

**CS FOR HOUSE BILL NO. 162(HES)**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 5/3/99

Referred: Judiciary, Finance

Sponsor(s): REPRESENTATIVE KEMPLER

**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 AS 47.30.910 is repealed and reenacted to read: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

1 benefits under AS 47.31. Charges assessed for services provided under AS 47.30.670 -  
2 47.30.915 when a patient is hospitalized at a state-operated facility may not exceed the  
3 actual cost of care and treatment. The department may, when assessing charges for  
4 services provided at a state-operated facility, consider the ability to pay of a patient,  
5 a patient's spouse, or a patient's parent if the patient is under 18 years of age. In order  
6 to impose liability for a patient's cost of care at a state-operated facility, the department  
7 shall issue an order for payment within six months after the date on which the charge  
8 was incurred. The order remains in effect unless modified by subsequent court order  
9 or department order. The department may not impose liability for a patient's cost of  
10 care at a state-operated facility if the patient would otherwise meet the eligibility  
11 criteria, other than location of service, in AS 47.31.010.

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

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

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

30 (e) The department may charge or accept money or property from a person for  
31 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 47.30.915(4) is amended to read:

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

9 \* **Sec. 3.** AS 47 is amended by adding a new chapter to read:

10 **Chapter 31. Mental Health Treatment Assistance Program.**

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

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

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

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

20 (3) meets the criteria in this chapter.

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

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

25 (A) an involuntary commitment under AS 47.30.700 -  
26 47.30.915; or

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

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

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

8 (b) A patient is considered to have applied for assistance under (a) of this  
9 section if the evaluation facility or designated treatment facility notifies the department  
10 on a form provided by the department that there is good cause to believe that the  
11 patient would be eligible for assistance under this chapter and

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

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

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

22 (d) If a patient, the patient's spouse, the patient's parent if the patient is under  
23 18 years of age, or a person in the patient's household fails to provide records and  
24 information to the department necessary to verify eligibility, the department may issue  
25 an administrative order imposing full liability for the patient's cost of care and  
26 treatment to the evaluation facility or designated treatment facility.

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

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

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

8 **Sec. 47.31.030. Payment.** If the department determines that a patient is  
9 eligible for assistance under this chapter, the department shall provide for payment of  
10 assistance directly to the facility. By endorsing the check received from the  
11 department or authorizing the endorsement by the facility's agent, the facility certifies  
12 that the claim for which the check is payment is true and accurate unless written notice  
13 of an error is sent to the department by the facility within 30 days after the date the  
14 check is presented by the facility for payment.

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

21 (b) The commissioner or the commissioner's designee shall review the notice  
22 of objection and issue a decision within 90 days after its receipt. The commissioner  
23 or the commissioner's designee may request additional information on the appeal from  
24 either the patient, the evaluation facility or designated treatment facility, or department  
25 staff. A request for additional information suspends the time period for the appeal  
26 until the department determines that the additional information has been received. If  
27 more than 180 days have passed from the date of submission of a notice of appeal and  
28 the additional information requested by the commissioner or the commissioner's  
29 designee has not been received from a patient, the evaluation facility, the designated  
30 treatment facility, or the department, the appeal shall be considered denied.

31 (c) The decision on the appeal under (b) of this section, including an appeal

1 denied for failure to submit additional information, is a final agency decision and may  
2 be appealed to the superior court under the Alaska Rules of Appellate Procedure.

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

6 **Sec. 47.31.990. Definitions.** In this chapter, unless the context otherwise  
7 requires,

8 (1) "commissioner" means the commissioner of health and social  
9 services;

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

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

13 (4) "evaluation facility" means a health care facility that has been  
14 designated by the department to perform the evaluations described in AS 47.30.670 -  
15 47.30.915, including a facility licensed under AS 18.20.020 or operated by the federal  
16 government;

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

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

20 (A) residing with the patient; and

21 (B) related to the patient by marriage or other legal relationship

22 giving rise to a duty of support and maintenance;

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

24 \* **Sec. 4. APPLICABILITY.** This Act applies to expenses incurred for mental health  
25 services received on or after the effective date of this Act.

26 \* **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).