

1.

MINUTES OF THE MEETING

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

January 27, 1977

The eighth meeting of the Public Health, Welfare and Safety Committee met January 27 in Room 405 of the State Capitol Building at approximately 11:00 A.M.

ROLL CALL: All Committee members were present.

CONSIDERATION OF SENATE BILL 154: Chairman Stephens turned the meeting over to Senator Lee, sponsor of the above bill. He explained the bill and then introduced his first witness in support of the bill.

Witnesses supporting SB154:

Chadwick Smith, Montana Hospital Association  
Rod Gudgel, Montana Nursing Home Association  
Ron Richards, Montana Medical Association.

Witnesses opposing SB154:

Pat Melby, Social and Rehabilitation Services  
Bill Ikard, Social and Rehabilitation Services.

Chadwick Smith, in his testimony (see Exhibit "A") pointed out that this bill provides that medical providers (hospitals, nursing homes, etc.) are paid at the standard rate "customary and usual" for the services received. As it stands now, the Social and Rehabilitation Services has ruled that payment will be made only on a federal "reasonable cost" formula. Anything the institution charges over and above that amount, is not covered. That being the case, the patient in the next bed, ultimately picks up that approximately five extra percent differential.

Mr. Smith argued that hospitals, like any other business-like operation, have four categories under Costs, i.e., working capital, reserves for replacing obsolete equipment, reserve for bad debts, and charitable expenses. The point being, the hospitals will collect the full amount due, one way or the other, in order to keep their operation running smoothly. He asked what the reason was for the discount - no other department in the State of Montana, no other county gets this discount. There is no reason to have this discount for the SRS. Federal law specifically provides that costs of the Medicaid patient shall not be born by those not so covered. In a comparison with Workmen's Compensation, Smith said their cases move through without a hitch - they have been paying their fair share and that is all that is asked for with the SRS also.

Rod Gudgel testified for the Montana Nursing Home Association,

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backing everything Mr. Smith said, adding that his people have not had a contract with the Social and Rehabilitation Services of the nature that the hospitals have. The result is that the costs not paid by the SRS for indigents have been transferred to the private patient in the nursing homes. Gudgel urged the Committee to give a Do Pass recommendation.

Ron Richards testified that the M.D.s recognize the difficulties hospitals are having and therefore urged support of the bill.

Opponents' testifying began with Pat Melby. (See Exhibit "B".) Melby's handouts consisted of a letter to him (Melby) advising that anything other than the "reasonable cost" formula would not be in compliance with federal regulations and would put Montana's federal funds in this program in jeopardy. His other pages contained Xerox copies of statutes pertaining to the problem; a list of services that are excluded from reasonable costs; and a fiscal page predicting costs for 1976 and years in the future.

Senator Stephens said the Committee would have a fiscal note prepared on this bill to consider before taking action. Melby said Medicaid has the exact same "reasonable cost" structure as Medicare.

There is a difference of five percent between actual costs and "reasonable costs" - this would cost the state an additional \$300,000 to \$350,000. Under the Title IXX formula, they judge on the following: actual, reasonable, necessary.

Melby closed by saying if this bill passes, he will ask for a declaratory judgment in the federal courts.

Bill Ikard reiterated the above, saying that he feels if the bill passes, it will cause a serious problem.

Smith's rebuttal emphasized fairness, justness and proper payment for a government expense. He compared Medicaid (indigent) program with Medicare (age) program for the Committee. He said there is not going to be a new expense in this proceeding. The idea is that the legislature adjusts this.

Questions from the Committee were taken by those testifying, clarifying points made during their speeches. After which, Chairman Stephens announced there would be no action on SB154 until a fiscal note is provided.

The hearing was closed on SB154.

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CONSIDERATION OF SENATE BILL 157: Sponsor Senator Thomas explained his bill, saying this is to change the definition of the term "patient". The Senator said the reason for this legislation is to allow non-ambulatory persons another means of transportation, i.e., to allow co-ops (through Easter Seal, etc.) to secure vans (such as the television personality, "Ironside" uses) which would have none of the expensive life-saving equipment such as ambulances have. These vans would simply offer simple transportation downtown, on errands, etc., and would not be for emergency service to the hospitals. This bill would allow individuals or co-ops to fill the need for independent transportation that taxi-cabs and ambulances cannot/will not meet.

In allowing these people to buy the vans for this specific purpose, there would need to be a license for these vehicles. The Public Service Commission would like to have the definition included: "non-ambulatory person". The purpose is not to compete with the ambulance service.

Witnesses for the bill were:

Chadwick Smith, Montana Hospital Association. (support)

Bill Ikard, SRS. (support)

George Fenner, Montana Dept. of Health & Environmental Services.

Charles Bicsak, Ambulance Association. (oppose)

Mr. Smith testified that the idea is to provide inexpensive transportation for non-ambulatory persons (costing \$12-\$15 round-trip). Suggested that an amendment on page 2, section 1, lines 15 through 17 should read, after: "nonambulatory" - insert: "and whose usual means of ambulation is by wheelchair."

Bill Ikard stated that the Department of SRS very much supported this bill.

George Fenner testified neither as a proponent or opponent of the bill. He stated Medicare will not reimburse for this type of service.

Charles Bicsak of Great Falls, testified in a generally vague manner, but his overall message was that his association could readily provide the service this bill is concerned with, so he opposed the bill.

The hearing on SB157 was concluded. Questions from the Committee followed. Senator Stephens asked about the licensing procedure - there already is a licensing fee by statute. (The Public Service Commission is considering the problem.) When Senator Thomas was asked if he would be satisfied to have this under the Public Service Commission, the Senator replied in the affirmative. Thomas stated that SB157 will provide a definition that is workable. Senator Himsel established that there is a definite need for this service in Great Falls, that the SRS will not pay for a social-

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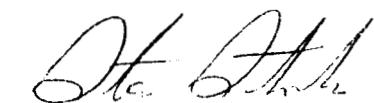
type transportation pick-up but if the bill passes, they probably will negotiate a rate with the new companies. Medicare will not pay for this type of service; difference between Medicare and Medicaid was discussed. NO ACTION was taken on SB157.

ANNOUNCEMENTS: Hearing dates were set on the following bills:

SB246 - Tuesday, February 1  
SB269 - Tuesday, February 1  
SB273 - Thursday, February 3

A reminder to the Committee that SJR15 and SB217 will be heard Saturday.

ADJOURNMENT: With no further business to discuss, the meeting was adjourned.



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STAN STEPHENS, Chairman

## ROLL CALL

PUBLIC HEALTH, WELFARE AND SAFETY COMMITTEE

45th LEGISLATIVE SESSION - 1977

DATE: 1/27/77

E X H I B I T "A"

STATEMENT IN SUPPORT OF SENATE BILL 154

This bill provides that medical providers shall be paid for services to Medicaid (indigent) patients at the standard charge for the services rendered as is paid by private pay patients. Although payment was made to Montana hospitals on this basis for nine years (fiscal years 1968 through 1976), the State Department of Social and Rehabilitation Services has now ruled that payment will hereafter be made only on a discount basis commonly referred to as the federal "reasonable cost" formula.

Beginning in 1967, when the Medicaid Program (Title XIX of the Social Security Act) was first put into effect in Montana, Montana's community non-profit hospitals entered into annual contracts with the Montana Department of Public Welfare, now the Montana Department of Social and Rehabilitation Services, which provided that hospitals would be reimbursed their "full and adequate costs" for services rendered to medicaid patients.

In 1975, the Montana Supreme Court affirmed a First Judicial District Court decision in Montana Deaconess Hospital -vs- Department of Social and Rehabilitation Services, 338 P2d 1021, stating that the term "full and adequate costs" is the same as "standard charges" by the hospitals because non-profit hospitals only charge enough to cover their total costs of operation. The Montana Supreme Court also ruled that the Department of Social and Rehabilitation Services had the power by statute to enter into the above-mentioned contracts and that funds had been appropriated to pay to the hospitals the difference between their

E X H I B I T "B"



DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

REGION VIII  
FEDERAL OFFICE BUILDING  
19TH AND STOUT STREETS  
DENVER, COLORADO

JAN 20 1977

SOCIAL AND REHABILITATION  
SERVICE

MS

RECEIVED

JAN 24 1977

DI. DIRECTOR'S OFFICE

Mr. Patrick E. Melby  
Acting Director  
Department of Social and  
Rehabilitation Services  
Post Office Box 4210  
Helena, Montana 59601

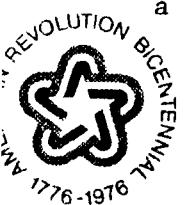
Dear Mr. Melby:

This is in response to your letters dated December 23 and December 30, 1976, respectively, which request an official opinion from this office concerning the supplementation of "reasonable cost" payments for inpatient hospital services.

It is the opinion of this office that a State would not be in compliance with Federal requirements under Title XIX of the Social Security Act if the State were to make payments to providers for inpatient hospital services furnished under the State's Title XIX medical assistance program in excess of the upper limits specified in 45 CFR 250.30(b), even if the State were to claim Federal financial participation only for that amount which is within the upper limits.

We are also of the opinion that a State would not be in compliance with requirements under Title XIX of the Social Security Act if it permitted providers to receive for inpatient hospital services a total payment in excess of the upper limits specified in 45 CFR 250.30(b) by combining reasonable cost payments made by the State and supplemental payments from the State or any other source for such services. The Regional Attorney has advised us in the past and on the basis of the current status of the law that he concurs in this view.

Accordingly, we wish to advise the State that if legislation is passed requiring the State to reimburse hospitals for "actual charges" rather than "reasonable costs" there will be an issue of compliance with requirements of Section 1902 of the Social Security Act, 45 CFR 250.30, and the State Title XIX plan at such time when it appears that payments are in excess of reasonable costs. Should a compliance issue be cited, the State places itself in jeopardy



NAME:

George M. Fenn

DATE: 2-27

ADDRESS:

Kelowna

PHONE:

4149 2057

REPRESENTING WHOM?

Mont Dept Health + Env Sci

APPEARING ON WHICH PROPOSAL:

DO YOU: SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

157

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

Bill Tkard

DATE:

ADDRESS:

SRS

PHONE:

REPRESENTING WHOM?

SRS

APPEARING ON WHICH PROPOSAL:

SB 154 & 157

DO YOU: SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Reg. Gandy DATE: 1/27/77

ADDRESS: Box 905 Holendo

PHONE: 442-1432

REPRESENTING WHOM? Montana Nursing Home Assn.

APPEARING ON WHICH PROPOSAL: SB 154

DO YOU: SUPPORT? X AMEND? \_\_\_\_\_ OPPOSE? \_\_\_\_\_

COMMENTS: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: \_\_\_\_\_

Lon Richards

DATE: 1/27

### ADDRESS:

HELENA

PHONE:

443-4000

REPRESENTING WHOM? MONTANA MEDICAL ASS'N

APPEARING ON WHICH PROPOSAL: SB 157

DO YOU: SUPPORT?  AMEND?  OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME:

Pat Melby

DATE:

ADDRESS:

SRS

PHONE:

REPRESENTING WHOM?

SRS

APPEARING ON WHICH PROPOSAL:

SB 154

DO YOU: SUPPORT?

AMEND?

OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Matthew L. BICKAK DATE: 1-27-07

ADDRESS: 56 - 2nd Ave So. W.

PHONE: 787-4000

REPRESENTING WHOM? AMB. ASSOC.

APPEARING ON WHICH PROPOSAL: JENATE Bill 187

DO YOU: SUPPORT? \_\_\_\_\_ AMEND? \_\_\_\_\_ OPPOSE? X

COMMENTS: \_\_\_\_\_

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.