

MINUTES

MONTANA SENATE
51st LEGISLATURE - REGULAR SESSION

COMMITTEE ON LABOR AND EMPLOYMENT RELATIONS

Call to Order: By Senator Gary C. Aklestad, on March 7,
1989, at 1:00 p.m. in room 415 of the State Capitol.

ROLL CALL

Members Present: All members were present.
Senator Tom Keating, Vice-chairman, Senator Sam Hofman,
Senator J.D. Lynch, Senator Gerry Devlin, Senator Bob
Pipinich, Senator Dennis Nathe, Senator Richard Manning,
Senator Chet Blaylock, Senator Gary Aklestad, Chairman.

Members Excused: There were no members excused.

Members Absent: There were no members absent.

Staff Present: Tom Gomez, Legislative Council Analyst.

Announcements/Discussion: There were no announcements or
discussion.

HEARING ON HOUSE BILL 541

Presentation and Opening Statement by Sponsor:

Representative Gould, House District 61, Missoula, MT,
stated HB 541 is an act to generally revise the law relating
to vocational rehabilitation programs for persons with
employment handicaps and for persons with blindness or low
vision; amending sections 53-7-101 through 53-7-103, 53-7-
105, 53-7-106, 53-7-301 through 53-7-303, and 53-7-306, MCA;
repealing sections 53-7-309, MCA; and providing effective
dates. Representative Gould stated Congress passed the 1973
Rehabilitation Act, and when Pat Williams chaired the Select
Committee on Education, he was able to testify in Washington
D.C. Montana has two separate division.

List of Testifying Proponents and What Group they Represent:

Maggie Bullock, Administrator of the Rehabilitation
Division, representing the Department of SRS.

Testimony:

Maggie Bullock, Administrator of the Rehabilitation Program, Department of SRS, stated the latest amendment of the Rehabilitation Program was passed in 1986 and it took until after the 1987 legislative session to finalize the federal regulations. This is the first legislative session, since the Rehabilitation Program was passed, the department can update language. One of the changes, heavily lobbying by consumers was to change the phrase " Severely Disabled" to " People with Severe Disabilities", in recognition of the fact people are people, first, even though the individuals happen to have a disability. The main reason of the bill is to conform the language to federal standards. There are no money changes.

List of Testifying Opponents and What Group They Represent:

There were no testifying opponents to HB 541.

Questions From Committee Members:

Senator Keating asked if HB 541 runs in conjunction with Representative Rice's vocational rehabilitation support service bill. Ms Bullock replied yes. The department must put the supportive employment language into state law, even though the federal law mentions the language. The federal government will fund that part of the law unless it is define in state statute.

Senator Keating asked about HB 541 funding. Regarding program appropriation, the subcommittee killed the previous funding bills. Support services were killed. HB 541 makes language changes and allows the department to spend federal money.

Senator Aklestad asked Ms Bullock, if changing the terminology, disabled persons with employment handicaps, will the scope will be broadened, allowing more people to participate. Ms Bullock stated no because of a mandate issued ten years ago. Senator Aklestad asked for a definition of disabled individual and employment handicapped individuals. A "disability" is a person who actually has a disability condition, such a blindness or paralysis and needing to be confined to a wheelchair. An individual with a employment handicapped is a person whose disability prevents the individual getting or maintaining a job. An example is a pianist who lost his hand, and may come to the SRS Agency for employment information.

Closing by Sponsor:

Representative Gould stated a disability is someone who is blind, but a handicapped individual is someone who is stupid enough to spend seven session in the House of Representatives.

Representative Gould urged passage of HB 541.

HEARING ON HOUSE BILL 377

Presentation and Opening Statement by Sponsor:

Representative Fritz Daily, House District 69, stated the bill is an act to require health care providers to post a notice informing Medicare patients as to whether or not they accept payment for services based on a medicare assignment. Representative Daily informed the committee the reason the bill was introduced was the medicare assignment process he encountered after his mother's death. The doctor's share of approximately \$75,000, was \$15,000. The Medicare assignment figure amounted to approximately \$12,000. Medicare paid \$9,600, the immediate family paid \$4,400, with an additional \$3,000 charge over and above the Medicare Assignment. In all but one case in the Daily situation, the doctors bills were in excess of Medicare Assignment. Eventually, every doctor and health care provider accepted the Medicare Assignment. Only one doctor accepted the assignment reluctantly. We were told in every case, if my mother had supplemental insurance or extra insurance, the health care provider would have taken the excess through the supplemental or extra insurance policies. Since my mother did not have any supplemental or extra, the health care providers wrote off the amount, as though nothing happened. Representative Daily stated senior citizens should know whether or not the doctors and health care providers accept medicare assignment.

Douglas Campbell, Missoula, MT, Vice-president of Montana Senior Citizens Association, stated support of HB 377. Medicare has a reasonable fee, which is the allowable amount on the accepted assignment. On none-assignments, the doctor has a maximum allowable charge. Medicare will pay 80%, and the senior citizen will pay 20%. The mandatory medicare assignment bill was one of the top priority of the Montana Senior Citizen's Legacy Legislation. Unfortunately, the bill was tabled in committee. Since the Senior Citizens do not have the protection of the Legacy Legislation, the Association backs HB 377. It is only fair when seniors go to the doctors they know immediately whether or not the doctor accepts medicare assignment. If the senior did not have supplemental or extra insurance, the individual may be forced to pay the additional amount. Sometimes, a tremendous hardship could be created if the senior had to

pay the additional amount.

Judy Carlson, lobbyist for the Montana Senior Citizen Association, offered written testimony in support of HB 377. (Exhibit 1)

Fred Patten, AARP, the American Association of Retired People, urged support of HB 377. The Association feels it gives the senior citizen an opportunity to make a decision when going to the doctors. They can decide whether they would want the particular doctor to treat them or not.

Questions From Committee Members:

Senator Lynch asked Representative Daily about signs. What will the signs say: We accept Medicare Assignments, We do not accept Medicare Assignments, or We accept Medicare Assignment on a case to case basis. Representative Daily stated most doctors accept Medicare Assignments on a case by case basis. For the most part, the acceptance is based on the ability to pay. In other words, if I walked into the doctor's office who dealt on a case to case basis, I would talk to the doctor's bookkeeper. The bookkeeper would ask if I had supplemental, extra insurance, and I would say yes, the bookkeeper would say the doctor would not accept the assignment. If I said no, I did not have the supplemental or extra, the bookkeeper would say the accept the assignment.

Senator Lynch stated the bill's title says "whether or not they accept". Senator Lynch stated it is whether or not, not allowing the third alternative, which is on a case to case basis. Representative Daily stated he would be in favor of any amendments to make the bill a better bill.

Senator Keating stated there must be sign uniformity. Not wanting to get into a rule making statement of intend, the medical association, in accepting the new legislation, may volunteer to provided uniform language so everyone would understand the intent of the legislation. Senator Keating stated he would hate to complicate the legislation by specifying wordage at this time. Representative Daily stated he would work with the senior citizen to prepare proper language. Senator Keating said he does not want to amend any language into the bill specifying the signs, or to have the law specifying what the signs ought to say. Someone out there ought to take to lead coming up with uniformity, if the measure passes.

Senator Nathe stated if the committee took line twelve, scratched out "as to" and "or not" , so it would read: "Health care providers shall give notice to a medicare

patient whether the provider accepts payment..." Senator Lynch stated this would allow the doctor to have the alternative to specify the office practice.

Senator Pipinich asked if the Public Health Department could come up with signs, so the signs are uniformed through the state. Senator Keating stated the situation would cause rule making, statement of intent, and etc. It would be better to forget the idea.

Senator Lynch questioned Mr. Lyndorf. Mr. Lyndorf stated sign could be created to satisfying the committee. Mr. Lyndorf stated he reads the bill to allow an alternative. Mr. Lyndorf stated he does not think the committee wants to disallow, then the physician is forced to say he either does or does not. The same charge must be charged to everyone, regardless of whether your name is Rockefeller or Smith. The physician would say they have to accept every case, and they may say they will not accept any case, whatsoever. Many physician accept Medicare on a case by case basis. The sign should say, " We accept the assignment for all Medicare patients", "We accept the Medicare assignment for all other patients", or "We accept the assignment on all other patients on a cases by case basis, or "We do not accept the assignment."

Senator Lynch stated Senator Nathe's seems to say exactly what is wanted, whether or not the assignment is accepted.

Senator Keating stated if the committee wants to get into semantics "whether or not is redundant", the word "whether" means whether or not. If the committee uses the word "whether", the language provides all options.

Senator Aklestad asked Representative Daily if he was comfortable with the bill's wordage. Would you like to have the doctor be able to say yes, no, or maybe. Representative Daily stated he wanted to have the doctor be able to say yes, no, or on a case by case basis.

Senator Aklestad stated instead of changing the word shall to must, all through Tom Gomez stated anytime the language is talking about a person or an agency, the wordage is "You shall", and when talking in the passive tense or an inanimate thing, the wordage is must. An example: The form must be prescribed by the department.

Senator Aklestad stated to Daily, as long as Representative Daily wants the bill to have the three different categories, Senator Aklestad does not have a problem. Otherwise, Senator Aklestad stated some doctors will be put into a situation where they were providing service, then they will

say they will not provide the service.

Closing by Sponsor:

Representative Daily urged support of HB 377.

EXECUTIVE ACTION

DISPOSITION OF HOUSE BILL 347

Discussion:

Senator Aklestad discussed the reason why the committee should reconsider previous action on House Bill 347. People could go in and retroactively apply a modification, or an experience rating to an individual. Senator Blaylock called this information to Senator Aklestad's attention. Therefore, Senator Aklestad did not sign the bill out of committee. Senator Aklestad spoke with the Labor Department, telling the department to create an amendment to satisfy the situation.

Senator Devlin moved to reconsider action on House Bill 347. The motion passed unanimously.

Senator Blaylock asked Senator Aklestad asked if the amendments meet with the department's approval. Yes

Amendments and Votes:

Senator Keating moved to accept the amendments. The amendment passed unanimously. The amendment is a happy medium between what is in the bill now and taking the amendment out completely. The amendment passed unanimously.

Senator Nathe asked if the problem with the statement is there is no amount of years the individual can go back. Yes. The amendments says: "up to one year. The division may only apply modification factors retroactively when the factor is delayed because the rating bureau has not received sufficient data from previous carriers to calculate a final modification factor."

Recommendation and Vote:

Senator Hofman moved to make a BE CONCURRED IN AS AMENDED recommendation. The motion passed unanimously.

DISPOSITION OF HOUSE BILL 541

Discussion:

Senator Keating stated as long as the two appropriation measures stay killed, he does not have a problem with the language change. Senator Blaylock stated passage of HB 541 insures access to federal money.

Amendments and Votes:

Senator Aklestad stated the match was 79 to 21. Senator Aklestad stated this is a way to get federal money, but in a few years, the state will pick up 100% of the funding. Several budgets including SRS, Health Department or Institutions are now paying the 100% costs.

The subcommittee actions, according to Senator Hofman, are \$657,000 of new General Fund Money into the SRS budget. All together, they have averaged out, but we are still going to take a kick in the rib. Senator Keating pointed out to the chair the Human Services Subcommittee was way below the overage. Senator Keating stated this is an example of prudent expenditure in establishing priorities.

Senator Aklestad stated since the terminology is being changed, the disabled individual or persons with an employment handicap, job training programs would be affected. Therefore, Senator Aklestad recommended the amendment be attached. Senator Aklestad stated there may be a change in the jobs programs act. Senator stated he would hold up on the final outcome of the bill until a opinion can be given. Senator Keating withdrew his motion.

DISPOSITION OF HOUSE BILL 377

Amendments and Votes:

Senator Lynch stated what Jerry Lendorf may be correct, and the bill doesn't need to be amended. Only now would be the only absolute. Yes would mean yes, they do accept medicare assignments, or they do accept on a case to case basis. Each provider would have to put up a sign saying they accept, or they do not accept medicare assignment.

Senator Aklestad stated most senior citizens when paying their bills will know whether or not the doctors accepts or rejects the Medicare assignments. The referrals will cause the problem, not the family physicians.

Senator Blaylock suggested the Physicians post a notice informing Medicare Patients as to their policy on accepting payment and services on a medicare assignment. The actual

wordage would be: An act to require Health Care Providers to post a notice informing Medicare patients as to their policy on accepting services based on a Medicare assignment.

Tom Gomez stated the long reference put into the bill was done so to shortcut to give a definition of what a Medicare acceptance is. If the doctor stated his position to medicare assignment, but not accept the medicare assignment, there are implications regarding whether or not Medicare will allow the individual more Medicare payments. If the doctor does not accept the Medicare Assignment, there are implications regarding whether or not Medicare is going to let you have more Medicare payments if you are dishonest concerning your policy. That reference is necessary to submit clear when you are talking about Medicare under the Medicare Act.

Senator Aklestad suggested Senator Blaylock and Tom Gomez put together an amendment clarifying the three options. Senator Keating stated he thinks the bill is drafted correctly, giving all the options. The bill states whether the doctor posts whether the doctors accepts payments based on the federal definition. The bill also explains the full charges for the service is the amount of the Medicare approved rate for the service payment, plus any deductible, co-insurance, or co-payments required to be paid by the patient. All the doctor has to say is that they accept the Medicare Assignment, plus any co-payments or co-insurance due, or it is qualified unless the patient can't afford the full payment, they will accept the Medicare, plus coinsurance, or they will not accept anything but full payments. The language is already there.

Senator Blaylock stated he agree with Senator Keating, but the concern is the bill title. Senator Aklestad stated the title must conform with the bill's title. The committee will consider Senator Blaylock and Tom Gomez's recommended amendment during the next executive action.

ADJOURNMENT

Adjournment At: The meeting was adjourned at 2:54 P.m.



Senator Gary C. Aklestad, Chairman

ROLL CALL

LABOR COMMITTEE

51st LEGISLATIVE SESSION

DATE: *March 7, 1989*

	PRESENT	ABSENT	EXCUSED
SENATOR TOM KEATING	X		
SENATOR SAM HOFMAN	X		
SENATOR J.D. LYNCH	X		
SENATOR GERRY DEVLIN	X		
SENATOR BOB PIPINICH	X		
SENATOR DENNIS NATHE	X		
SENATOR RICHARD MANNING	X		
SENATOR CHET BLAYLOCK	X		
SENATOR GARY AKLESTAD	X		

HB 541

317189

Amendments to House Bill No. 377
Third Reading Copy

Requested by Senator Chet Blaylock
For the Senate Committee on Labor and Employment Relations

Prepared by Tom Gomez, Staff Researcher
March 9, 1989

1. Title, lines 5 and 6.

Following: "INFORMING" on line 5

Strike: remainder of line 5 through "ACCEPT" on line 6

Insert: "PATIENTS OF THEIR POLICY ON ACCEPTING"

2. Page 1, lines 12 and 13.

Following: line 11

Strike: line 12 through "accepts" on line 13

Insert: "post a notice informing patients of its policy on accepting"

3. Page 1, line 13.

Following: "of"

Strike: "an"

Insert: "a medicare"

Amendments to House Bill No. 541
Third Reading Copy

Requested by the Governor
For the Senate Committee on Labor and Employment Relations

Prepared by Tom Gomez, Staff Researcher
March 9, 1989

1. Page 20, line 8.
Following: "programs"
Insert: ", except as provided in [section 15]."

2. Page 20, line 13.
Following: line 12
Insert: "NEW SECTION. Section 15. Coordination requirements -- consolidation of programs authorized. (1) The governor shall assure that services under Title 53, chapter 19, part 1, are coordinated with programs and services in Title 53, chapter 7, parts 1 through 3, that are administered by the department of social and rehabilitation services with funds provided under the federal Rehabilitation Act of 1973 (29 U.S.C. 701, et seq.), as amended.

(2) The governor may consolidate services under Title 53, chapter 19, part 1, with other programs and services in order to maximize coordination of services as required in subsection (1) and to prevent overlapping and duplication of services within state government.

(3) The governor may transfer employees, appropriations, and spending authority necessary to accomplish the coordination of services as mandated by this section. The authority contained in this subsection is limited to the programs and services described in subsection (1). This subsection supercedes any restrictions on the transfer of employees, appropriations, and spending authority contained in [House Bill No. 100]."

Renumber: subsequent sections

3. Page 21, line 5.
Following: "13,"
Strike: "16"
Insert: "17"

4. Page 21, line 7.
Following: "14,"
Strike: "15"
Insert: "through 16"

(This sheet to be used by those testifying on a bill.)

HB 377
3-7-89

NAME: Douglas Campbell DATE: 3/7/89

ADDRESS: 1618 Sherman Missoula

PHONE: 543-5761

REPRESENTING WHOM? Montana Senior Citizens Assoc.

APPEARING ON WHICH PROPOSAL: H. B. 377

DO YOU: SUPPORT? AMEND? OPPOSE?

COMMENT:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

