

**State of Alaska
FY2006 Governor's Operating Budget**

**Department of Law
Human Services Section
Component Budget Summary**

Component: Human Services Section

Contribution to Department's Mission

The Human Services section provides advice and representation to the Department of Health and Social Services to assist that agency in the performance of its functions.

Core Services

Attorneys in the Human Services section provide legal assistance to the Department of Health and Social Services on issues arising from the state's health services, social services, and welfare programs. They advise divisions and offices of the department regarding changes in federal law and steps necessary at the state level to remain in compliance with federal funding requirements. Attorneys initiate legal action to remove children from abusive or neglectful homes, assist the department's Office of Children's Services to implement a plan to safely return children home or take legal action to terminate parental rights to allow permanent placement in adoptive homes of children in state custody; prosecute foster care, assisted living, and adult foster home licensing revocations; establish senior guardianships; prosecute adult protection cases; represent the state's psychiatric facility in mental commitments; represent the state in Medicaid recipient/provider hearings and appeals and other Medicaid issues; provide advice on public health and public assistance issues; and provide advice to the Long Term Care Ombudsman.

FY2006 Resources Allocated to Achieve Results

FY2006 Component Budget: \$4,639,400	Personnel:	
	Full time	55
	Part time	0
	Total	55

Key Component Challenges

Child protection workloads continue to be of extreme concern to the department. Statutory changes at the state and federal level have necessitated changes in how long children may remain in the child protection legal system. These changes move cases to conclusion faster to ensure that when reunification with the family is not in the child's best interest the child can be made legally eligible for placement in a permanent home more quickly. The changes also mandate additional court proceedings in order to ensure that the department is quickly moving to achieve a permanent plan for the child. The accelerated schedules, additional hearings, and appropriate document preparation severely impact attorney workloads. Maintaining our existing resources for child protection is necessary in order for us to effectively manage this important responsibility. Adequate attorney resources are also necessary in order to help the Office of Children's Services meet certain goals for purposes of federal funding of foster care and administrative expenses involved in child protection. An audit conducted in 2003 reflected poor performance by both the Office of Children's Services and the Department of Law, caused in large part by the lack of sufficient staff. We anticipate with additional positions created in FY2005, we should be able to correct these deficiencies and enable the Office of Children's Services to maximize federal reimbursement.

The section is representing the Office of Children's Services in a lawsuit filed by four Alaska Native villages alleging violations of the Indian Child Welfare Act, the Adoption and Safe Families Act, and the Multi-Ethnic Placement Act. Plaintiffs have requested the establishment of an oversight body to monitor the activities of the Office of Children's Services. Although there is currently a stay in this proceeding due to interlocutory appellate review, we anticipate large amounts of time will need to be devoted to this case in the event the state does not prevail on appeal. In FY2005, one full-time attorney position was devoted to this case. We expect to know sometime during FY2006 whether we will prevail on appeal or will need to once again devote one position to defending this lawsuit. Additionally, a lawsuit was recently

filed by four other Alaska Native villages seeking to enjoin the implementation of the advice given in an Attorney General Opinion pertaining to the jurisdiction of Alaska Native villages to handle child protection cases. It is expected defending this lawsuit will take significant time.

Attorneys who handle cases and issues relating to Medicaid have had a large increase in work due to fair hearing requests as a result of new cost-containment regulations. Additionally, provider appeals have increased as a result of SB 41 which requires additional audits of Medicaid providers. More oral advice and appeals are occurring as a result of increased use of the "lock-in" provision whereby certain individuals who have been found by the agency to have abused provisions of the Medicaid program are required to obtain their services through certain providers only after prior authorization. This section has also been asked by the DH&SS, to assume responsibility over the legal work associated with Medicaid Liens and subrogation. Up until FY 2005, Medicaid Liens have been handled by an outside firm. The collection rate the outside firm has experienced has been unsatisfactory and Law believes it can be much more successful and return many millions of additional dollars owed to the State. The two additional positions will assume this workload. About \$150,000 of the money will represent new work in the provider appeals and pursuance of special needs trusts. This new work will be handled by existing staff.

In the FY2005 budget, the governor requested and the legislature authorized an increment \$508,600 for the addition of 3 attorney positions and a paralegal. The fourth requested juvenile delinquency attorney position was transferred to the criminal division in FY2005. Of the remaining positions, two of the attorneys were funded at 10 and 11 months respectively. The lower funding level was selected to roll back the budget request in the initial year of funding. To complete the funding and allow the positions to be filled year round, an additional increment of \$63,200 is needed.

Significant Changes in Results to be Delivered in FY2006

In FY2005, the Human Services Section obtained additional attorney positions to handle child protection and juvenile delinquency cases statewide. The juvenile delinquency cases have now been transferred to the criminal division as recommended by a National Association of Attorneys General audit, in order to provide better supervision and guidance to attorneys in their application of the criminal statutes. One new attorney position was also transferred to the criminal division in order to handle delinquency cases. One of the new CINA positions will be devoted to handling CINA cases in Nome and Kotzebue. The Office of Children's Services had advocated having an assistant attorney general assigned to handle those cases. An assistant district attorney who also handled a large criminal caseload had previously handled the cases. We believe the caseload in Nome and Kotzebue warrants a full-time Human Services attorney. Two of the new positions will be assigned to the Anchorage office. With the addition of new CINA positions, we hope to reduce CINA caseloads to a more reasonable and manageable caseload of approximately 120 cases. Most importantly, Alaskan children will benefit from moving to permanent home placements sooner because the legal work necessary in order to make them available for adoption will be completed more quickly. The reduction of cases will enhance our section's ability to increase compliance with federal requirements, thus increasing federal reimbursement to the Department of Health and Social Services which in turn helps to fund CINA attorneys; and recruitment and retention of attorneys for CINA positions will improve as caseload pressure on existing staff is relieved.

The Department of Health and Social Services, Division of Health Care Services, has requested that the Human Services Section take over the responsibility of enforcing statutory subrogation and lien rights which the state has when an individual becomes a Medicaid recipient as the result of the actions of a third-party. This work has been done by a private contractor in the past. The section has begun the process of transitioning this work from the contractor to the state. It is expected that process will be completed by February 2005. At that time, an attorney and paralegal will be responsible for tracking third-party lawsuits, initiating lawsuits as appropriate, and ensuring the state's lien rights are asserted in third-party personal injury lawsuits. This budget request includes \$400,000 in interagency receipt authority to fund the new positions.

Major Component Accomplishments in 2004

- Continued to prosecute approximately two thousand ongoing child-in-need-of-aid (CINA) cases statewide, moving toward the goal of achieving permanency for children, whether it be reunification with their parents or other permanent placements, such as adoption or guardianship.

- Continued to assist the attorneys in Opinions, Appeals, and Ethics section in appellate cases stemming from CINA cases. This function was transferred to the OAE section to achieve consistency in the quality of briefing at the appellate level, but trial attorneys continue to advise and assist the appellate attorneys. An additional attorney position was created in FY 05 to deal with the increasing appellate caseload. Achieved several major victories in the Alaska Supreme Court that resulted in affirming orders terminating parental rights so the children involved may achieve a permanent placement. Twenty-five appeals were filed subsequent to trial court rulings in CINA cases. Eighteen of the cases resulted in supreme court opinions, others are still awaiting decision, and others were resolved subsequent to the initiation of the appeal.
- Continued to revise forms and institute new practices to comply with amendments to the children's code caused by the Adoption and Safe Families Act.
- Continued to work with the Child Support Enforcement Division in the Department of Revenue toward the goal of early establishment of paternity in child protection cases and consistently obtaining child support orders from parents whose children are in state custody.
- Engaged in foster care and assisted living licensing revocation actions.
- Provided regular training sessions at the social worker academy on the child protection legal system.
- Continued to advise the department on how to respond to public records requests.
- Advised the Department of Health and Social Services on matters related to compliance with federal law affecting confidential patient records, and legal matters regarding the reporting and control of diseases of public health significance.
- Provided on-going advice and representation to the Division of Medical Assistance, Division of Mental Health and Developmental Disabilities and the Division of Senior Services (now the Divisions of Health Care Services, Senior and Disabilities Services, and Behavioral Health) related to the administration of the home and community based waiver programs. Such advice and representation includes representing the agency during fair hearings, superior court appeals, and supreme court appeals.
- Provided on-going advice and representation to the Commissioner's Office, Office of Rate Review, the Division of Health Care Services, Division of Senior and Disabilities Services, and the Division of Behavioral Health related to the administration of the Medicaid program.
- Provided advice on the administration of home and community based waiver programs. Advised the agency with respect to fair hearings sought by recipients whose benefits were denied, reduced or terminated, participated in such hearings and handled appellate review.
- Provided advice and legal representation on Medicaid lien and subrogation issues, including intervening in civil actions, seeking recovery of liens and working on and developing legislation and regulations to implement this program.
- Provided advice to the Division of Health Care Services with respect to provider appeals and participated in administrative hearings and superior court appellate review. The Medicaid attorneys also provide advice to the commissioner's office on a wide range of issues including Medicaid Rate issues, tribal health Issues, regulation and legislation development and advising on programs related to increasing the amount of federal financial participation (FFP). The Medicaid attorneys also provide advice and input in working with outside counsel on Center of Medicare and Medicaid disallowance. Finally, the Medicaid attorneys are involved in advising the Department on various policy initiatives, which may or many not include the development of legislative and regulatory changes to affect those policy goals.
- Provided on-going advice to the Division of Public Assistance and the Medical Examiner's Office.
- Provided on-going advice to the Division of Mental Health and Developmental Disabilities (now Division of Behavioral Health) related to the implementation of the involuntary mental commitment statutes (AS 47.30 et. seq.), including representing the state in mental commitment hearings, and advising the division on issues related to mental commitments. Continued to be involved in assisting in appellate briefing from one civil commitment hearing in which

the constitutionality of the court-ordered medication statute was challenged. The case is currently on appeal to the Alaska Supreme Court.

- Continued to handle a large number of guardianship and conservator cases for vulnerable adults throughout the state.
- Represented DHSS, OCS, in a lawsuit filed by four Alaska Native villages alleging violations of the Indian Child Welfare Act, the Multi-Ethnic Placement Act, and the Adoption and Safe Families Act. This case is now before the Alaska Supreme Court on an interlocutory appeal.
- Worked with DHSS, OCS, to establish procedures to ensure timely compliance with requirements of Title IV-E of the Social Security Act, to attempt to increase reimbursement for foster care and administrative expenses.
- Continued to participate in a pilot project for the Family CARE (Community Assisted Recovery Efforts) Court began in August of 2002. The project encompasses the coordinated efforts of the Department of Law, Department of Administration's OPA and Public Defender, and the Court System. The pilot uses principles from the drug court model to directly engage and assist parents of children who have been the subject of CINA petitions. The entire team has been attending, over the past year, three out-of-state training seminars through the National Drug Court Institute, Family Drug Court Planning Initiative. Not only does this training assist the team in setting up and maintaining the FCC, but full attendance put the team in a better position to be awarded federal and state grants to sustain the FCC.
- Participated in the Children's Justice Act Task Force, the Court Improvement Project, the CINA Rules Committee, a statewide ICWA Committee, and several other groups and committees formed for the purpose of improving the child protection field.
- Prepared an Attorney General opinion advising the Office of Children's Services about the impact an Alaska Supreme Court Case (C.R.H.) has on the ability of Alaska Native tribal courts to take jurisdiction over child protection proceedings and the duty of OCS to investigate reports of harm on Alaska Native children.

Statutory and Regulatory Authority

AS 44.23.020

Contact Information
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Human Services Section Component Financial Summary

All dollars shown in thousands

	FY2004 Actuals	FY2005 Management Plan	FY2006 Governor
Non-Formula Program:			
Component Expenditures:			
71000 Personal Services	3,759.9	3,550.5	3,907.2
72000 Travel	74.4	35.1	36.6
73000 Services	412.3	529.8	589.3
74000 Commodities	68.1	66.2	80.3
75000 Capital Outlay	11.5	32.5	26.0
77000 Grants, Benefits	0.0	0.0	0.0
78000 Miscellaneous	0.0	0.0	0.0
Expenditure Totals	4,326.2	4,214.1	4,639.4
Funding Sources:			
1004 General Fund Receipts	2,900.8	3,279.6	3,286.6
1007 Inter-Agency Receipts	1,275.3	867.4	1,285.1
1037 General Fund / Mental Health	150.1	67.1	67.7
Funding Totals	4,326.2	4,214.1	4,639.4

Estimated Revenue Collections

Description	Master Revenue Account	FY2004 Actuals	FY2005 Management Plan	FY2006 Governor
Unrestricted Revenues				
None.		0.0	0.0	0.0
Unrestricted Total		0.0	0.0	0.0
Restricted Revenues				
Interagency Receipts	51015	1,275.3	867.4	1,285.1
Restricted Total		1,275.3	867.4	1,285.1
Total Estimated Revenues		1,275.3	867.4	1,285.1

**Summary of Component Budget Changes
From FY2005 Management Plan to FY2006 Governor**

All dollars shown in thousands

	<u>General Funds</u>	<u>Federal Funds</u>	<u>Other Funds</u>	<u>Total Funds</u>
FY2005 Management Plan	3,346.7	0.0	867.4	4,214.1
Adjustments which will continue current level of service:				
-FY 05 Bargaining Unit Contract Terms: GGU	11.6	0.0	1.8	13.4
-Funding for Juvenile Delinquency Position	-112.2	0.0	0.0	-112.2
-FY06 Cost Increases for Bargaining Units and Non-Covered Employees	45.0	0.0	15.9	60.9
Proposed budget increases:				
-Complete Funding for Underfunded Attorney Positions	63.2	0.0	0.0	63.2
-Medicaid Liens, Provider Appeals and Special Needs Trust	0.0	0.0	400.0	400.0
FY2006 Governor	3,354.3	0.0	1,285.1	4,639.4

**Human Services Section
Personal Services Information**

Authorized Positions		Personal Services Costs		
<u>FY2005</u>				
<u>Management</u>	<u>Plan</u>	<u>FY2006</u>		
		<u>Governor</u>		
Full-time	52	55	Annual Salaries	2,949,153
Part-time	0	0	COLA	16,695
Nonpermanent	0	0	Premium Pay	0
			Annual Benefits	1,453,823
			<i>Less 8.68% Vacancy Factor</i>	(383,571)
			Lump Sum Premium Pay	0
Totals	52	55	Total Personal Services	4,036,100

Position Classification Summary

Job Class Title	Anchorage	Fairbanks	Juneau	Others	Total
Administrative Clerk I	2	0	0	0	2
Attorney III	5	0	1	2	8
Attorney IV	10	2	1	0	13
Attorney V	2	1	3	0	6
Attorney VI	1	0	0	0	1
Law Office Assistant I	7	2	3	2	14
Law Office Assistant II	2	1	1	0	4
Paralegal I	1	0	0	0	1
Paralegal II	4	1	1	0	6
Totals	34	7	10	4	55