

29-GS1055\H
Glover
1/25/16

CS FOR SENATE BILL NO. 78(FIN)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE FINANCE COMMITTEE

**Offered:
Referred:**

Sponsor(s): SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

A BILL

FOR AN ACT ENTITLED

**"An Act establishing the Alaska Medical Assistance False Claim and Reporting Act;
relating to medical assistance programs administered by the Department of Health and
Social Services; relating to public record status of records related to the Alaska Medical
Assistance False Claim and Reporting Act; relating to accounting for program receipts;
relating to annual audits of state medical assistance providers; relating to seizure and
forfeiture of property for medical assistance fraud; relating to reporting overpayments
of medical assistance payments; relating to limitations of actions; establishing authority
to assess civil penalties for violations of medical assistance program requirements;
amending Rules 4, 5, 7, 12, 24, 26, 27, 41, 77, 79, 82, and 89, Alaska Rules of Civil
Procedure; amending Rule 37, Alaska Rules of Criminal Procedure; and providing for
an effective date."**

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

* **Section 1.** The uncodified law of the State of Alaska is amended by adding a new section to read:

LEGISLATIVE INTENT. It is the intent of the legislature to redesign the state's medical assistance program to provide financial sustainability and budget predictability while ensuring quality care to those in need. The medical assistance program shall be redesigned to

- (1) provide cost containment in the state's budget for medical assistance;
- (2) increase value in medical assistance spending through improved efficiency and effectiveness in the delivery of services; and
- (3) improve health outcomes for recipients of medical assistance and optimize access to appropriate care.

* **Sec. 2.** AS 09.10 is amended by adding a new section to read:

Sec. 09.10.075. Actions related to claims based on medical assistance payment fraud. Except as provided in AS 09.58.070, a person may not bring an action under AS 09.58.010 - 09.58.060, unless the action is commenced by the earlier of (1) six years after the act or omission was committed, or (2) three years after the date when facts material to the action were known, or reasonably should have been known, by the attorney general or the Department of Health and Social Services, but in no event more than 10 years after the date the violation under AS 09.58.010 occurred.

* **Sec. 3.** AS 09.10.120(a) is amended to read:

(a) **Except as provided in AS 09.10.075, an** [AN] action brought in the name of or for the benefit of the state, any political subdivision, or public corporation may be commenced only within six years **after** [OF] the date of accrual of the cause of action. However, if the action is for relief on the ground of fraud, the limitation commences from the time of discovery by the aggrieved party of the facts constituting the fraud.

* **Sec. 4.** AS 09 is amended by adding a new chapter to read:

Chapter 58. Alaska Medical Assistance False Claim and Reporting Act.

Sec. 09.58.010. False claims for medical assistance; civil penalty. (a) A medical assistance provider or medical assistance recipient may not

- (1) knowingly submit, authorize, or cause to be submitted to an officer

or employee of the state a false or fraudulent claim for payment or approval under the medical assistance program;

(2) knowingly make, use, or cause to be made or used, directly or indirectly, a false record or statement to get a false or fraudulent claim for payment paid or approved by the state under the medical assistance program;

(3) conspire to defraud the state by getting a false or fraudulent claim paid or approved under the medical assistance program;

(4) knowingly make, use, or cause to be made or used, a false record or statement to conceal, avoid, increase, or decrease an obligation to pay or transmit money or property to the medical assistance program;

(5) knowingly enter into an agreement, contract, or understanding with an officer or employee of the state for approval or payment of a claim under the medical assistance program knowing that the information in the agreement, contract, or understanding is false or fraudulent.

(b) A beneficiary of an intentional or inadvertent submission of a false or fraudulent claim under the medical assistance program who later discovers the claim is false or fraudulent shall disclose the false or fraudulent claim to the state not later than 60 days after discovering the false claim.

(c) In addition to any criminal penalties or seizure or forfeiture of property under AS 47.05, a medical assistance provider or medical assistance recipient who violates (a) or (b) of this section shall be liable to the state in a civil action for

(1) a civil penalty of not less than \$5,500 and not more than \$11,000;

(2) three times the amount of actual damages sustained by the state;

and

(3) reasonable attorney fees and costs calculated under applicable court rules.

(d) Liability for actual damages under (c) of this section may be reduced to not less than twice the amount of actual damages that the state sustains if the court finds that a person liable for an act under (a) or (b) of this section

(1) furnished the attorney general or the Department of Health and Social Services with all information known to the person about the violation not later

than 30 days after the date the information was obtained;

(2) fully cooperated with the investigation of the violation under AS 09.58.020; and

(3) at the time the person furnished the attorney general with the information about the violation, no criminal prosecution, civil action, investigation, or administrative action had been started in this state with respect to the violation, and the person did not have actual knowledge of the existence of an investigation of the violation.

(e) A corporation, partnership, or other individual is liable under this chapter for acts of its agents if the agent acted with apparent authority, regardless of whether the agent acted, in whole or in part, to benefit the principal and regardless of whether the principal adopted or ratified the agent's claims, representations, statement, or other action or conduct.

Sec. 09.58.015. Attorney general investigation; civil action. (a) The attorney general or the Department of Health and Social Services may investigate an alleged violation of AS 09.58.010. The attorney general may request assistance from the Department of Health and Social Services in an investigation under this section.

(b) The attorney general may bring a civil action in superior court under AS 09.58.010 - 09.58.060.

Sec. 09.58.020. Private plaintiff; civil action. (a) Notwithstanding AS 09.58.015, a person may bring an action under this section for a violation of AS 09.58.010 in the name of the person and the state.

(b) To bring an action under this section, a person shall file a complaint, in camera and under seal, and serve on the attorney general

(1) a copy of the complaint; and

(2) written disclosure of substantially all material evidence and information the person possesses that pertains to the claim.

(c) A complaint filed under this section must remain under seal for at least 60 days and may not be served on the defendant until the court so orders. The attorney general may elect to intervene and proceed with the action within 60 days after the attorney general receives both the complaint and the material evidence and the

1 information required under (b) of this section. The attorney general may, for good
2 cause shown, move the court, under seal, for an extension of the time during which the
3 complaint remains under seal under this subsection.

4 (d) Before the expiration of the 60-day period or an extension of time granted
5 under (c) of this section, the attorney general shall conduct an investigation and make
6 a written determination as to whether substantial evidence exists that a violation of
7 AS 09.58.010 has occurred. After the investigation and determination are complete,
8 the attorney general shall provide the person who brought the action and the
9 Department of Health and Social Services with a copy of the determination unless the
10 action has been referred to the division of the Department of Law that has
11 responsibility for criminal cases.

12 (e) Before the expiration of the 60-day period or an extension obtained under
13 (c) of this section, the attorney general shall

14 (1) intervene in the action and proceed with the action on behalf of the
15 state;

16 (2) notify the court that the attorney general declines to take over the
17 action, in which case the person bringing the action has the right to conduct the action;
18 or

19 (3) if the attorney general determines that substantial evidence does not
20 exist that a violation of AS 09.58.010 has occurred, or that the action is barred under
21 AS 09.58.050, the attorney general shall move the court to dismiss the action.

22 (f) The named defendant in a complaint filed under this section is not required
23 to respond to a complaint filed under this section until after the complaint is unsealed
24 by the court and a copy of the summons and complaint are served on the defendant
25 under the applicable Alaska Rules of Civil Procedure.

26 (g) When a person brings an action under this section, only the attorney
27 general may intervene or bring a related action based on similar facts to the underlying
28 action.

29 **Sec. 09.58.025. Subpoenas.** In conducting an investigation under
30 AS 09.58.015 or 09.58.020, the attorney general may issue subpoenas to compel the
31 production of books, papers, correspondence, memoranda, and other records in

1 connection with an investigation under or the administration of AS 09.58.010 -
2 09.58.060. If a medical assistance provider or a medical assistance recipient fails or
3 refuses, without just cause, to obey a subpoena issued under this subsection, the
4 superior court may, upon application by the attorney general, issue an order requiring
5 the medical assistance provider or medical assistance recipient to appear before the
6 attorney general to produce evidence.

7 **Sec. 09.58.030. Rights in false or fraudulent claims actions.** (a) If the
8 attorney general elects to intervene and proceed with an action under AS 09.58.020,
9 the attorney general has exclusive authority for prosecuting the action and is not bound
10 by an act of the person bringing the action. The person who brought the action has the
11 right to continue as a nominal party to the action, but does not have the right to
12 participate in the action except as a witness or as otherwise directed by the attorney
13 general. If the attorney general elects to intervene under AS 09.58.020, the attorney
14 general may file a new complaint or amend the complaint filed by the person who
15 brought the action under AS 09.58.020(b).

16 (b) Notwithstanding the objections of the person who brought the action, the
17 attorney general may

18 (1) move to dismiss the action at any time under this chapter if the
19 attorney general has notified the person who brought the action of the intent to seek
20 dismissal and the court has provided the person who brought the action with an
21 opportunity to respond to the motion;

22 (2) settle the action with the defendant at any time, if the court
23 determines, after a hearing, that the proposed settlement is fair, adequate, and
24 reasonable under all the circumstances; upon a showing of good cause, the hearing
25 described in this paragraph shall be held in camera.

26 (c) If the attorney general elects not to proceed under AS 09.58.020 with the
27 action, the person who brought the action has the right to proceed and conduct the
28 action. The attorney general may request at any time during the proceedings to be
29 served with copies of all documents related to the action, including pleadings,
30 motions, and discovery. The attorney general shall pay for the reasonable copying
31 charges for documents provided under this subsection. If the person who brought the

1 action proceeds with the action, the court, without limiting the status and rights of the
2 person who brought the action, shall allow the attorney general to intervene at any
3 time.

4 (d) Whether or not the attorney general proceeds with the action under this
5 chapter, on a showing by the attorney general that certain actions of discovery by the
6 person bringing the action would interfere with pending investigation or prosecution
7 of a criminal or civil proceeding arising out of the same matter, the court may stay the
8 discovery for not more than 90 days. The court may extend the 90-day period on a
9 further showing, in camera, that the state has pursued the criminal or civil
10 investigation or proceedings with reasonable diligence and that proposed discovery in
11 the civil action under AS 09.58.010 - 09.58.060 may interfere with the ongoing
12 criminal or civil investigation or proceedings.

13 **Sec. 09.58.040. Award to false or fraudulent claim plaintiff.** (a) If the
14 attorney general proceeds with an action brought by a person for a violation of
15 AS 09.58.010, the person who brought the action shall receive at least 15 percent but
16 not more than 25 percent of the proceeds of the action or settlement of the claim,
17 depending on the extent to which the person bringing the action contributed to the
18 prosecution of the action. The court order or settlement agreement shall state the
19 percentage and the amount to be received by the person who brought the action. A
20 payment under this subsection to the person who brought the action may only be paid
21 from proceeds received from a judgment or settlement under this section.

22 (b) If the attorney general does not proceed with an action brought under
23 AS 09.58.020, the person bringing the action to judgment or settlement by court order
24 shall receive an amount that the court decides is reasonable for collecting the civil
25 penalty and damages based on the person's effort to prosecute the action successfully.
26 The amount shall be at least 25 percent but not more than 30 percent of the proceeds
27 of the action or settlement of the claim. A payment under this subsection to the person
28 who brought the action may only be paid from proceeds received from a judgment or
29 settlement received under this section.

30 (c) Whether or not the attorney general participates in the action, if the court
31 finds that the action was brought by a person who planned or initiated the violation

1 alleged in the action brought under AS 09.58.020, the court may, to the extent the
2 court considers appropriate, reduce the share of the proceeds of the action that the
3 person would otherwise receive under (a) or (b) of this section, taking into account the
4 role of that person in advancing the case to litigation and any relevant circumstances
5 pertaining to the violation. If the person bringing the action is convicted of criminal
6 conduct arising from the person's role in the violation of AS 09.58.010, the court shall
7 dismiss the person from the civil action and the person may not receive any share of
8 the proceeds of the action or settlement. A dismissal under this subsection does not
9 prejudice the right of the attorney general to continue the action.

10 (d) In this section, "proceeds of the action or settlement"

11 (1) includes damages, civil penalties, payment for cost of compliance,
12 and other economic benefits realized by the state as a result of a civil action brought
13 under AS 09.58.010 - 09.58.060;

14 (2) does not include attorney fees and costs awarded to the state.

15 **Sec. 09.58.050. Certain actions barred.** (a) A person may not bring an action
16 under AS 09.58.020 if the action is

17 (1) based on evidence or information known to the state when the
18 action was brought;

19 (2) based on allegations or transactions that are the subject of a civil or
20 criminal action or an administrative proceeding in which the state is already a party;

21 (3) based on the public disclosure of allegations or actions in a
22 criminal or civil action or an administrative hearing, or from the news media, unless
23 the action is brought by the attorney general or the person bringing the action is an
24 original source of the information that was publicly disclosed; in this paragraph, a
25 person is an original source of the information that was publicly disclosed if the
26 person has independent knowledge, including knowledge based on personal
27 investigation of the defendant's conduct, of the information on which the allegations
28 are based, and has voluntarily provided or verified the information on which the
29 allegations are based or voluntarily provided the information to the attorney general
30 before filing an action under AS 09.58.020 that is based on the information; or

31 (4) against the state or current or former state employees.

Sec. 09.58.060. State not liable for attorney fees, costs, and other expenses.

The state, its agencies, current or former officers, and current or former employees, are not liable for attorney fees, costs, and other expenses that a person incurs in bringing an action under AS 09.58.020.

Sec. 09.58.070. Employee protection for retaliation. (a) An employee of a medical assistance provider who is discharged, demoted, suspended, threatened, harassed, or discriminated against in the terms and conditions of employment by the employee's employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under AS 09.58.010 - 09.58.060, including investigation for, initiation of, testimony for or assistance in an action filed or to be filed under AS 09.58.010 - 09.58.060, is entitled to the same relief authorized under AS 39.90.120.

(b) Notwithstanding (a) of this section, a state employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in the terms and conditions of employment because of lawful acts done by the employee on behalf of the employee or a person who brings an action under AS 09.58.020 or in furtherance of an action under AS 09.58.010 - 09.58.060, including investigation, initiation of, testimony for or assistance in an action filed or to be filed under AS 09.58.010 - 09.58.060, is entitled to relief under AS 39.90.100 - 39.90.150 (Alaska Whistleblower Act).

(c) A person may not bring an action under this section unless the action is commenced not later than three years after the date the employee was subject to retaliation under (a) or (b) of this section.

Sec. 09.58.080. Regulations. The attorney general may adopt regulations under AS 44.62 as necessary to carry out the purposes of this chapter.

Sec. 09.58.090. Special provisions. (a) This chapter does not apply to any controversy involving damages to the state of less than \$5,500 in value.

(b) No punitive damages may be awarded in an action brought under AS 09.58.010 - 09.58.060.

Sec. 09.58.100. Definitions. In this chapter,

(1) "attorney general" includes a designee of the attorney general;

(2) "claim" means a request for payment of health care services or equipment, whether made to a contractor, grantee, or other person, when the state provides, directly or indirectly, a portion of the money, property, or services requested or demanded, or when the state will, directly or indirectly, reimburse the contractor, grantee, or other recipient for a portion of the money, property, or services requested or demanded;

(3) "controversy" means the aggregate of one or more false claims submitted by the same medical assistance provider or medical assistance recipient under this chapter;

(4) "knowingly" means that a person, with or without specific intent to defraud,

(A) has actual knowledge of the information;

(B) acts in deliberate ignorance of the truth or falsity of the information; or

(C) acts in reckless disregard of the truth or falsity of the information;

(5) "medical assistance program" means the federal-state program administered by the Department of Health and Social Services under AS 47.05 and AS 47.07 and regulations adopted under AS 47.05 and AS 47.07;

(6) "medical assistance provider" has the meaning given under AS 47.05.290;

(7) "medical assistance recipient" has the meaning given under AS 47.05.290;

(8) "obligation" means an established duty, whether or not fixed, arising from

(A) an express or implied contractual grantor or grantee or licensor or licensee relationship;

(B) a fee-based or similar relationship;

(C) a statute or regulation; or

(D) the retention of any overpayment.

Sec. 09.58.110. Short title. This chapter may be cited as the Alaska Medical

Assistance False Claim and Reporting Act.

* **Sec. 5.** AS 37.05.146(c) is amended by adding a new paragraph to read:

(88) monetary recoveries under AS 09.58 (Alaska Medical Assistance False Claim and Reporting Act).

* **Sec. 6.** AS 40.25.120(a) is amended by adding a new paragraph to read:

(15) records relating to proceedings under AS 09.58 (Alaska Medical Assistance False Claim and Reporting Act).

* **Sec. 7.** AS 47.05.010 is amended to read:

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

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

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

(3) establish minimum standards for personnel employed by the department and adopt necessary regulations to maintain those standards;

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

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

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

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

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

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

(10) grant to a person claiming or receiving assistance and who is aggrieved because of the department's action or failure to act, reasonable notice and an opportunity for a fair hearing by the office of administrative hearings (AS 44.64.010), and the department shall adopt regulations relative to this;

(11) enter into reciprocal agreements with other states relative to public assistance, welfare services, and institutional care that are considered advisable;

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

(13) establish the divisions and local offices that are considered necessary or expedient to carry out a duty or authority assigned to it and appoint and employ the assistants and personnel that are necessary to carry on the work of the divisions and offices, and fix the compensation of the assistants or employees, except that a person engaged in business as a retail vendor of general merchandise, or a member of the immediate family of a person who is so engaged, may not serve as an acting, temporary, or permanent local agent of the department, unless the commissioner of health and social services certifies in writing to the governor, with

relation to a particular community, that no other qualified person is available in the community to serve as local welfare agent; for the purposes of this paragraph, a "member of the immediate family" includes a spouse, child, parent, brother, sister, parent-in-law, brother-in-law, or sister-in-law;

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

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

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

(17) administer the older Alaskans service grants under AS 47.65.010 - 47.65.050 and the adult day care and family respite care grants under AS 47.65.100;

(18) establish guidelines for health care providers to develop health care delivery models that encourage wellness and disease prevention.

* **Sec. 8.** AS 47.05.200(a) is amended to read:

(a) The department shall annually contract for independent audits of a statewide sample of all medical assistance providers in order to identify overpayments and violations of criminal statutes. The audits conducted under this section may not be conducted by the department or employees of the department. The number of audits under this section **may not be less than 50** each year [, AS A TOTAL FOR THE MEDICAL ASSISTANCE PROGRAMS UNDER AS 47.07 AND AS 47.08, SHALL BE 0.75 PERCENT OF ALL ENROLLED PROVIDERS UNDER THE PROGRAMS, ADJUSTED ANNUALLY ON JULY 1, AS DETERMINED BY THE DEPARTMENT, EXCEPT THAT THE NUMBER OF AUDITS UNDER THIS SECTION MAY NOT BE LESS THAN 75]. The audits under this section must include both on-site audits and desk audits and must be of a variety of provider types. The department may not award a contract under this subsection to an organization that does not retain persons with a significant level of expertise and recent professional

practice in the general areas of standard accounting principles and financial auditing and in the specific areas of medical records review, investigative research, and Alaska health care criminal law. The contractor, in consultation with the commissioner, shall select the providers to be audited and decide the ratio of desk audits and on-site audits to the total number selected. **In identifying providers who are subject to an audit under this chapter, the department shall attempt to minimize concurrent state or federal audits.**

* **Sec. 9.** AS 47.05.200(b) is amended to read:

(b) Within 90 days after receiving each audit report from an audit conducted under this section, the department shall begin administrative procedures to recoup overpayments identified in the audits and shall allocate the reasonable and necessary financial and human resources to ensure prompt recovery of overpayments unless the attorney general has advised the commissioner in writing that a criminal investigation of an audited provider has been or is about to be undertaken, in which case, the commissioner shall hold the administrative procedure in abeyance until a final charging decision by the attorney general has been made. The commissioner shall provide copies of all audit reports to the attorney general so that the reports can be screened for the purpose of bringing criminal charges. **The department may assess interest and penalties on any identified overpayment. Interest under this subsection shall be calculated using the statutory rates for postjudgment interest accruing from the date of the issuance of the final audit.**

* **Sec. 10.** AS 47.05 is amended by adding a new section to read:

Sec. 47.05.235. Duty to identify and repay self-identified overpayments. An enrolled medical assistance provider shall conduct at least one annual review or audit of all claims submitted to the department for reimbursement and, if overpayments are identified, the medical assistance provider shall report the overpayment to the department not later than 10 business days after identification of the overpayment. The report must also identify how the medical assistance provider intends to repay the department. After the department receives the report, the medical assistance provider and the department shall enter into an agreement establishing a schedule for repayment of the identified overpayment. The agreement may authorize repayment in

1 a lump sum, a payment plan, or by offsetting future billings as approved by the
2 department.

3 * **Sec. 11.** AS 47.05 is amended by adding new sections to read:

4 **Sec. 47.05.250. Civil penalties.** (a) The department may adopt regulations to
5 impose a civil penalty against a provider who violates this chapter, AS 47.07, or
6 regulations adopted under this chapter or AS 47.07.

7 (b) A civil penalty imposed under this section may be not less than \$100 and
8 not more than \$25,000 for each violation.

9 (c) The provisions of this section are in addition to any other remedies
10 available under this chapter, AS 47.07, or regulations adopted under this chapter or
11 AS 47.07.

12 **Sec. 47.05.260. Seizure and forfeiture of real or personal property in**
13 **medical assistance fraud cases.** (a) Upon written application by the attorney general
14 establishing probable cause that a medical assistance provider has committed or is
15 committing medical assistance fraud under AS 47.05.210, the court may authorize the
16 seizure of real or personal property listed in (e) of this section to cover the cost of the
17 alleged fraud. The application may be made ex parte if the attorney general establishes
18 sufficient facts to show that notice to the owner of the property would lead to the
19 waste or dissipation of assets subject to seizure. If the attorney general does not
20 establish sufficient facts to show that notice to the owner would lead to the waste or
21 dissipation of assets subject to seizure, the application for seizure must be served on
22 the owners of the property.

23 (b) Upon issuance of the court order authorizing seizure, the owners of the
24 property may not take any action to dispose of the property through transfer of title or
25 sale of the property without written permission from the court. However, an innocent
26 purchaser may not be required to forfeit property purchased in good faith. The
27 purchaser bears the burden of proof to establish that the property was purchased
28 innocently and in good faith.

29 (c) If a medical assistance provider is convicted of medical assistance fraud
30 under AS 47.05.210 after property is seized under this section, the court may order
31 that the property be forfeited to the state and disposed of as directed by the court. If

the property has been sold, the proceeds of the sale shall be transmitted to the proper state officer or employee for deposit into the general fund. The attorney general shall return to the owner of the property any property seized under this section that the court does not order to be forfeited as soon as practicable after the court issues a final judgment in the medical assistance fraud proceeding under AS 47.05.210 and the medical assistance provider pays any fine or restitution ordered by the court.

(d) An action for forfeiture under this section may be joined with a civil or criminal action brought by the state to recover damages resulting from alleged medical assistance fraud.

(e) Property that may be seized under this chapter includes bank accounts, automobiles, boats, airplanes, stocks, bonds, the medical assistance provider's business inventory, and other real or personal property owned and used to conduct the medical assistance provider's business.

* **Sec. 12.** AS 47.07.036 is amended by adding new subsections to read:

(d) Notwithstanding (a) - (c) of this section, the department shall

(1) apply for a section 1915(i) option under 42 U.S.C. 1396n to improve services and care through home and community-based services to obtain a 50 percent federal match;

(2) apply for a section 1915(k) option under 42 U.S.C. 1396n to provide home and community-based services and support to increase the federal match for these programs from 50 percent to 56 percent;

(3) apply for a section 1945 option under 42 U.S.C. 1396w-4 to provide coordinated care through health homes for individuals with chronic conditions and to increase federal match for the services to 90 percent for the first eight quarters the required state plan amendment is in effect;

(4) evaluate and seek permission from the United States Department of Health and Human Services Centers for Medicare and Medicaid Services to participate in various demonstration projects, including payment reform, care management programs, workforce development and innovation, and innovative services delivery models; and

(5) provide incentives for telemedicine, including increasing the

capability for and reimbursement of telemedicine for recipients.

(e) Notwithstanding (a) - (c) of this section, and in addition to the projects and services described under (d) of this section, the department shall apply for a section 1115 waiver under 42 U.S.C. 1315(a) to establish one or more demonstration projects focused on innovative payment models for one or more groups of medical assistance recipients in one or more specific geographic areas. The demonstration project or projects may include

(1) managed care organizations as described under 42 U.S.C. 1396u-2;

(2) community care organizations;

(3) patient-centered medical homes as described under 42 U.S.C. 256a-1; or

(4) other innovative payment models that ensure access to health care without reducing the quality of care.

(f) In this section, "telemedicine" means the practice of health care delivery, evaluation, diagnosis, consultation, or treatment, using the transfer of medical data through audio, visual, or data communications that are performed over two or more locations between providers who are physically separated from the recipient or from each other.

* **Sec. 13.** AS 47.07.900(4) is amended to read:

(4) "clinic services" means services provided by state-approved outpatient community mental health clinics [THAT RECEIVE GRANTS UNDER AS 47.30.520 - 47.30.620], state-operated community mental health clinics, outpatient surgical care centers, and physician clinics;

* **Sec. 14.** AS 47.07.900(17) is amended to read:

(17) "rehabilitative services" means services for substance abusers and emotionally disturbed or chronically mentally ill adults provided by

(A) a drug or alcohol treatment center [THAT IS FUNDED WITH A GRANT UNDER AS 47.30.475]; or

(B) an outpatient community mental health clinic [THAT HAS A CONTRACT TO PROVIDE COMMUNITY MENTAL HEALTH SERVICES UNDER AS 47.30.520 - 47.30.620];

1 * **Sec. 15.** The uncoded law of the State of Alaska is amended by adding a new section to
2 read:

3 INDIRECT COURT RULE AMENDMENTS. (a) AS 09.58.020, enacted by sec. 4 of
4 this Act, has the effect of amending the following court rules in the manner specified:

5 (1) Rules 4, 5, 7, and 12, Alaska Rules of Civil Procedure, by requiring that a
6 complaint under AS 09.58 be filed in camera and under seal and may not be served on the
7 defendant until unsealed and that a copy of the complaint be served on the attorney general;

8 (2) Rules 41 and 77, Alaska Rules of Civil Procedure, by authorizing the
9 attorney general to move for dismissal of a complaint filed by another person under
10 AS 09.58.020, added by sec. 4 of this Act, and requiring court approval for dismissal of the
11 action.

12 (b) AS 09.58.025, added by sec. 4 of this Act, has the effect of amending Rule 27,
13 Alaska Rules of Civil Procedure, by authorizing the attorney general to issue subpoenas as
14 part of an investigation under AS 09.58.025.

15 (c) AS 09.58.030, added by sec. 4 of this Act, has the effect of amending the
16 following court rules in the manner specified:

17 (1) Rule 24, Alaska Rules of Civil Procedure, by authorizing the attorney
18 general to intervene in a civil action filed by another person under AS 09.58.020 and limiting
19 the participation of a party to the litigation;

20 (2) Rules 26 and 27, Alaska Rules of Civil Procedure, by authorizing the
21 attorney general to request that the court issue a stay of discovery for a 90-day period, or
22 longer upon a showing by the attorney general.

23 (d) AS 09.58.040, added by sec. 4 of this Act, has the effect of amending Rules 79
24 and 82, Alaska Rules of Civil Procedure, by giving a person who brings an action under
25 AS 09.58.020 the right to reasonable attorney fees and costs in an action prosecuted by the
26 attorney general.

27 (e) AS 47.05.260, added by sec. 11 of this Act, has the effect of amending Rule 89,
28 Alaska Rules of Civil Procedure, and Rule 37, Alaska Rules of Criminal Procedure, by
29 authorizing the attorney general to apply to the court for authorization to seize property in
30 conjunction with an action filed under AS 47.05.210.

31 * **Sec. 16.** The uncoded law of the State of Alaska is amended by adding a new section to

1 read:

2 **IMPLEMENT FEDERAL POLICY ON TRIBAL MEDICAID REIMBURSEMENT.**

3 (a) The Department of Health and Social Services shall collaborate with Alaska tribal health
4 organizations and the United States Department of Health and Human Services to fully
5 implement changes in federal policy that authorize 100 percent federal funding for services
6 provided to American Indian and Alaska Native individuals eligible for Medicaid.

7 (b) In this section, "Alaska tribal health organization" means an organization
8 recognized by the United States Indian Health Service to provide health-related services.

9 * **Sec. 17.** The uncodified law of the State of Alaska is amended by adding a new section to
10 read:

11 **PRIMARY CARE CASE MANAGEMENT SYSTEM.** To the extent consistent with
12 federal law, the Department of Health and Social Services shall implement the primary care
13 case management system authorized under AS 47.07.030(d). The purpose of the primary care
14 case management system is to increase medical assistance recipients' use of primary and
15 preventive care, while decreasing the use of specialty care and hospital emergency department
16 services. In the design and implementation of the primary care case management system, the
17 Department of Health and Social Services shall

18 (1) determine the regions and populations for which a primary care case
19 management system is practicable;

20 (2) define the care coordination services included and provider types eligible
21 to participate as primary care providers in the system;

22 (3) create a performance and quality reporting system; and

23 (4) integrate the primary care case management system with the demonstration
24 project described under sec. 20 of this Act.

25 * **Sec. 18.** The uncodified law of the State of Alaska is amended by adding a new section to
26 read:

27 **HEALTH INFORMATION INFRASTRUCTURE PLAN.** (a) The Department of
28 Health and Social Services shall develop a health information infrastructure plan to strengthen
29 the health information infrastructure, including health data analytics capability. The purpose
30 of the health information infrastructure plan is to transform the healthcare system in the state
31 by providing

(1) data required by health care providers for care coordination and quality improvement; and

(2) the information support required by the Department of Health and Social Services and healthcare providers to enable development and implementation of the other provisions of this Act.

(b) To the greatest extent practicable, the health information infrastructure plan will leverage existing resources, including the health information exchange, and will identify opportunities for integrating and streamlining health data systems administered by the state.

* **Sec. 19.** The uncodified law of the State of Alaska is amended by adding a new section to read:

EMERGENCY CARE IMPROVEMENT PROJECT. (a) The Department of Health and Social Services may support one or more private initiatives designed to reduce nonurgent use of hospital emergency departments by recipients of medical assistance under AS 47.07 and improve appropriate care in appropriate settings for recipients. The initiative under this section may include

(1) to the extent consistent with federal law, a system for electronic exchange of patient information among hospital emergency departments;

(2) a process for defining and identifying frequent users of hospital emergency departments;

(3) a procedure for educating patients about the use of hospital emergency departments and appropriate alternative services and facilities for nonurgent care;

(4) to the extent consistent with federal law, a process to disseminate lists of frequent users to hospital personnel to ensure that frequent users can be identified through the electronic information exchange system described under (1) of this subsection;

(5) a process for assisting frequent users with plans of care and for assisting patients in making appointments with primary care providers or behavioral health providers, as appropriate, within 96 hours after a hospital emergency department visit;

(6) strict guidelines for the prescribing of narcotics;

(7) a prescription monitoring program; and

(8) designating medical personnel to review feedback reports regarding hospital emergency department use.

(b) In this section, "support" may include the sharing of data, revision of departmental procedures, or development of a shared savings payment model.

* **Sec. 20.** The uncodified law of the State of Alaska is amended by adding a new section to read:

ACCOUNTABLE CARE DEMONSTRATION PROJECT. The Department of Health and Social Services may enter into a contract with one or more accountable care organizations to demonstrate the use of local, provider-led coordinated care entities that agree to monitor care across multiple care settings, such as physician practices, clinics, and hospitals, and that are accountable to the Department of Health and Social Services and other payer partners for the overall cost and quality of care for medical assistance recipients and other participating patient populations. The purpose of this demonstration project is to improve coordination, efficiency, and effectiveness of health care to control the growth in health care costs and increase value for each health care dollar spent. The Department of Health and Social Services may participate in public or private partnerships with other public and private sector purchasers of health care services in this demonstration project. The Department of Health and Social Services shall implement an evaluation plan to measure the success of the demonstration project.

* **Sec. 21.** The uncodified law of the State of Alaska is amended by adding a new section to read:

MEDICAID STATE PLAN INSTRUCTIONS. The Department of Health and Social Services shall immediately amend and submit for federal approval a state plan for medical assistance coverage consistent with this Act. The Department of Health and Social Services shall apply to the United States Department of Health and Human Services for any waivers necessary to implement this Act.

* **Sec. 22.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Health and Social Services may adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the relevant provision of this Act implemented by the regulation.

* **Sec. 23.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 CONDITIONAL EFFECT. AS 09.58, added by sec. 4 of this Act, takes effect only if
3 sec. 15 of this Act receives the two-thirds majority vote of each house required by art. IV, sec.
4 15, Constitution of the State of Alaska.

5 * **Sec. 24.** Section 22 of this Act takes effect immediately under AS 01.10.070(c).

6 * **Sec. 25.** Except as provided in sec. 24 of this Act, this Act takes effect July 1, 2016.