



# LAWS OF ALASKA

1998

**Source**  
SCS CSHB 459(RLS)

**Chapter No.**  
130

## AN ACT

Establishing new eligibility for medical assistance for certain disabled persons and giving their eligibility for services the highest priority among optional services and groups under the medical assistance program; amending the definition of "personal care services in a recipient's home" as used in the medical assistance program; moving midwife services from being the first to being the seventh service eliminated under the medical assistance program when there is insufficient funding; adjusting the priority of optional services and optional eligible groups under the medical assistance program in order to reflect the new priorities given to the newly-eligible disabled persons and to midwife services but without otherwise changing the relative order of the other optional services and optional groups; relating to catastrophic illness assistance; establishing a medical assistance program for chronic and acute medical conditions; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

**Approved by the Governor:** June 24, 1998

**Actual Effective Date:** Sections 4, 6, 7, and 11 take effect July 1, 1998; sections 5 and 8 are conditional; remainder of Act takes effect September 22, 1998

AN ACT

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

Chapter 130

1 and providing for an effective date.

2

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

Chapter 130

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

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

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

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

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

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

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

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

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

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

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

30 (A) a terminal illness;

31 (B) cancer and requires chemotherapy; or

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

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

9 (2) physician services

- 10 (A) related to care under (3) of this subsection;
- 11 (B) provided in a hospital emergency room the same day on  
12 which the recipient is admitted for care under (3) of this subsection;
- 13 (C) provided to a recipient residing in a nursing home; or
- 14 (D) provided in either an outpatient or an inpatient setting to a  
15 recipient with a diagnosis described in (1) of this subsection;

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

20 (4) outpatient laboratory and x-ray services;

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

23 (6) outpatient surgical services;

24 (7) nursing facility care.

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

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

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

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

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

8 \* Sec. 9. TRANSITIONAL PROVISION. Notwithstanding AS 47.07.020(b)(12), added  
9 by sec. 1 of this Act, an individual described in that provision is eligible for medical  
10 assistance under AS 47.07 without the payment of a premium or other cost-sharing charges  
11 for the first two months of the individual's receipt of assistance under AS 47.07.020(b)(12).  
12 Beginning in the third month of the individual's receipt of assistance under  
13 AS 47.07.020(b)(12), the individual shall pay one-twelfth of an annual premium that is  
14 determined by applying a percentage to the annual net income of the individual's family. The  
15 applicable percentage, Y, shall be calculated according to the formula of  $Y = (X-100)/15 -$   
16  $0.75(N-1)$ , where X is the annual net income of the individual's family expressed as a  
17 percentage of the official federal poverty line for a family of the size involved and N is the  
18 number of persons in the individual's family; however, an individual is not required to pay  
19 a premium under this section if the individual's family has a net income that is less than the  
20 applicable federal poverty line for a family of the size involved or if the value of Y calculated  
21 under this section is a negative number. The premium required under this section is payable  
22 until the Department of Health and Social Services, by regulation, establishes another system  
23 for setting and collecting a premium or other cost-sharing charges for persons who receive  
24 medical assistance because they are eligible under AS 47.07.020(b)(12), as enacted by sec. 1  
25 of this Act. For purposes of this section, the annual net income of the individual's family  
26 shall be determined under applicable federal regulations and guidelines.

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

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

## Chapter 130

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.