely are already offering FOBT and flexible sigmoidoscopy, there is no compelling economic reason not to expand coverage to offer screening colonoscopy as well. Adding colonoscopy allows doctors and patients to choose the best test for that individual. Best of all, it is not only cost effective – it saves lives.

*National Government Relations Department
December 2001 - updated January 2006*

⁶ Mohr P., Mueller C., et al. "The Impact of Medical Technology on Future Health Care Costs." Health Insurance Association of America. <<http://membership.hiaa.org/pdfs/Appendix2.pdf>>, p. A4-58;59. February 28, 2001.

⁷ U.S. Congress, Office of Technology Assessment (April 1995). *Cost-effectiveness of Colorectal Cancer Screening in Average-Risk Adults*. OTA-BP-H-146.

⁸ Frazier AL, Colditz GA, Fuchs CS, and Kuntz KM (2000). Cost-effectiveness of Screening for Colorectal Cancer in the General Population. *Journal of the American Medical Association*, 284(15):1954-61.

⁹ Schrag D (July 2004). The price tag on progress--chemotherapy for colorectal cancer. *New England Journal of Medicine*. 351(4):317-9.

Care Tuk
POB 871632
Wasilla, AK 99687

April 26, 2006

Dear Chair Dyson and Members of the HESS Committee.

My name is Care Tuk. I live in Wasilla, District 14.
Someone asked me today why I am coming to testify on HB 393, asking each of you to support and pass HB 393 the colorectal cancer screening bill.

My answer to them: Because I can.....Because I believe one voice representing many can make a difference.

I can because: Early detection caught cancer in me not once, not twice, not even 3 times, but in 10 bouts in this battle. Mammograms, pap smears, thyroid ultrasounds, skin checks and blood work caught my cervical, ovarian, twice breast, thyroid, lymph and malignant melanomas. Each of them were covered by my insurance and saved me and them thousands of dollars by not having exorbitant treatment costs.

I'm testifying because:

I know the facts: colon cancer is one of the leading causes of cancer deaths in America - screening is cost effective - to the insurance companies, to the physicians, and most of all to the families by avoiding long-term treatment costs and care.

My mother did not have screening available: her colo-rectal cancer was not caught until later stages. Due to the financial burden, I was taken out of school to help care for her. She died at age 47. I was 16.

I also want to share a recent occurrence.

Knowing the importance of early detection, knowing I had a family history of colo-rectal cancer, knowing that I have survived stage 2 colo-rectal cancer due to early detection/screening; Knowing that I am over 50, I've heard all the warnings on TV, I've heard Katie Couric and others encourage screening, I went for my colo-rectal screening. I "assumed" like my mammograms, like my pap smears, like my husbands PSA test the colo-rectal screening would be covered. NOTTTTTT. Imagine MY shock when I got the bill.....in addition to all I pay for premiums and co-pays and deductibles.....

Let's close this loop-hole. Let's save lives so people like me can continue to be active and work alongside you to continue to make Alaska the greatest place on Earth - and let's be on the front lines to see the end of cancer - once and for all.

Thank you for your time and consideration.

SENATE COMMITTEE REPORT

DATE: 4/5/06

FURTHER:

DATE TURNED
IN TO OFFICE: 4.28.06

Health, Education and Social Services Committee considered CS FOR HOUSE BILL NO. 393(HES)

HB 393 INSURANCE FOR COLORECTAL CANCER SCREENING

"An Act requiring that certain health care insurance plans provide coverage for the costs of colorectal cancer screening examinations and laboratory tests; and providing for an effective date."

and recommends:

- be replaced with S CS HB 393 (HES)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

CS Senate Bill:

- Same Title
 New Title

SCS House Bill:

- Same Title
 Technical Title Change
 New Title w/
SCR # _____


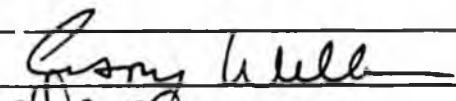

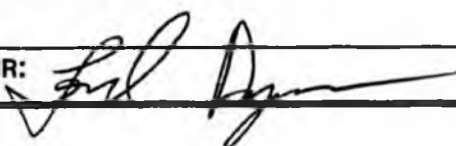
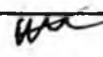
NEW FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Indet.	Zero	FN#
LED				X	1
ADM				X	2

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
	✓			
	✓			
	✓			
CHAIR: 	✓			

HB

426

ALASKA STATE HOUSE OF REPRESENTATIVES

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Session

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State Capitol
Room 204

REPRESENTATIVE JOHN COGHILL

MEMORANDUM

Date: April 25, 2006

To: Senator Fred Dyson, Chairman
Senate Health & Social Services Committee

From: Representative John Coghill *JBC*

Re: HB 426 Medicaid Coverage

I am requesting a hearing on CSHB 426(FIN)(title am), "An Act relating to cooperation of insurers with the Department of Health and Social Services; relating to subrogation, assignment, and lien rights and notices for medical assistance claims; relating to recovery of medical assistance overpayments; relating to asset transfers and income diversion by medical assistance applicants; relating to assets and Medicare enrollment as they affect medical assistance coverage; relating to home and community-based services; relating to medical assistance applications for persons under 21 years of age; requiring a report by the Dept. of Health and Social Services; and providing for an effective date", at your earliest convenience. I have attached the necessary backup for the committee members.

Thank you for your consideration.

P 9, 15-22: out-of-state

P 6, 130- p7: not police filling out application. Shouldn't matter who fills out form, if they qualify



Representative John Coghill
State Capitol, Room 204
Juneau, AK 99801-1182

HB 426 Medical Assistance Eligibility
Sponsor Statement

In times when federal dollars are diminishing, the legislature will have to review policies for providing for the public health. To better provide medical assistance to the truly needy, some eligibility requirements need to be changed.

As the department has put it, we are trying to address the "low hanging apples" that drain millions of dollars a year from a program that is growing in astounding increments.

HB 426 puts best practices to use by increasing third-party reimbursement, reducing Medicaid abuse and fraud, setting home equity limits, and implementing new federal requirements on the State for asset transfers and treating annuities like a Miller's Trust.

This bill also requires a person applying for medical assistance for a minor to be that person's parent or legal guardian, unless the parent or legal guardian is a minor. If a child is in state custody, an employee of the department can apply for coverage. The HSS committee substitute provides a waiver for unemancipated children who express fear of a parent or guardian, or whose parent or legal guardian cannot be located after a reasonable effort to do so by the department.

Currently, the unmarried father's income and resources are not considered in determining the eligibility of a pregnant woman for Medicaid. While the new CS eliminates income guidelines for unmarried fathers, we are exploring other ways to make the unmarried father financially responsible for the medical costs of a child.

HB 426 legislation repeals a statute that allowed the department to waive subrogation rights to third party reimbursements in cases of undue hardship. The department will now be required to pursue all third party reimbursements.

Section 8 of the bill addresses a lawsuit filed against the state, which would require the State to determine the medical condition of a client on a Medicaid Waiver had "materially improved" before removing the client from the waiver. HB 426 adds that requirement to Alaska Statute.

Lastly, this bill directs the department to report back to the legislature no later than the first day of the Twenty-Fifth Legislature on ways to reduce medical assistance expenditures for services received in residential psychiatric treatment centers by enhancing parental financial responsibilities and maximizing third-party resources available. Under current law a child could be placed in residential treatment and qualify for medical assistance after being out of the family home for thirty days, even though one or both parents have medical insurance.

ALASKA STATE HOUSE OF REPRESENTATIVES



Session

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**State Capitol
Room 204**

REPRESENTATIVE JOHN COGHILL

HB 426 Medical Assistance Eligibility

Sectional for Version X.A

Section 1: This section requires insurers to coordinate benefits, provide information on their covered population, and provide for a three-year timely filing limit for the Medicaid program.

Medicaid often bills other insurance for claims paid by the program when other insurance is found to exist for the recipient. A common problem has been short timely filing requirements by other insurance, which has resulted in a failure to recover the claim.

Section 2: This section clarifies that if the department has paid medical claims on behalf of the recipient and the recipient may be in position to recover funds which are partially attributable to the injury and medical care received, the Department can act on behalf of the recipient to recover funds even when the recipients does not pursue a liable third-party.

Section 3: A common problem has been that settlements will occur without the department's knowledge and recovery against recipients or their attorney after the fact is near impossible. This section requires not only the recipient, but also the recipient's attorney, to notify the department of any case or action, which may involve the recovery of payments made, by the department on behalf of the recipient.

It also provides for remedies when the law is not followed. A lawyer will be held civilly liable for not notifying the department of recovery actions.

Another provision of this section requires the Attorney General to sign off on any settlement that involves a recipient of medical assistance requiring past medical expenses paid by the department in a case that results in a settlement to be reimbursed.

Finally, AS 47.05.07 is a provision, which disqualifies any new provision of the law related to subrogation, assignment, or lien conflicts, that is contrary to federal law.

Section 4. This section creates a priority for liens that places the State's claims from Medicaid reimbursements over all other liens except tax liens and attorneys fees and costs. This gives a preference to the Medicaid claims over health care providers who would otherwise collect from Medicaid and leave it to the State to get reimbursement.

Section 5. Benefit overpayments occur under several circumstances. One situation would be someone is found guilty of program abuse or fraud. The department would seek repayment. Another would be a person's coverage is discontinued and that person requests a fair hearing. Benefits continue until the fair hearing occurs. If the fair hearing finds in favor of the State, the department can seek repayment of those benefits provided during the period of time between notice of discontinuance and the fair hearing.

This section adds medical assistance to the list of programs for which the department may garnish a recipient's PFD in order to secure reimbursement for an overpayment. The state paid portion of the overpayment goes to the Dept. of Revenue, the federal portion to the federal government.

Section 6. The section brings Alaska Statute in line with the Deficit Reduction Act of 2005 in regards to transfer of assets and annuities. It allows person to transfer assets into a Miller Trust and treats annuities like a Miller Trust. This allows them to qualify for medical assistance without having to sell resources or gives them the option of selling large resources and invest the proceeds in an annuity. The income from the annuity is counted as income in determining eligibility, but the annuity is not counted as a resource. When assets are transferred or an annuity is established, the applicant agrees to grant the State a claim to the assets remaining at the death of the individual to reimburse the total medical assistance paid on behalf of the individual.

Section 7. Subsection (j) limits who may apply for Medicaid coverage for a person under 18 years of age. Only a parent or legal guardian, an adult caretaker relative who lives with the child, or an employee of the department who is applying for a child in state custody can apply for Medicaid coverage for the child.

(k) Provides that an unemancipated child may apply for Medicaid on the child's own behalf if the parent or legal guardian consents. The department may waive consent if the child expresses reasonable fear of the parent or guardian or if reasonable effort has been made to locate a parent or legal guardian but is unsuccessful in locating the parent or legal guardian.

(l) Requires Medicare enrollment for senior citizens and certain individuals with disabilities before they can qualify for benefits and services under the Medicaid program. The department believes this change will maximize the 100% federal dollars available from Medicare.

(m) When a person transfers an asset for less than fair market value, the State can impose a penalty period beginning only with the date of the less than fair market value transfer. This provision will allow the penalty period to start with the date of application for Medicaid.

(n) This covers another provision of the Deficit Reduction Act of 2005. Generally, a home is an exempt resource. The provision puts a limit on the value of a home that would still qualify for this exemption of \$500,000.

Section 8. This addresses a lawsuit filed against the state, which would require the State to determine the medical condition of a client on a Medicaid Waiver had "materially improved" before removing the client from the waiver. This section inserts the "materially improved" language into Alaska Statute.

Section 9. Repeals a subsection of AS 47.05.070 that allows the department to waive subrogation rights to all or part of the amount of medical assistance paid on behalf of a recipient of medical assistance in cases of undue hardship. The State would be mandated to pursue third party reimbursement.

Section 10. Sections 2 – 4 of HB 426 would apply to a cause of action related to subrogation, assignment, or lien by DHSS on or after the effective date.

Section 11. This section addresses concerns Representative Coghill has about the State paying for residential psychiatric treatment and substance abuse treatment for minors whose parents have medical insurance coverage. In discussing the issue with the department it became apparent the problem is not easily solved.

This section directs the department to review the authorization process with private insurance carriers and how they differ from the assessment process of the department. They are instructed to report back to the legislature no later than the first day of the next regular legislative session on how to maximize third-party coverage, enhance and clarify parental financial responsibility, and reduce medical assistance expenditures for residential psychiatric treatment and substance abuse treatment.

Section 12. Directs the department to, on enactment of HB 426, to apply for federal approval of a revised state plan reflecting the changes made in the bill.

Section 13. The bill would have the effective date of July 1, 2006 or the date of federal approval of revised plan, which is later.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 426(HES)
 (H) Publish Date: 4/12/06
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: RELATING TO MEDICAL ASSISTANCE
ELIGIBILITY AND COVERAGE FOR PERSONS RDU Behavioral Health
UNDER 21

Sponsor: COGHILL Component: Behavioral Health Administration

Requester: HOUSE (FIN) Component No.: 2665

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
-----------------------------	--	--	--	--	--	--

CHANGE IN REVENUES (0)						
-------------------------------	--	--	--	--	--	--

FUND SOURCE (Thousands of Dollars)

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

Estimate of any current year (FY2006) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Section 11 of this bill requires the Department to prepare a report of recommendations for changes for residential psychiatric and substance abuse treatment programs that address reduction of medical assistance expenditures, enhancement of parental responsibility, and maximization of third-party resources.

This provision will have a zero fiscal cost under the assumption that the new Bring the Kids Home Project Manager position in the FY07 proposed budget is funded. The report would be written by the new position.

This is the only section of the bill that affects the Division of Behavioral Health. The eligibility groups affected (recipients of long-term care services and minors applying for themselves) by this bill generally do not use mental health services.

Prepared by: Christy Wilier, Director Phone 269-3410
 Division: Behavioral Health Services Date/Time 04/12/2006
 Approved by: Karleen Jackson, Commissioner Date 04/12/2006
 Agency: Department of Health and Social Services

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 2
 Bill Version: CSHB 428(HES)
 (H) Publish Date: 4/12/06
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: RELATING TO MEDICAL ASSISTANCE
ELIGIBILITY AND COVERAGE FOR PERSONS RDU Public Assistance
UNDER 21
 Component: Public Assistance Field Svcs

Sponsor: COGHILL

Requester: HOUSE (FIN) Component No. 236

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services	40.6	162.4	162.4	162.4	162.4	162.4
Travel						
Contractual	4.3	17.0	17.0	17.0	17.0	17.0
Supplies	6.8	5.0	5.0	5.0	5.0	5.0
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	51.7	184.4	184.4	184.4	184.4	184.4
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	25.9	92.2	92.2	92.2	92.2	92.2
1003 GF Match	25.8	92.2	92.2	92.2	92.2	92.2
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	51.7	184.4	184.4	184.4	184.4	184.4

Estimate of any current year (FY2006) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time	2	2	2	2	2	2
Part-time	1	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill contains provisions that change medical assistance eligibility in AS 47.07.020, which will increase the workload of Eligibility Technicians.

Section 7, subsection (j-k) limits who may apply for medical assistance for a person under 18 years of age.

Section 7, subsection (l) requires that persons applying for medical assistance must enroll for Medicare if eligible.

These provisions increase workload by requiring Eligibility Technicians to spend more time with applicants searching for legal guardians or parents of minors, and assisting eligible persons to enroll in Medicare.

Prepared by: Kitty Farnham, Director
 Division: Public Assistance
 Approved by: Karleen Jackson, Commissioner
 Agency: Department of Health and Social Services

Phone: 465-5835
 Date/Time: 04/12/2006
 Date: 04/12/2006

STATE OF ALASKA
2006 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

MINORS APPLYING FOR MEDICAID

Currently, any adult may apply on behalf of a minor and minors may apply for themselves. Section 7, subsections (j) and (k) provide that only an adult who has a legal or vested interest may apply for Medicaid on behalf of a child under age 18. The department must make reasonable efforts to contact the parent or legal guardian before granting a waiver of consent. If a waiver of consent is granted, the department must document the reason for the waiver in the child's medical assistance record. Under this provision, Division staff will have to spend more time with applicants to contact and obtain consent of the parent or legal guardian or document a waiver.

Total Annual Costs = \$110.6 thousand for an additional 1.5 positions plus an extra \$4.4 thousand in FY07

Assumptions:

- ~Approximately 3800 minor children apply for Medicaid each year.
- ~An additional 45 minutes per application, on average, will be needed for eligibility staff to contact a minor applicant's parent(s) or legal guardian to obtain consent (or make a reasonable attempt to obtain consent) for the application, or to gather enough information needed to waive consent.
- ~3800 applications/per year x 45 minutes = 171,000 minutes per year or 2,850 hours
- ~Eligibility staff work 162 hours/month x 12 = 1944 hours/year
- ~2850 hours per year/1944 hours per technician = 1.5 workers
- ~Average personnel costs for an Eligibility Technician II is \$64,944/year
- ~One-time cost for computers and software in FY2007 = \$2,200/position
- ~Annual costs for office space, phones & supplies = \$8,800/position
- ~1 Eligibility Technician II full time = \$64,944 + 1 Eligibility Technician II part-time = \$32,472 = \$97,416/year
- ~Supplies & contractual costs for 1.5 positions = \$15,400 in FY07; \$13,200/year FY08 and beyond

ENROLLMENT IN MEDICARE

Currently, enrollment in Medicare is optional for medical assistance applicants. Section 7, subsection (l) requires that a person who is eligible must first enroll in the Medicare program before they are eligible to receive benefits through Medicaid. Under this provision Division staff will have to spend more time with applicants to evaluate Medicare eligibility and monitor their continued enrollment in Medicare.

Total Annual Costs = \$73.7 thousand for an additional 1 position plus an extra \$2.2 thousand in FY07

Assumptions:

- ~On average, 1800 individuals per month appear eligible for, and not enrolled in Medicare
- ~Eligibility for Medicare will be assessed at initial application and during the 6-month eligibility review
- ~Eligibility staff will need an additional 60 minutes per month to evaluate an individual's eligibility for Medicare, and to require and monitor enrollment as a condition of eligibility for Medicaid
- ~1800 individuals per month x 60 mins/case = 1800 hours/12 months = 150 hours/month

STATE OF ALASKA
2006 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

- ~Average personnel costs for an Eligibility Tech II is \$64,944/year
- ~One-time cost for computers and software in FY2007 = \$2,200/position
- ~Annual costs for office space, phones & supplies = \$8,800/position
- ~1 Eligibility Technician II full time = \$64,944/year
- ~Supplies & contractual costs for 1 position = \$15,400 in FY07; \$13,200/year FY08 and beyond

Other Assumptions:

- ~The bill takes effect July 1, 2006; however, implementation would be delayed until the 4th Quarter while waiting for approval of a Medicaid State Plan Amendment. For this reason, FY07 is 25% of a full year.
- ~The federal matching rate is 50%.
- ~The other sections of this bill will not substantially increase the workload and do not need a fiscal note in this component.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 3
 Bill Version: CSHB 426(HES)
 (H) Publish Date: 4/12/06
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: RELATING TO MEDICAL ASSISTANCE
ELIGIBILITY AND COVERAGE FOR PERSONS RDU Senior and Disabilities Svcs
UNDER 21
 Component: Senior/Disabilities Medicaid Svc

Sponsor: COGHILL
 Requester: HOUSE (FIN) Component No. 2662

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	(83.1)	(415.0)	(500.0)	(500.0)	(500.0)	(500.0)
Miscellaneous						
TOTAL OPERATING	(83.1)	(415.0)	(500.0)	(500.0)	(500.0)	(500.0)

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

1002 Federal Receipts	(47.8)	(220.9)	(252.2)	(250.0)	(250.0)	(250.0)
1003 GF Match	(35.3)	(194.1)	(247.8)	(250.0)	(250.0)	(250.0)
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	(83.1)	(415.0)	(500.0)	(500.0)	(500.0)	(500.0)

Estimate of any current year (FY2006) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill contains provisions that bring Alaska Statute into line with the deficit Reduction Act of 2005 including many mandatory rule changes related to determining financial eligibility for long-term-care related Medicaid.

Sec. 6 makes it more difficult to use an annuity to shelter assets when trying to qualify for Medicaid.

Sec. 7, subsection (m) allows the State to impose stricter penalties for transferring assets at below-market value.

Sec. 7, subsection (n) allows that a home valued over \$500,000 can be a resource in determining eligibility. Sec. 8 clarifies when a person on a home and community based waiver may be terminated from the waiver.

These provisions will reduce Medicaid costs by reducing the number of persons eligible for Medicaid, most of whom are eligible for the Older Alaskans waiver program.

Prepared by: Rod Moline, Director Phone 465-3819
 Division: Senior and Disabilities Services Date/Time 04/12/2006
 Approved by: Karleen Jackson, Commissioner Date 04/12/2006
 Agency: Department of Health and Social Services

**STATE OF ALASKA
2006 LEGISLATIVE SESSION**

ANALYSIS CONTINUATION

MEDICAID-QUALIFYING ANNUITIES

Currently, various kinds of trusts and annuities can be used to shelter assets when trying to qualify for Medicaid. The federal law cited in the bill places more restrictions on annuities used for Medicaid purposes than exist now. Section 6 limits the annuities that do not affect eligibility to only those that meet the requirements of the federal law. This bill also gives the State the right to recover the balance of an annuity should a recipient die before the annuity has fully paid out.

Annual savings: \$0. This provision will not have a fiscal impact as it is not included in the budget now.

TRANSFER OF ASSETS AT BELOW-MARKET VALUE

Generally speaking, if a person applying for or receiving Medicaid benefits has transferred an asset at below-market value, that person may be subject to a period of ineligibility. Currently, the State can impose a penalty period beginning with the date of transfer. Section 7, subsection (m) allows the penalty period to begin with the date of application for Medicaid. This will eliminate almost all instances when an individual escapes serving a penalty period because the penalty period has already run its course before the Medicaid application is submitted. This would mostly affect applicant's seeking long-term care coverage including long-term care services under the Older Alaskans waiver program.

Annual savings to Medicaid = \$250.0 thousand

Assumptions:

- ~The number of applicants penalized in past 6 months = 6, which is 12 annually
- ~Average number of months penalized = 5
- ~Estimated total number of months eligibility is delayed annually due to penalties = 60
- ~Applicants would have been eligible for the OA waiver program
- ~Average annual cost per OA waiver recipient = \$50,000, which is \$4,167 per month
- ~The savings will ramp up over a 3-year period

HOMES AS A RESOURCE

Normally, a person's home is an exempt resource for Medicaid eligibility purposes. Section 7, subsection (n) puts a limit on the value of a home that would still qualify for this exemption. In effect, an individual will be ineligible for Medicaid if their home has an equity value for more than \$500,000, unless they sell it, borrowed against it, or take out a reverse mortgage to reduce the equity below \$500,000. This would mostly affect applicants seeking long-term care coverage including long-term care services under the OA Waiver program.

Annual savings to Medicaid = \$250.0 thousand

Assumptions:

- ~Currently number of long-term care recipients known to have a home valued over \$500,000 = 0
- ~Don't have any data on number of applicants with homes valued over \$500,000
- ~Estimated number of applicants per year with homes valued over \$500,000 who would now be ineligible = 5
- ~Applicants would have been eligible for the OA waiver program
- ~Average annual cost per OA waiver recipient = \$50,000

STATE OF ALASKA
2006 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

**TERMINATING WAIVER
SERVICES**

This section is in response to a class action lawsuit filed against the Division regarding how individuals from the Older Alaskans and Adults with Physical Disabilities waivers are assessed and terminated from the program. Prior to the litigation the Division only assessed individuals based on the current circumstances and level of client function. Section 8 says that a person who is eligible for a home and community based waiver may be terminated from the waiver only if the recipient scores below the eligibility standard on the assessment and an independent qualified health care professional certifies that the recipient's condition has materially improved from the previous assessment.

Annual savings: \$0. This provision will not have a fiscal impact as it is not included in the budget now. It will be a cost avoidance.

Other Assumptions:

~The bill takes effect July 1, 2006; however, implementation would be delayed until the 4th Quarter while waiting for approval of a Medicaid State Plan Amendment. For this reason, FY2007 is 25% of a full year.

~The federal matching rate is the estimated SFY quarterly average FMAP for the applicable year: FY07=57.58%, FY08=53.22%, FY09=50.44%; FY10 to FY12=50.00%.

~The other sections of this bill do not need a fiscal note in this component.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSHB 426(HES)
 (H) Publish Date: 4/12/06
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title: RELATING TO MEDICAL ASSISTANCE
ELIGIBILITY AND COVERAGE FOR PERSONS RDU Health Care Services
UNDER 21

Sponsor: COGHILL Component: Medicaid Services

Requester: HOUSE (FIN) Component No. 2077

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims	(2,734.9)	(10,884.6)	(10,884.6)	(10,884.6)	(10,884.6)	(10,884.6)
Miscellaneous						
TOTAL OPERATING	(2,734.9)	(10,884.6)	(10,884.6)	(10,884.6)	(10,884.6)	(10,884.6)

CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	(1,574.8)	(5,792.8)	(5,490.2)	(5,442.3)	(5,442.3)	(5,442.3)
1003 GF Match	(1,160.1)	(5,091.8)	(5,394.4)	(5,442.3)	(5,442.3)	(5,442.3)
1004 GF						
1037 GF/Mental Health						
Other(Specify Type-do not abbreviate)						
Other(Specify Type-do not abbreviate)						
TOTAL	(2,734.9)	(10,884.6)	(10,884.6)	(10,884.6)	(10,884.6)	(10,884.6)

Estimate of any current year (FY2006) cost: _____

Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill contains provisions that would help to ensure repayment to the Medicaid program for cases involving Medicaid recipients receiving settlements or judgments from third party payers and would change medical assistance eligibility for minors and persons eligible for Medicare. These provisions will reduce Medicaid expenditures by increasing recoveries and reducing the number of persons eligible for Medicaid.

Sections 1-5 and 9-10 contain provisions that will result in more subrogation cases and increased recoveries for the Medicaid program.

Section 7, subsection (j-k) limits who may apply for medical assistance for a person under 18 years of age;

Section. 7, subsection (l) requires that persons applying for medical assistance must enroll for Medicare if eligible.

Prepared by: Dwayne Peeples, Director Phone 465-5830
 Division: Health Care Services Date/Time 04/12/2006
 Approved by: Karleen Jackson, Commissioner Date 04/12/2006
 Agency: Department of Health and Social Services

**STATE OF ALASKA
2006 LEGISLATIVE SESSION**

ANALYSIS CONTINUATION

SUBROGATION AND RECOVERIES

Sections 1-5 and 9-10 of this bill requires insurers to coordinate benefits with other insurers (including Medicaid); clarifies that the department may take the role of the recipient when the department has paid medical claims on behalf of the recipient and the recipient may be in a position to recover funds that are partially attributable to the injury and medical care received; clarifies that the Department may take the place of the recipient and pursue recovery if the recipient chooses not to pursue a liable 3rd party; and requires that the state be notified of cases and settlements from third party payers. Section 5 provides the state the ability to attach Permanent Fund dividends of recipients in cases where the state is not notified of a Medicaid recipient's recovery and has no other recourse to recover amounts paid. Currently the Department is authorized to garnish a recipient's PFD to recover General Relief, Adult Public Assistance, food stamps and Alaska Temporary Assistance Program overpayments, but not Medicaid. The department needs the same authority to recoup overpayments from Medicaid recipients who have received Medicaid coverage but shouldn't have, including those who choose to receive continued Medicaid benefits pending a fair hearing, but who ultimately lose the fair hearing. One of the most efficient and least intrusive recovery methods has been to garnish the recipient's PFD.

Annual savings to Medicaid: \$1,010.2

Assumptions:

- ~Additional staff resources from Department of Law applied to subrogation cases
- ~Annual subrogation recoveries of \$1M are doubled
- ~Increased amount of subrogation recoveries = \$1,000.0
- ~Number of cases with a successful garnishment of PFD annually = 12
- ~Average amount collected by garnishing PFD = \$850
- ~Annual amount collected by garnishing PFD = \$10.2

MINORS APPLYING FOR MEDICAID

Currently, any adult may apply on behalf of a minor and minors may apply for themselves. Section 7, subsections (j) and (k) provide that only an adult who has a legal or vested interest may apply for Medicaid on behalf of a child under age 18. The department must make reasonable efforts to contact the parent or legal guardian before granting a waiver of consent. If a waiver of consent is granted, the department must document the reason for the waiver in the child's medical assistance record. Under this provision, some applicants will not be eligible because either the adult refuses to enroll the minor or the additional income makes the minor ineligible.

Annual savings to Medicaid: \$334.4

Assumptions:

- ~Number of minor children who apply themselves for Medicaid each year = 3800
- ~1% would be ineligible because the parent/guardian refuses to enroll = 38 minors
- ~1% would be ineligible because the parent/guardian's income exceeds the income limits = 38 minors
- ~Average annual cost per minor = \$4,400

STATE OF ALASKA
2006 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

ENROLLMENT IN MEDICARE

Currently, enrollment in Medicare is optional for medical assistance applicants. Section 7, subsection (I) requires that a person who is eligible must first enroll in the Medicare program before they are eligible to receive benefits through Medicaid. In June, 2005, the Centers for Medicare and Medicaid Services (CMS) informally revised its policy and now allows states to require Medicare enrollment as a condition of eligibility for those who qualify for it. Most, but not all, seniors have enrolled in Medicare and adding this requirement would help the department maximize the 100% federal dollars available from Medicare for all Medicare eligible recipients. Medicare Part A would pay for some of the most expensive individual cases, including those with end-stage renal disease. Medicaid would continue to pay the premiums and co-payments for the lowest income Medicare recipients.

Annual savings to Medicaid: \$9,540.0

Assumptions:

- ~On average, 1800 individuals per year appear eligible for, and not enrolled in Medicare
- ~Total Average annual Medicaid benefits costs avoided per Medicare enrollee = \$6,500.00
- ~Annual amount of Medicaid benefit costs saved by requiring Medicare enrollment = \$11,700.0
(\$6,500 x 1,800)
- ~Savings are offset somewhat by the additional cost of premiums for Medicare recipients
- ~Weighted average monthly premium amount for Medicare = \$100 or \$1,200.00 p/year
- ~Increased annual costs for premium buy-in of persons required to enroll in Medicare = \$2,160.0
(\$1,200.00 x 1800)

Other Assumptions:

- ~The bill takes effect July 1, 2006; however, implementation would be delayed until the 4th Quarter while waiting for approval of a Medicaid State Plan Amendment. For this reason FY2007 is 25% of a full year's costs.
- ~The federal matching rate is the estimated SFY quarterly average FMAP for the applicable year: FY07=57.58%, FY08=53.22%, FY09=50.44%; FY10 to FY12=50.00%.
- ~The other sections of this bill do not need a fiscal note in this component.

FISCAL NOTE

STATE OF ALASKA
2006 LEGISLATIVE SESSION

Fiscal Note Number: 5
 Bill Version: CSHB 426(HES)
 (H) Publish Date: 4/12/06
 Dept. Affected: Health & Social Services

Revision Date/Time (Note if correction):

Title RELATING TO MEDICAL ASSISTANCE
ELIGIBILITY AND COVERAGE FOR PERSONS RDU Health Care Services
UNDER 21
 Component Medical Assistance Admin.

Sponsor COGHILL
 Requester HOUSE (FIN) Component No. 242

Expenditures/Revenues (Thousands of Dollars)

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

OPERATING EXPENDITURES	FY 2007	FY 2008	FY 2009	FY 2010	FY 2011	FY 2012
Personal Services						
Travel						
Contractual	190.3	190.3	190.3	190.3	190.3	190.3
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	190.3	190.3	190.3	190.3	190.3	190.3
CAPITAL EXPENDITURES						
CHANGE IN REVENUES (0)						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts	95.2	95.2	95.2	95.2	95.2	95.2
1003 GF Match	95.1	95.1	95.1	95.1	95.1	95.1
1004 GF						
1037 GF/Mental Health						
Other (Specify Type-do not abbreviate)						
Other (Specify Type-do not abbreviate)						
TOTAL	190.3	190.3	190.3	190.3	190.3	190.3

Estimate of any current year (FY2006) cost: _____
 Mark this box (X) if funding for this bill is included in the Governor's FY 2007 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill contains provisions that would help to ensure repayment to the Medicaid program for cases involving Medicaid recipients receiving settlements or judgments from third party payers.

The requirements contained in this bill will result in more subrogation cases and increased recoveries for the Medicaid program. This bill will increase the caseload for Department of Law employees working in the subrogation area.

Prepared by: Dwayne Peoples, Director Phone 465-5830
 Division Health Care Services Date/Time 04/12/2006
 Approved by: Karleen Jackson, Commissioner Date 04/12/2006
 Agency Department of Health and Social Services

STATE OF ALASKA
2006 LEGISLATIVE SESSION

ANALYSIS CONTINUATION

SUBROGATION AND RECOVERIES

Sections 1-5 and 9-10 of this bill requires insurers to coordinate benefits with other insurers (including Medicaid); clarifies that the department may take the role of the recipient when the department has paid medical claims on behalf of the recipient and the recipient may be in a position to recover funds that are partially attributable to the injury and medical care received; clarifies that the Department may take the place of the recipient and pursue recovery if the recipient chooses not to pursue a liable 3rd party ; requires that the state be notified of cases and settlements from third party payers; and provides the state the ability to attach Permanent Fund dividends of recipients in cases where the state is not notified of a Medicaid recipient's recovery and has no other recourse to recover amounts paid.

These provisions will increase the caseload for Department of Law employees working in the subrogation area. Health Care Services currently has an RSA with the Department of Law for subrogation work. Health Care Services would expand the RSA by \$190.3 for additional Department of Law staff of 1 FTE attorney and 1 FTE law office assistant. With the additional staff, the Department of Law estimates subrogation recoveries could easily double.

Assumptions:

~Subrogation caseload doubles from \$1M per year to \$2M

~The bill takes effect July 1, 2006. The Department of Law intends to staff the new positions in July.

~The federal matching rate is 50%.

~The other sections of this bill will not substantially increase the workload and do not need a fiscal note in this component.

AMENDMENT /

OFFERED IN THE SENATE

TO: CSHB 426(FIN) (title am)

1 Page 9, line 16:

2 Following "in":

3 Insert "mental health treatment facilities located in the state and outside the
4 state, including community mental health facilities."

5 Following "centers":

6 Insert ", "

7

8 Page 9, line 18, following "receiving":

9 Insert "services provided by mental health treatment facilities located in the state and
10 outside the state, including community mental health facilities,"

11

12 Page 9, line 19:

13 Delete "center"

14 Insert "centers,"

15 Delete "services"

16

17 Page 9, line 20, following "of":

18 Insert "services provided by mental health treatment facilities located in the state and
19 outside the state, including community mental health facilities,"

20

21 Page 9, line 21:

22 Delete "center"

23 Insert "centers."

- 1 Delete "services"
- 2 Insert ", "

AMENDMENT



OFFERED IN THE SENATE

BY SENATOR DYSON

TO: CSHB 426(FIN) (title am)

1 Page 3, lines 26 - 28:

2 Delete "Before pursuing an action or claim on behalf of a medical assistance recipient
3 for care or services for an injury or illness for which medical assistance was received, an"

4 Insert "An"

5

6 Page 3, line 29, following "representing":

7 Delete "the"

8 Insert "a"

9

10 Page 4, line 17:

11 Delete "An"

12 Insert "Except for payments under AS 23.30, an"

13

14 Page 4, line 19:

15 Delete "all proceeds"

16 Insert "any lump sum settlement or judgment"

17

18 Page 4, lines 23 - 29:

19 Delete all material and insert:

20 "(e) An attorney who fails to comply with this section is not entitled to the pro
21 rata reduction under AS 47.05.070(c). If the attorney has already received payment for
22 the attorney's services through the pro rata reduction as provided in AS 47.05.070(c),
23 the attorney is civilly liable to the department for the amount of that payment."

1

2 Page 6, following line 1:

3 Insert a new subsection to read:

4 "(h) Notwithstanding (a) - (g) of this section, a third-party payor shall be held
5 harmless if it settles or compromises a dispute in good faith and without knowledge
6 that the individual is a recipient of medical assistance."

AMENDMENT

2A

OFFERED IN THE SENATE HESS

BY Senator

TO: CSHB 426(FIN)(title am)

- 1 After the words "(h) Notwithstanding (a) – (g) of this section, a third-party payor will":
- 2 Delete: "be held harmless"
- 3 Insert: have no further liability

AMENDMENT

3

OFFERED IN THE SENATE

BY SENATOR DYSON

TO: CSHB 426(FIN) (title am)

1 Page 1, line 10, through page 2, line 9:

2 Delete all material and insert:

3 **** Section 1.** AS 21.09 is amended by adding a new section to read:

4 **Sec. 21.09.240. Cooperation with the Department of Health and Social**
5 **Services.** An insurer, including a pharmacy benefits manager, with respect to medical
6 assistance programs under AS 47.07, shall cooperate with the Department of Health
7 and Social Services to

8 (1) provide, with respect to an individual who is eligible for or is
9 provided medical assistance under AS 47.07, on the request of the department,
10 information to determine during what period the individual or the individual's spouse
11 or dependents may be or may have been covered by the insurer and the nature of the
12 coverage that is or was provided by the insurer, including the name and address of the
13 insurer and the identifying number of the health care insurance plan;

14 (2) accept the department's right of recovery and the assignment to the
15 department of any right of an individual or other entity to payment from the party for
16 an item or service for which payment has been made under AS 47.07;

17 (3) respond to any inquiry by the department regarding a claim for
18 payment for any health care item or service that is submitted not later than three years
19 after the date of the provision of the health care item or service; and

20 (4) agree not to deny a claim submitted by the department solely on the
21 basis of the date of submission of the claim, the type or format of the claim form, or a
22 failure to present proper documentation at the point-of-sale that is the basis of the
23 claim if

*FUGGALLY
MAYORATED*

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(A) the claim is submitted by the department within the three-year period beginning on the date on which the item or service was furnished; and

(B) any action by the department to enforce its rights with respect to the claim is commenced within six years after the department's submission of the claim."

Page 10, following line 6:

Insert a new bill section to read:

"* Sec. 15. Section 1 of this Act takes effect July 1, 2007." *3 or 2006*

Renumber the following bill section accordingly.

Page 10, line 7:

Delete "sec. 14"

Insert "secs. 14 and 15"

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

May 2, 2006

SUBJECT: Separation of powers and court rule changes issues
(SCS CSHB 426(HES), Work Order No. 24-LS1602(C))

TO: Senator Fred Dyson, Chair
Senate Health, Education and Social Services Committee

FROM: Jean M. Mischel
Legislative Counsel 

Attached is the CS for the Senate HESS committee as requested. In reviewing the bill as a whole, I note that a provision added by the bill but not amended in the Senate HESS committee suffers from constitutional and title problems as follows.

Section 47.05.073(b) states:

A judgment, award, or settlement that requires or results in the compromise of a lien under AS 47.05.075 may not be entered into or granted by a court without the express written consent of the attorney general.

AS 47.05.075 authorizes a recipient of medical assistance services to compromise a lien owed by a third-party payor by settlement or judgment.

The Alaska Supreme Court has recognized a "separation of powers doctrine" (*Bradner v. Hammond*, 553 P.2d 1, 5-6 (Alaska 1976)) and has applied the doctrine in a variety of circumstances, including circumscribing interference with the discretion of the judicial branch. When an act is committed to judicial discretion, the exercise of that discretion within constitutional bounds is not subject to the control or review of the executive branch and interference with that discretion would be a violation by the executive branch of the doctrine of separation of powers.

In addition, it seems to me that adding the attorney general's consent as a precondition to a court judgment and award on a medical assistance lien at least indirectly affects Civil Rules 55 through 58, necessitating a title change and 2/3 vote of the legislature.

If I may be of further assistance, please advise.

JMM:lmb
06-161.lmb

Enclosure