



LAWS OF ALASKA

2008

Source

HCS CSSB 243(FIN)

Chapter No.

AN ACT

Relating to the duties and powers of the Alaska Commission on Aging and the Department of Health and Social Services.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Relating to the duties and powers of the Alaska Commission on Aging and the Department of
2 Health and Social Services.

3 _____
4 * **Section 1.** AS 47.05.010 is amended to read:

5 **Sec. 47.05.010. Duties of department.** The Department of Health and Social
6 Services shall

7 (1) administer adult public assistance, the Alaska temporary assistance
8 program, and all other assistance programs, and receive and spend money made
9 available to it;

10 (2) adopt regulations necessary for the conduct of its business and for
11 carrying out federal and state laws granting adult public assistance, temporary cash
12 assistance, diversion payments, or self-sufficiency services for needy families under
13 the Alaska temporary assistance program, and other assistance;

14 (3) establish minimum standards for personnel employed by the

1 department and adopt necessary regulations to maintain those standards;

2 (4) require those bonds and undertakings from persons employed by it
3 that, [WHICH] in its judgment, are necessary, and pay the premiums on them;

4 (5) cooperate with the federal government in matters of mutual
5 concern pertaining to adult public assistance, the Alaska temporary assistance
6 program, and other forms of public assistance;

7 (6) make the reports, in the form and containing the information, that
8 the federal government from time to time requires;

9 (7) cooperate with the federal government, its agencies, or
10 instrumentalities in establishing, extending, and strengthening services for the
11 protection and care of homeless, dependent, and neglected children in danger of
12 becoming delinquent, and receive and expend funds available to the department by the
13 federal government, the state, or its political subdivisions for that purpose;

14 (8) cooperate with the federal government in adopting state plans to
15 make the state eligible for federal matching in appropriate categories of assistance, and
16 in all matters of mutual concern, including adoption of the methods of administration
17 that are found by the federal government to be necessary for the efficient operation of
18 welfare programs;

19 (9) adopt regulations, not inconsistent with law, defining need,
20 prescribing the conditions of eligibility for assistance, and establishing standards for
21 determining the amount of assistance that an eligible person is entitled to receive; the
22 amount of the assistance is sufficient when, added to all other income and resources
23 available to an individual, it provides the individual with a reasonable subsistence
24 compatible with health and well-being; an individual who meets the requirements for
25 eligibility for assistance shall be granted the assistance promptly upon application for
26 it;

27 (10) grant to a person claiming or receiving assistance and who is
28 aggrieved because of the department's action or failure to act, reasonable notice and an
29 opportunity for a fair hearing by the department, and the department shall adopt
30 regulations relative to this;

31 (11) enter into reciprocal agreements with other states relative to

1 public assistance, welfare services, and institutional care that are considered advisable;

2 (12) establish the requirements of residence for public assistance,
3 welfare services, and institutional care that are considered advisable, subject to the
4 limitations of other laws of the state, or law or regulation imposed as conditions for
5 federal financial participation;

6 (13) establish the divisions and local offices that are considered
7 necessary or expedient to carry out a duty or authority assigned to it and appoint and
8 employ the assistants and personnel that are necessary to carry on the work of the
9 divisions and offices, and fix the compensation of the assistants or employees, except
10 that a person engaged in business as a retail vendor of general merchandise, or a
11 member of the immediate family of a person who is so engaged, may not serve as an
12 acting, temporary, or permanent local agent of the department, unless the
13 commissioner of health and social services certifies in writing to the governor, with
14 relation to a particular community, that no other qualified person is available in the
15 community to serve as local welfare agent; for the purposes of this paragraph, a
16 "member of the immediate family" includes a spouse, child, parent, brother, sister,
17 parent-in-law, brother-in-law, or sister-in-law;

18 (14) provide education and health-related services and referrals
19 designed to reduce the number of out-of-wedlock pregnancies and the number of
20 induced pregnancy terminations in the state;

21 (15) investigate reports of abuse, neglect, or misappropriation of
22 property by certified nurse aides in facilities licensed by the department under
23 AS 47.32;

24 **(16) establish state policy relating to and administer federal**
25 **programs subject to state control as provided under 42 U.S.C. 3001 - 3058ee**
26 **(Older Americans Act of 1965), as amended, and related federal regulations;**

27 **(17) administer the older Alaskans service grants under**
28 **AS 47.65.010 - 47.65.050 and the adult day care and family respite care grants**
29 **under AS 47.65.100.**

30 * Sec. 2. AS 47.30.036 is amended to read:

31 **Sec. 47.30.036. Duties of the board.** The board shall

- 1 (1) preserve and protect the trust corpus under AS 37.14.009;
- 2 (2) coordinate with other state agencies involved with programs
- 3 affecting persons in need of mental health services;
- 4 (3) review and consider the recommendations submitted under
- 5 AS 44.29.140(2), AS 47.30.666(6), AS 47.45.240(a)(8) [AS 47.45.240(a)(10)], and
- 6 AS 47.80.090(13);
- 7 (4) adopt bylaws governing its meetings, selection of officers,
- 8 proceedings, and other aspects of board procedure;
- 9 (5) make an annual written report of its activities to the governor and
- 10 the public and notify the legislature that the report is available; and
- 11 (6) fulfill its obligations under AS 47.30.046.

12 * **Sec. 3.** AS 47.45.230 is amended to read:

13 **Sec. 47.45.230. Executive director.** The executive director of the commission

14 shall

15 [(1)] formulate and submit to the department a comprehensive

16 statewide plan that identifies the concerns and needs of older Alaskans and present

17 that plan to the commission [;

18 (2) ADMINISTER, WITH THE APPROVAL OF THE

19 COMMISSIONER OF HEALTH AND SOCIAL SERVICES, FEDERAL

20 PROGRAMS SUBJECT TO STATE CONTROL AS PROVIDED UNDER 42 U.S.C.

21 3001 - 3058ee (OLDER AMERICANS ACT), AS AMENDED; AND

22 (3) ADMINISTER, WITH THE APPROVAL OF THE

23 COMMISSIONER OF HEALTH AND SOCIAL SERVICES, STATE PROGRAMS

24 AS PROVIDED UNDER AS 47.65].

25 * **Sec. 4.** AS 47.45.240(a) is amended to read:

26 (a) The commission shall

27 (1) subject to review by the department, approve a comprehensive

28 statewide plan that identifies and addresses the concerns and needs of older Alaskans

29 and, with reference to the approved plan, prepare and submit to the governor and

30 legislature an annual analysis and evaluation of the services that are provided to older

31 Alaskans;

1 (2) make recommendations directly to the governor and the legislature
2 with respect to legislation, regulations, and appropriations for programs or services
3 that benefit older Alaskans;

4 (3) encourage the development of municipal commissions serving
5 older Alaskans and community-oriented programs and services for the benefit of older
6 Alaskans;

7 (4) employ an executive director who serves at the pleasure of the
8 commission;

9 (5) help older Alaskans lead dignified, independent, and useful lives;

10 (6) request and receive reports and audits from state agencies and local
11 institutions concerned with the conditions and needs of older Alaskans;

12 (7) [WITH THE APPROVAL OF THE COMMISSIONER OF
13 HEALTH AND SOCIAL SERVICES, SET POLICY FOR THE ADMINISTRATION
14 OF FEDERAL PROGRAMS SUBJECT TO STATE CONTROL AS PROVIDED
15 UNDER 42 U.S.C. 3001 - 3058ee (OLDER AMERICANS ACT), AS AMENDED;

16 (8) WITH THE APPROVAL OF THE COMMISSIONER OF
17 HEALTH AND SOCIAL SERVICES, SET POLICY FOR THE ADMINISTRATION
18 OF STATE PROGRAMS AS PROVIDED UNDER AS 47.65;

19 (9)] give assistance, on request, to the senior housing office in the
20 Alaska Housing Finance Corporation in administration of the senior housing loan
21 program under AS 18.56.710 - 18.56.799 and in the performance of the office's other
22 duties under AS 18.56.700; and

23 (8) [(10)] provide to the Alaska Mental Health Trust Authority, for its
24 review and consideration, recommendations concerning the integrated comprehensive
25 mental health program for persons who are described in (d) of this section and the use
26 of the money in the mental health trust settlement income account in a manner
27 consistent with regulations adopted under AS 47.30.031.

28 * **Sec. 5.** AS 47.45.240(b) is amended to read:

29 (b) To accomplish its duties, the commission may

30 (1) review, evaluate, and comment upon state programs concerned
31 with the problems and the needs of older Alaskans;

1 (2) collect facts and statistics, and make studies of conditions and
2 problems pertaining to the employment, health, housing, financial security, social
3 welfare, and other concerns that bear upon the well-being of older Alaskans;

4 (3) provide information about public programs that would be of
5 interest or benefit to older Alaskans;

6 (4) appoint special committees, which may include persons who are
7 not members of the commission, to complete necessary studies;

8 (5) promote community education efforts regarding the problems and
9 concerns of older Alaskans;

10 (6) contract for necessary services;

11 (7) consult and cooperate with persons, organizations, and groups
12 interested in or concerned with programs of assistance to older Alaskans;

13 (8) advocate improved programs of benefit to older Alaskans; **and**

14 (9) **recommend** [SET] standards for levels of services for older
15 Alaskans for programs administered by the **department** [COMMISSION; AND

16 (10) ADOPT REGULATIONS NECESSARY FOR THE
17 ADMINISTRATION OF AS 47.45.200 - 47.45.290 AND TO COMPLY WITH
18 FEDERAL LAW].

19 * **Sec. 6.** AS 47.45.290 is amended by adding a new paragraph to read:

20 (3) "department" means the Department of Health and Social Services.

21 * **Sec. 7.** AS 47.55.020(d) is amended to read:

22 (d) Notwithstanding AS 47.55.070 and (b) of this section, a resident of a home
23 whose income, assets, and other resources are insufficient to pay the monthly rate set
24 under AS 47.55.030(b), and who does not have private insurance to cover the cost of
25 care, qualifies for payment assistance if the resident is otherwise in compliance with
26 requirements under this chapter. The amount of payment assistance equals the amount
27 needed, when added to other income and assets of the resident, to pay the monthly rate
28 set under AS 47.55.030(b). Payment assistance received by a home resident is a debt
29 to the state. In determining the amount of payment assistance for which a home
30 resident qualifies, the following income, assets, and other resources of the resident
31 shall be disregarded:

1 (1) income from any source in an amount up to \$100 a month as
2 established by the department by regulation;

3 (2) the following assets received under 43 U.S.C. 1601 et seq. (Alaska
4 Native Claims Settlement Act):

5 (A) cash dividends and other income equal to at least \$2,000 as
6 established by the department by regulation;

7 (B) stock;

8 (C) noncash dividends from stock; and

9 (D) land;

10 (3) a permanent fund dividend issued under AS 43.23;

11 (4) compensation to volunteers under the federal retired and senior
12 volunteers (42 U.S.C. 5001), foster grandparents (42 U.S.C. 5011), and senior
13 companion (42 U.S.C. 5013) programs made in accordance with 42 U.S.C. 5044(f);

14 (5) federal World War II restitution payments made under 50 U.S.C.
15 App. 1989b-4 and c-5;

16 (6) payments under AS 18.67 (Violent Crimes Compensation Board);

17 (7) an amount, determined by the department by regulation, that is
18 sufficient for burial expenses of the resident, the resident's spouse, and dependents of
19 the resident;

20 (8) real property being used as the primary residence of the resident's
21 spouse or a dependent of the resident;

22 (9) other real or personal property equal to at least a total value of up
23 to \$10,000 as established by the department by regulation;

24 **(10) federal payments that are excluded by law from income for**
25 **federal assistance purposes.**

26 * **Sec. 8.** AS 47.65.010 is amended to read:

27 **Sec. 47.65.010. Older Alaskans service programs.** An amount to carry out
28 the provisions of AS 47.65.010 - 47.65.050 may be appropriated annually by the
29 legislature. The amount appropriated shall be fully distributed by the **department**
30 [ALASKA COMMISSION ON AGING] to sponsors of older Alaskans service
31 programs in accordance with the provisions of AS 47.65.010 - 47.65.050.

1 * **Sec. 9.** AS 47.65.020 is amended to read:

2 **Sec. 47.65.020. Grants for community service programs.** Not less than 60
3 percent of the amount appropriated by the legislature for older Alaskans service
4 programs under AS 47.65.010 - 47.65.050 shall be allocated annually by the
5 department [COMMISSION] as community program grants to sponsors of older
6 Alaskans service programs. Payments shall be made on the basis of applications
7 submitted to the department [COMMISSION] by sponsors of community programs.

8 * **Sec. 10.** AS 47.65.030 is amended to read:

9 **Sec. 47.65.030. Pilot project grants.** (a) The balance of the amount
10 appropriated for older Alaskans service programs under AS 47.65.010 - 47.65.050 not
11 allocated under AS 47.65.020 shall be allocated annually by the department
12 [COMMISSION] as grants to support pilot projects for the benefit of older Alaskans
13 under this section.

14 (b) The department [COMMISSION] shall adopt standards for pilot project
15 grants and, after adoption of the standards as regulations, in accordance with AS 44.62
16 (Administrative Procedure Act), shall apply the standards to determine eligibility of
17 applicants for pilot project grants. In awarding pilot project grants, the department
18 [COMMISSION] shall

19 (1) enter into agreements with the project sponsor to operate one or
20 more of the selected pilot projects consistent with the standards adopted;

21 (2) monitor and evaluate, in a written report, each pilot project; the
22 report must include

23 (A) a description of the project and of the persons served by it;

24 (B) the problems presented by the persons served by the
25 project;

26 (C) a description of the problems most effectively handled by
27 the project; and

28 (D) an estimate of projected cost of operation of the project for
29 the next three succeeding years.

30 * **Sec. 11.** AS 47.65.040(a) is amended to read:

31 (a) Except as provided in (f) of this section, a sponsor receiving a grant under

AS 47.65.010 - 47.65.050 shall contribute to the total cost of the program or project. The contribution may be in cash or in-kind services. The amount of the sponsor's required contribution is determined by the application of the following formula: average per capita full and true value of all property in the municipality or community in which the project or program takes place divided by the average per capita full and true value of all property in the state, and then multiplied by the contribution percentage to the estimated total program or project cost as determined by the department [COMMISSION] at the time of approval of a grant application. However, the amount of the sponsor's contribution may not amount to more than 10 percent of the total program or project cost.

* **Sec. 12.** AS 47.65.040(c) is amended to read:

(c) If an application is submitted for a program or project in a municipality or community for which no average per capita full and true property value determination has been made,

(1) if the population of the municipality or community is 750 or more, the department [COMMISSION] shall request the state assessor to compute the average per capita full and true property value of that municipality or community and report it;

(2) if the population is less than 750, the department [COMMISSION] may substitute for the average per capita full and true value of property in the municipality or community an amount equal to the average per capita full and true value of property in the smallest municipality for which that amount has been determined by the state assessor.

* **Sec. 13.** AS 47.65.040(e) is amended to read:

(e) The grant awarded by the department [COMMISSION] may not exceed the estimated total program or project cost as determined by the department [COMMISSION] less the contribution by the sponsor determined in accordance with this section.

* **Sec. 14.** AS 47.65.040(f) is amended to read:

(f) When awarding a grant to support a pilot project under AS 47.65.010 - 47.65.050, the department [COMMISSION] may waive all or part of the sponsor

1 contribution required under this section if waiver is in the public interest. The
2 department [COMMISSION] shall adopt regulations establishing standards for
3 granting waivers under this subsection.

4 * **Sec. 15.** AS 47.65.050 is amended to read:

5 **Sec. 47.65.050. Administrative requirements.** (a) Payments received by a
6 sponsor under AS 47.65.010 - 47.65.050 may be used only to meet costs of services
7 that [WHICH] the department [COMMISSION] has determined directly benefit
8 older Alaskans. A payment may not be made by the department [COMMISSION]
9 under this section unless the department [COMMISSION] determines that the
10 sponsor

11 (1) meets accepted standards of fiscal accountability for public funds;

12 (2) can demonstrate, when requested, the actual cost of services that it
13 is providing for the benefit of older Alaskans; and

14 (3) agrees to make available, upon request, all fiscal information
15 relating to service for which payments are provided under AS 47.65.010 - 47.65.050.

16 (b) The department [COMMISSION] may not make payments to a sponsor
17 whose program includes family respite care services or home care services unless the
18 sponsor has agreed to request criminal history record information as permitted by P.L.
19 105-277 and AS 12.62 for the individual who will provide the services within 10
20 business days after the individual is hired to provide the services and review the
21 information within five business days after receiving it.

22 * **Sec. 16.** AS 47.65.100(a) is amended to read:

23 (a) In addition to administering grants for adult day care programs and family
24 respite care services for older Alaskans under AS 47.65.010 - 47.65.050, the
25 department [COMMISSION] may make grants under this section from funds
26 otherwise available to it for adult day care programs and family respite care services
27 for frail older persons and other similarly disabled adults.

28 * **Sec. 17.** AS 47.65.100(b) is amended to read:

29 (b) In order to fund grants under this section, the department
30 [COMMISSION AND THE DEPARTMENT OF HEALTH AND SOCIAL
31 SERVICES] may seek and enter into contracts or grants with any party, including

1 reimbursable service agreements with other state agencies.

2 * **Sec. 18.** AS 47.65.100(c) is amended to read:

3 (c) The **department** [COMMISSION] shall, by regulation, set fees for
4 services provided under this section. The fees must be based on a sliding scale formula
5 that takes into account the client's income.

6 * **Sec. 19.** AS 47.65.100(e) is amended to read:

7 (e) The **department** [COMMISSION] may not award a grant under this
8 section for family respite care services or for adult day care services that include home
9 care services unless the grantee has agreed to request criminal history record
10 information as permitted by P.L. 105-277 and AS 12.62 for the individual who will
11 provide the services within 10 business days after the individual is hired to provide the
12 services and review the information within five business days after receiving it.

13 * **Sec. 20.** AS 47.65.290(3) is repealed and reenacted to read:

14 (3) "department" means the Department of Health and Social Services;