

SENATE CS FOR CS FOR HOUSE BILL NO. 459(RLS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTIETH LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE

Offered: 5/11/98

Referred: Today's Calendar

Sponsor(s): HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing new eligibility for medical assistance for certain disabled
2 persons and giving their eligibility for services the highest priority among optional
3 services and groups under the medical assistance program; amending the definition
4 of 'personal care services in a recipient's home' as used in the medical
5 assistance program; moving midwife services from being the first to being the
6 seventh service eliminated under the medical assistance program when there is
7 insufficient funding; adjusting the priority of optional services and optional
8 eligible groups under the medical assistance program in order to reflect the new
9 priorities given to the newly-eligible disabled persons and to midwife services but
10 without otherwise changing the relative order of the other optional services and
11 optional groups; relating to catastrophic illness assistance; establishing a medical
12 assistance program for chronic and acute medical conditions; and providing for

1 an effective date."

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

3 * **Section 1.** AS 47.07.020(b) is amended by adding a new paragraph to read:

4 (12) disabled persons, as described in 42 U.S.C.
 5 1396a(a)(10)(A)(ii)(XIII), who are in families whose income, as determined under
 6 applicable federal regulations or guidelines, is less than 250 percent of the official
 7 poverty line applicable to a family of that size according to the federal Office of
 8 Management and Budget, and who, but for earnings in excess of the limit established
 9 under 42 U.S.C. 1396d(q)(2)(B), would be considered to be individuals with respect
 10 to whom a supplemental security income is being paid under 42 U.S.C. 1381 - 1383c;
 11 a person eligible for assistance under this paragraph who is not eligible under another
 12 provision of this section shall pay a premium or other cost-sharing charges according
 13 to a sliding fee scale that is based on income as established by the department in
 14 regulations.

15 * **Sec. 2.** AS 47.07.035 is amended to read:

16 **Sec. 47.07.035. Priority of medical assistance.** If the department finds that
 17 the cost of medical assistance for all persons eligible under this chapter will exceed
 18 the amount allocated in the state budget for that assistance for the fiscal year, the
 19 department shall eliminate coverage for optional medical services and optionally
 20 eligible groups of individuals in the following order:

- 21 (1) [MIDWIFE SERVICES;
- 22 (2)] clinical social workers' services;
- 23 (2) [(3)] psychologists' services;
- 24 (3) [(4)] chiropractic services;
- 25 (4) [(5)] advanced nurse practitioner services;
- 26 (5) [(6)] adult dental services;
- 27 (6) [(7)] emergency hospital services;
- 28 (7) midwife services;
- 29 (8) treatment of speech, hearing, and language disorders;
- 30 (9) optometrists' services and eyeglasses;

- 1 (10) occupational therapy;
- 2 (11) mammography screening;
- 3 (12) prosthetic devices;
- 4 (13) medical supplies and equipment;
- 5 (14) targeted case management services;
- 6 (15) rehabilitative services for substance abusers and emotionally
- 7 disturbed or chronically mentally ill adults;
- 8 (16) clinic services;
- 9 (17) physical therapy;
- 10 (18) personal care services in a recipient's home;
- 11 (19) prescribed drugs;
- 12 (20) hospice care;
- 13 (21) long-term care noninstitutional services;
- 14 (22) inpatient psychiatric facility services;
- 15 (23) intermediate care facility services for the mentally retarded;
- 16 (24) intermediate care facility services;
- 17 (25) individuals described in AS 47.07.020(b)(11);
- 18 (26) individuals under age 21 who are not eligible for benefits under
- 19 the federal program designated as the successor to the aid to families with dependent
- 20 children program because they are not deprived of one or more of their natural or
- 21 adoptive parents;
- 22 (27) skilled nursing facility services for persons under age 21;
- 23 (28) aged, blind, and disabled individuals who, because they do not
- 24 meet the income requirements, do not receive supplemental security income under Title
- 25 XVI of the Social Security Act, but who are eligible, or would be eligible if they were
- 26 not in a skilled nursing facility or intermediate care facility, to receive an optional state
- 27 supplementary payment;
- 28 (29) individuals in a hospital, skilled nursing facility, or intermediate
- 29 care facility whose income while in the facility does not exceed 300 percent of the
- 30 supplemental security income benefit rate under Title XVI of the Social Security Act,
- 31 but who, because of income, are not eligible for the optional state supplementary

1 payment;

2 (30) individuals under age 21 under supervision of the department for
3 whom maintenance is being paid in whole or in part from public money and who are
4 in foster homes or private child-care institutions;

5 (31) individuals under age 21 who the department has determined
6 cannot be placed for adoption without medical assistance because of a special need for
7 medical or rehabilitative care and who the department has determined are hard-to-place
8 children eligible for subsidy under AS 25.23.190 - 25.23.220;

9 **(32) individuals who are eligible under AS 47.07.020(b)(12).**

10 * **Sec. 3.** AS 47.07.900(15) is amended to read:

11 (15) "personal care services in a recipient's home" means services
12 **authorized under a service plan** [PRESCRIBED BY A PHYSICIAN] in accordance
13 with **applicable federal and state law** [THE RECIPIENT'S PLAN OF TREATMENT
14 AND PROVIDED BY AN INDIVIDUAL WHO IS

15 (A) QUALIFIED TO PROVIDE THE SERVICES;

16 (B) SUPERVISED BY A REGISTERED NURSE; AND

17 (C) NOT A MEMBER OF THE RECIPIENT'S FAMILY];

18 * **Sec. 4.** AS 47.08.010 is amended to read:

19 **Sec. 47.08.010. Reimbursement of providers. (a) Subject to (b) of this**
20 **section, under AS 47.08.010 - 47.08.140** [UNDER THE PROVISIONS OF THIS
21 CHAPTER], the Department of Health and Social Services **may** [SHALL] reimburse
22 providers of medical care for unpaid costs incurred in the treatment of a person
23 suffering an illness or accident that results in financial catastrophe to the person or the
24 person's family.

25 * **Sec. 5.** AS 47.08.010 is repealed and reenacted to read:

26 **Sec. 47.08.010. Reimbursement of providers.** Under the provisions of this
27 chapter, the Department of Health and Social Services shall reimburse providers of
28 medical care for unpaid costs incurred in the treatment of a person suffering an illness
29 or accident that results in financial catastrophe to the person or the person's family.

30 * **Sec. 6.** AS 47.08.010 is amended by adding a new subsection to read:

31 (b) At the beginning of each fiscal year, the commissioner of health and social

services shall determine whether sufficient appropriations have been made for the anticipated costs of services to needy persons under AS 47.08.150 and the anticipated costs of reimbursements under (a) of this section. The Department of Health and Social Services may not accept applications for reimbursement under (a) of this section for a fiscal year if, at the beginning of the fiscal year the department determines that

(1) there are insufficient funds appropriated for the anticipated costs of services for needy persons under AS 47.08.150; or

(2) after subtracting anticipated costs under AS 47.08.150, there are insufficient funds appropriated for anticipated reimbursements under (a) of this section.

* **Sec. 7.** AS 47.08 is amended by adding a new section to read:

**Article 2. Medical Assistance for Chronic
or Acute Medical Conditions.**

Sec. 47.08.150. Assistance for chronic or acute medical conditions. (a)

Under the provisions of this section, the Department of Health and Social Services may pay providers of medical care for services described in (c) of this section that are provided to needy persons suffering from a chronic or acute medical condition who may apply for assistance under (b) of this section.

(b) A needy person suffering from a chronic or an acute medical condition who is eligible for general relief assistance under AS 47.25.120 and is not eligible for the medical assistance program under AS 47.07 may apply for assistance under this section. The department shall make a determination of eligibility based on a general relief assistance application. The requirements of AS 47.08.020 - 47.08.140 do not apply to assistance sought under this section, except that, notwithstanding (c) of this section, neither reimbursement nor assistance may be paid by the department for services that are listed in AS 47.08.050 as those services are defined in AS 47.08.140.

(c) The services eligible for payment under this section for a needy person with a chronic or acute medical condition are the following:

(1) prescription drugs and medical supplies prescribed to treat a person who has

(A) a terminal illness;

(B) cancer and requires chemotherapy; or

(C) a chronic condition that would normally, in its untreated course, result in the death or disability of the recipient, but that is amenable to outpatient medication; the chronic conditions for which the cost of prescription drugs may be paid include the following diagnoses:

- (i) diabetes and diabetes insipidus;
- (ii) seizure disorders;
- (iii) chronic mental illness;
- (iv) hypertension;

(2) physician services

(A) related to care under (3) of this subsection;

(B) provided in a hospital emergency room the same day on which the recipient is admitted for care under (3) of this subsection;

(C) provided to a recipient residing in a nursing home; or

(D) provided in either an outpatient or an inpatient setting to a recipient with a diagnosis described in (1) of this subsection;

(3) inpatient hospital services that cannot be performed on an outpatient basis and that are certified as necessary by a professional review organization consulted by the Department of Health and Social Services but not including inpatient psychiatric hospital services;

(4) outpatient laboratory and x-ray services;

(5) medical transportation related to care under (3) of this subsection or nursing facility care;

(6) outpatient surgical services;

(7) nursing facility care.

(d) The payment rate for facilities under this section shall be the same as that established by regulation for medical services under AS 47.25.195, and payment rates under this section for other providers may not exceed those established under AS 47.07.

(e) The Department of Health and Social Services may limit the amount, duration, and scope of services covered under this section by regulation. If the Department of Health and Social Services finds that the cost of assistance for all

persons eligible under this section will exceed the amount allocated for that assistance during the fiscal year, the Department of Health and Social Services may limit coverage for certain medical services by regulation in order to provide the most critical care within the available appropriations.

(f) The Department of Health and Social Services may adopt regulations to implement this section.

*** Sec. 8.** AS 47.08.010(b) and 47.08.150 are repealed.

*** Sec. 9.** TRANSITIONAL PROVISION. Notwithstanding AS 47.07.020(b)(12), added by sec. 1 of this Act, an individual described in that provision is eligible for medical assistance under AS 47.07 without the payment of a premium or other cost-sharing charges for the first two months of the individual's receipt of assistance under AS 47.07.020(b)(12). Beginning in the third month of the individual's receipt of assistance under AS 47.07.020(b)(12), the individual shall pay one-twelfth of an annual premium that is determined by applying a percentage to the annual net income of the individual's family. The applicable percentage, Y, shall be calculated according to the formula of $Y = (X-100)/15 - 0.75(N-1)$, where X is the annual net income of the individual's family expressed as a percentage of the official federal poverty line for a family of the size involved and N is the number of persons in the individual's family; however, an individual is not required to pay a premium under this section if the individual's family has a net income that is less than the applicable federal poverty line for a family of the size involved or if the value of Y calculated under this section is a negative number. The premium required under this section is payable until the Department of Health and Social Services, by regulation, establishes another system for setting and collecting a premium or other cost-sharing charges for persons who receive medical assistance because they are eligible under AS 47.07.020(b)(12), as enacted by sec. 1 of this Act. For purposes of this section, the annual net income of the individual's family shall be determined under applicable federal regulations and guidelines.

*** Sec. 10.** REGULATIONS. The Department of Health and Social Services shall adopt regulations establishing the sliding fee scale for premiums or other cost-sharing charges described in sec. 1 of this Act by July 1, 1999.

*** Sec. 11.** REVISOR INSTRUCTION. In the following statute sections, the revisor of statutes shall substitute the spanned reference "AS 47.08.010 - 47.08.140" for references to

1 "this chapter": AS 47.08.040, 47.08.050, 47.08.120, 47.08.130, and 47.08.140.

2 * **Sec. 12.** Sections 4, 6, 7, and 11 of this Act take effect July 1, 1998.

3 * **Sec. 13.** Sections 5 and 8 of this Act take effect on the day after the later of (1) the date
4 on which time expires for appeal of a judgment declaring any part of AS 47.08.150, enacted
5 by sec. 7 of this Act, unconstitutional, or (2) if an appeal is taken, the date of entry of the
6 final order on appeal that any part of AS 47.08.150, enacted by sec. 7 of this Act, is
7 unconstitutional. The attorney general shall notify the revisor of statutes of a judgment
8 described in this section.