

HOUSE BILL NO. 292

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES SNYDER, Story, Fields

Introduced: 1/27/22

Referred: Health and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to home and community-based services; and providing for an effective
2 date."

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

4 * **Section 1.** AS 47.07.045(a) is amended to read:

5 (a) The department may provide home and community-based services under a
6 waiver or 1915(k) state plan option and Medicaid personal care services under
7 [IN ACCORDANCE WITH] 42 U.S.C. 1396 - 1396p (Title XIX, Social Security
8 Act), this chapter, and regulations adopted under this chapter, if the department has
9 received approval from the federal government and the department has appropriations
10 allocated for the purpose. To supplement the standards in (b) and (c) of this section,
11 the department shall establish in regulation additional standards for eligibility and
12 payment for the services.

13 * **Sec. 2.** AS 47.07.045(b) is amended to read:

14 (b) Before the department may terminate payment for services, reduce

1 payment for services, or reduce the level of services provided under (a) of this
2 section,

3 (1) the department [RECIPIENT] must conduct [HAVE HAD] an
4 annual assessment to determine whether the recipient continues to meet the standards
5 under (a) of this section;

6 (2) an independent qualified health care professional under
7 contract with the department must review the annual assessment conducted
8 under (1) of this subsection; [THE ANNUAL ASSESSMENT MUST HAVE BEEN
9 REVIEWED BY AN INDEPENDENT QUALIFIED HEALTH CARE
10 PROFESSIONAL UNDER CONTRACT WITH THE DEPARTMENT; FOR
11 PURPOSES OF THIS PARAGRAPH, "INDEPENDENT QUALIFIED HEALTH
12 CARE PROFESSIONAL" MEANS,

13 (A) FOR A WAIVER BASED ON INTELLECTUAL OR
14 DEVELOPMENTAL DISABILITY, A PERSON WHO IS QUALIFIED
15 UNDER 42 C.F.R. 483.430 AS A QUALIFIED INTELLECTUAL
16 DISABILITY PROFESSIONAL;

17 (B) FOR OTHER ALLOWABLE WAIVERS, A
18 REGISTERED OR ADVANCED PRACTICE REGISTERED NURSE
19 LICENSED UNDER AS 08.68 WHO IS QUALIFIED TO ASSESS
20 CHILDREN WITH COMPLEX MEDICAL CONDITIONS, OLDER
21 ALASKANS, AND ADULTS WITH PHYSICAL DISABILITIES FOR
22 MEDICAL ASSISTANCE WAIVERS; AND]

23 (3) for purposes of a reduction in payment for services or a
24 reduction in the level of services under this subsection, the annual assessment must
25 find that a recipient who previously qualified for a waiver under this section is
26 able to demonstrate the ability to function and live independently in a home
27 setting under the reduced level of services [THE RECIPIENT'S CONDITION HAS
28 MATERIALLY IMPROVED SINCE THE PREVIOUS ASSESSMENT]; for
29 purposes of a termination of payment for services under this subsection, the
30 annual assessment must find [THIS PARAGRAPH, "MATERIALLY IMPROVED"
31 MEANS] that a recipient who [HAS] previously qualified for a waiver for

(A) a child with complex medical conditions, no longer needs technical assistance for a life-threatening condition, and is expected to be placed in a skilled nursing facility for less than 30 days each year;

(B) intellectual or developmental disability, no longer needs the level of care provided by an intermediate care facility for persons with intellectual and developmental disabilities either because the qualifying diagnosis has changed or the recipient is able to demonstrate the ability to function **and live independently** in a home setting without the need for waiver services; or

(C) an older Alaskan or adult with a physical disability, no longer has a functional limitation or cognitive impairment that would result in the need for nursing home placement, and is able to demonstrate the ability to function **and live independently** in a home setting without the need for waiver services; **and**

(4) the department must provide the notices required by (e) and (f) of this section.

* Sec. 3. AS 47.07.045(d) is amended to read:

(d) In [(c) OF] this section,

(1) "military" means the armed forces of the United States, the United States Coast Guard, or the Alaska National Guard;

(2) "independent qualified health care professional" means

(A) for a waiver based on intellectual or developmental disability, a person who is qualified under 42 C.F.R. 483.430 as a qualified intellectual disability professional;

(B) for other allowable waivers, a person who is qualified to provide personal care services under the 1915(k) state plan option under 42 U.S.C. 1396n or a registered or advanced practice registered nurse licensed under AS 08.68 who is qualified to assess children with complex medical conditions, older Alaskans, and adults with physical disabilities for medical assistance waivers.

* Sec. 4. AS 47.07.045 is amended by adding new subsections to read:

(e) Not later than 10 days after the department receives the results of a recipient's assessment or reassessment under this section, the department shall notify the recipient, or a parent, guardian, or other individual with legal authority to act on the recipient's behalf, in writing of the results.

(f) Not later than 10 days after the department makes a determination relating to a recipient's eligibility, payment for services, or an assessment or reassessment under this section, the department shall notify the recipient, or a parent, guardian, or other individual with legal authority to act on the recipient's behalf, in writing of the determination and that the recipient has a right to appeal the determination. The department shall provide the notice at least 30 days before the date the determination takes effect.

(g) Unless prohibited by federal law, the state shall allow a legally responsible person to provide personal care services under this section to a recipient of medical assistance under the home and community-based services waiver or 1915(k) state plan option under 42 U.S.C. 1396n.

* **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REASSESSMENT. If, between January 1, 2019, and January 1, 2022, the Department of Health and Social Services reduced payment for services or the level of services provided to a recipient under AS 47.07.045(a), the department shall notify the recipient that the recipient may apply to the department for a reassessment. The reassessment shall be conducted under the standards established in AS 47.07.045(b), as amended by sec. 2 of this Act, for a reduction in payment for services or a reduction in the level of services provided to a recipient under AS 47.07.045(a). The department shall establish by regulation a process that allows a recipient to apply for a reassessment.

* **Sec. 6.** The uncodified law of the State of Alaska is amended by adding a new section to read:

MEDICAID STATE PLAN FEDERAL APPROVAL. The Department of Health and Social Services shall amend and submit for federal approval the state plan for medical assistance coverage consistent with AS 47.07.045(a), (b), and (d), as amended by secs. 1 - 3 of this Act, and AS 47.07.045(e) - (g), enacted by sec. 4 of this Act.

1 * **Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to
2 read:

3 RETROACTIVITY. Section 5 of this Act is retroactive to January 1, 2019.

4 * **Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to
5 read:

6 CONDITIONAL EFFECT; NOTIFICATION. (a) Sections 1 - 4 of this Act take effect
7 only if, and only to the extent that, the United States Department of Health and Human
8 Services approves the amendments to the state plan for medical assistance under
9 AS 47.07.045(a), (b), and (d), as amended by secs. 1 - 3 of this Act, and AS 47.07.045(e) -
10 (g), enacted by sec. 4 of this Act.

11 (b) If the United States Department of Health and Human Services approves some or
12 all of the amendments to the state plan submitted under sec. 6 of this Act, the commissioner of
13 health and social services shall notify the revisor of statutes in writing not later than 30 days
14 after receiving notice of the approval.

15 * **Sec. 9.** If secs. 1 - 4 of this Act take effect, they take effect on the day after the date the
16 revisor of statutes receives notice from the commissioner of health and social services under
17 sec. 8 of this Act.

18 * **Sec. 10.** Sections 5 and 7 of this Act take effect immediately under AS 01.10.070(c).