

CS FOR SENATE BILL NO. 97(FIN) am

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE FINANCE COMMITTEE

Amended: 5/13/99

Offered: 5/12/99

Sponsor(s): SENATOR PETE KELLY

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to mental health services and programs; relating to liability for
2 payment for mental health evaluation and treatment services; and providing for
3 an effective date."

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

5 * Section 1. AS 47.30.910 is repealed and reenacted to read:

6 Sec. 47.30.910. Liability for expense of placement in a facility. (a) A
7 patient, the patient's spouse, or the patient's parent if the patient is under 18 years of
8 age shall pay the charges for the care, transportation, and treatment of the patient when
9 the patient is hospitalized under AS 47.30.670 - 47.30.915 at a state-operated facility,
10 an evaluation facility, or a designated treatment facility providing services under
11 AS 47.30.670 - 47.30.915. The patient, the patient's spouse, or the patient's parent if
12 the patient is under 18 years of age shall make arrangements with a state-operated
13 facility, an evaluation facility, or a designated treatment facility for payment of
14 charges, including providing income information necessary to determine eligibility for

benefits under AS 47.31. Charges assessed for services provided under AS 47.30.670 - 47.30.915 when a patient is hospitalized at a state-operated facility may not exceed the actual cost of care and treatment. The department may, when assessing charges for services provided at a state-operated facility, consider the ability to pay of a patient, a patient's spouse, or a patient's parent if the patient is under 18 years of age. In order to impose liability for a patient's cost of care at a state-operated facility, the department shall issue an order for payment within six months after the date on which the charge was incurred. The order remains in effect unless modified by subsequent court order or department order. The department may not impose liability for a patient's cost of care at a state-operated facility if the patient would otherwise meet the eligibility criteria, other than location of service, in AS 47.31.010.

(b) The department, the evaluation facility, or a designated treatment facility shall make reasonable efforts to determine whether the patient, the patient's spouse, or the patient's parent if the patient is under 18 years of age has a third-party payor or has the available means to substantially contribute to the payment of charges, or whether the patient is eligible for assistance under AS 47.31.

(c) If a patient is hospitalized at a state-operated facility and the patient, the patient's spouse, or the patient's parent if the patient is under 18 years of age fails to provide to the department information necessary to determine whether there is a third-party payor or available means to substantially contribute to the payment of charges, or whether the patient would, if not hospitalized at a state-operated facility, be eligible for assistance under AS 47.31, the department may issue an administrative order imposing full liability for the patient's actual cost of care on the patient, the patient's spouse, or the patient's parent if the patient is under 18 years of age. The order remains in effect unless modified by subsequent court order or department order.

(d) If a person who is hospitalized under AS 47.30.670 - 47.30.915 at an evaluation facility or a designated treatment facility cannot pay or substantially contribute to the payment of charges described under this section, the patient may apply for assistance under AS 47.31.

(e) The department may charge or accept money or property from a person for the care or treatment of a patient at a state-operated facility.

1 (f) Money paid by the patient or on the patient's behalf to the department
2 under this section shall be deposited in the general fund.

3 * **Sec. 2.** AS 47.30.910 is repealed and reenacted to read:

4 **Sec. 47.30.910. Liability for expense of placement in a treatment facility.**

5 (a) A patient, or the patient's legal representative acting in a representative capacity,
6 or the patient's spouse, or the patient's parents if the patient is under 18 years of age,
7 shall pay or contribute to the payment of the charges for the care, transportation, and
8 treatment of the patient when hospitalized under AS 47.30.660 - 47.30.915. Charges
9 assessed after an order for commitment for treatment is issued and charges assessed
10 when a patient is hospitalized at a facility operated by the department, or under a
11 contract for services with the department, may not exceed the actual cost of the care
12 and treatment. The department may order payment by the patient or by the person
13 responsible for payment for the patient's care and treatment under this subsection
14 according to ability to provide for payment. The department may make necessary
15 investigations to determine the ability to pay and may require sworn statements of
16 income by the patient, the patient's legal representative acting in a representative
17 capacity, or the patient's spouse or parent. In the exercise of the commissioner's
18 discretion, the commissioner may impose full liability for the patient's actual cost of
19 care and treatment on the patient, the patient's legal representative, the patient's spouse,
20 or parent for refusal to supply a sworn statement of income. An order for payment
21 must be issued by the department within six months after the date on which the charge
22 was incurred. The order must remain in full force and effect unless modified by
23 subsequent court or department order. Liability under this subsection shall be
24 determined as follows: a patient hospitalized under AS 47.30.660 - 47.30.915, or the
25 person responsible for payment of charges for the patient, may be required to pay
26 according to ability to provide for payment, and in the manner and proportion that the
27 department finds is not detrimental to the patient's rehabilitation. The department
28 shall, at any time that it determines the action will serve the best interests of the state
29 and the patient or the person responsible for payment, relieve the patient or the person
30 responsible for payment from liability for charges for the care, transportation, and
31 treatment of the patient.

(b) As used in (a) of this section, the term "actual cost of the care and treatment" means either the rate provided for by a contract entered into under AS 47.30.660 - 47.30.915, or, in the absence of a contract, a daily rate approved by the department.

(c) The department may charge, or accept from a person money or property, for the care or treatment of an inpatient or outpatient or for other purposes, even if the payment is not required by an order of the department, so long as the total payments received do not exceed the actual cost of care or treatment.

(d) All money paid by the patient or on the patient's behalf to the department under this section must be deposited in the general fund.

(e) If an order for payment is entered by the department under this section, and delinquency in the payment of any amount due the state under the order continues for a period of more than 30 days after the notification to the patient or the legal representative, spouse, or parent of the patient by the department, the state may proceed to collect the amounts due by appropriate proceedings. An action to enforce the collection of payments may only be brought within three years after the date of notification of a delinquent payment.

(f) The orders of the department issued under this section may relate only to charges incurred after July 1, 2001.

* **Sec. 3.** AS 47.30.915(4) is amended to read:

(4) "designated treatment facility" or "treatment facility" means a hospital, clinic, institution, center, or other health care facility that has been designated by the department for the treatment or rehabilitation of mentally ill persons under AS 47.30.670 - 47.30.915 [AND FOR THE RECEIPT OF THESE PERSONS BY COURT-ORDERED COMMITMENT,] but does not include correctional institutions;

* **Sec. 4.** AS 47.30.915(4) is repealed and reenacted to read:

(4) "designated treatment facility" means a hospital, clinic, institution, center, or other health care facility that has been designated by the department for the treatment or rehabilitation of mentally ill persons and for the receipt of these persons by court-ordered commitment, but does not include correctional institutions;

* **Sec. 5.** AS 47 is amended by adding a new chapter to read:

Chapter 31. Mental Health Treatment Assistance Program.

Sec. 47.31.005. Applicability. This chapter applies only to those patients who have received evaluation or treatment at an evaluation facility or a designated treatment facility that is not a state-operated hospital.

Sec. 47.31.010. Eligibility for assistance. (a) The department shall provide financial assistance under this chapter to a patient who

(1) does not have the available means to pay or substantially contribute to the payment of charges assessed by a facility;

(2) has no other third party to pay for the evaluation or treatment provided under AS 47.30; and

(3) meets the criteria in this chapter.

(b) To be eligible for assistance under this chapter, a patient must have

(1) been admitted for inpatient evaluation or treatment at an evaluation facility or a designated treatment facility other than a state-operated hospital after either

(A) an involuntary commitment under AS 47.30.700 - 47.30.915; or

(B) a voluntary admission chosen by the patient after a determination by the patient's treating physician that the patient meets the involuntary commitment criteria in AS 47.30.700 - 47.30.915 and that involuntary commitment proceedings would be initiated if the patient did not choose to be admitted voluntarily; and

(2) a gross monthly household income that does not exceed 185 percent of the federal poverty guideline for this state for the calendar month in which service was provided.

Sec. 47.31.015. Application for assistance. (a) To receive assistance under this chapter, a patient or a patient's legal representative must apply in writing on a form provided by the department. A patient must apply for assistance within 180 days after the date of discharge from the facility.

(b) A patient is considered to have applied for assistance under (a) of this section if the evaluation facility or designated treatment facility notifies the department

on a form provided by the department that there is good cause to believe that the patient would be eligible for assistance under this chapter and

(1) the patient, the patient's spouse, or the patient's parent if the patient is under 18 years of age failed within 150 days after the date of discharge from the facility to make arrangements to pay the evaluation facility or designated treatment facility; or

(2) the patient lacks the mental capacity to apply for benefits under this chapter.

(c) A patient who applies or is considered to have applied for assistance under this chapter, the patient's spouse, the patient's parent if the patient is under 18 years of age, or a person in the patient's household shall release records and information to the department necessary to verify eligibility for the assistance.

(d) If a patient, the patient's spouse, the patient's parent if the patient is under 18 years of age, or a person in the patient's household fails to provide records and information to the department necessary to verify eligibility, the department may issue an administrative order imposing full liability for the patient's cost of care and treatment to the evaluation facility or designated treatment facility.

Sec. 47.31.020. Decision on eligibility. (a) Within 30 days after receiving a complete application, the department shall give notice in writing of an eligibility determination to the patient or the patient's legal representative. If the patient is found ineligible, the notice must contain the reason for the denial and an explanation of the patient's right to an administrative appeal of the denial.

(b) The department shall provide a copy of the notice of eligibility or ineligibility to the facility at which the patient was treated.

Sec. 47.31.025. Eligible services; rates. The department shall identify the type and level of services for which assistance is available under this chapter. An evaluation facility or a designated treatment facility shall be reimbursed at a rate established by the department that is equivalent to the Medicaid rate for that facility at the time service was rendered as determined under AS 47.07.070.

Sec. 47.31.030. Payment. If the department determines that a patient is eligible for assistance under this chapter, the department shall provide for payment of

1 assistance directly to the facility. By endorsing the check received from the
 2 department or authorizing the endorsement by the facility's agent, the facility certifies
 3 that the claim for which the check is payment is true and accurate unless written notice
 4 of an error is sent to the department by the facility within 30 days after the date the
 5 check is presented by the facility for payment.

6 **Sec. 47.31.035. Appeals.** (a) A patient or the patient's legal representative
 7 may appeal a denial of assistance by sending written notice of objection to the
 8 department within 30 days after the date of the notice of denial. The written notice
 9 of objection must include an explanation of the reasons for the objection and may
 10 include documentation supporting the objection. AS 44.62 (Administrative Procedure
 11 Act) does not apply to the appeal.

12 (b) The commissioner or the commissioner's designee shall review the notice
 13 of objection and issue a decision within 90 days after its receipt. The commissioner
 14 or the commissioner's designee may request additional information on the appeal from
 15 either the patient, the evaluation facility or designated treatment facility, or department
 16 staff. A request for additional information suspends the time period for the appeal
 17 until the department determines that the additional information has been received. If
 18 more than 180 days have passed from the date of submission of a notice of appeal and
 19 the additional information requested by the commissioner or the commissioner's
 20 designee has not been received from a patient, the evaluation facility, the designated
 21 treatment facility, or the department, the appeal shall be considered denied.

22 (c) The decision on the appeal under (b) of this section, including an appeal
 23 denied for failure to submit additional information, is a final agency decision and may
 24 be appealed to the superior court under the Alaska Rules of Appellate Procedure.

25 **Sec. 47.31.900. Regulations.** The department shall, after consultation with the
 26 Alaska Mental Health Trust Authority, adopt regulations to interpret or implement this
 27 chapter.

28 **Sec. 47.31.990. Definitions.** In this chapter, unless the context otherwise
 29 requires,

30 (1) "commissioner" means the commissioner of health and social
 31 services;

1 (2) "department" means the Department of Health and Social Services;

2 (3) "designated treatment facility" has the meaning given in
3 AS 47.30.915;

4 (4) "evaluation facility" means a health care facility that has been
5 designated by the department to perform the evaluations described in AS 47.30.670 -
6 47.30.915, including a facility licensed under AS 18.20.020 or operated by the federal
7 government;

8 (5) "gross monthly household income" means all earned or unearned
9 income from any source of a member of the patient's household;

10 (6) "household" means a patient and each person

11 (A) residing with the patient; and

12 (B) related to the patient by marriage or other legal relationship
13 giving rise to a duty of support and maintenance;

14 (7) "mental illness" has the meaning given in AS 47.30.915.

15 * **Sec. 6.** AS 47.31.005, 47.31.010, 47.31.015, 47.31.020, 47.31.025, 47.31.030, 47.31.035,
16 47.31.900, and 47.31.990 are repealed.

17 * **Sec. 7.** APPLICABILITY. Sections 1, 3, and 5 of this Act apply to expenses incurred
18 for mental health services received on or after the effective date of secs. 1, 3, and 5 of this
19 Act.

20 * **Sec. 8.** Except as provided in sec. 9 of this Act, this Act takes effect immediately under
21 AS 01.10.070(c).

22 * **Sec. 9.** Sections 2, 4, and 6 of this Act take effect July 1, 2001.