

CS FOR SENATE BILL NO. 97(HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY THE SENATE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 4/21/99
Referred: Finance

Sponsor(s): SENATOR PETE KELLY

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5 * **Section 1.** AS 47.30.910 is repealed and reenacted to read: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 an evaluation or**
7 **treatment facility.** (a) A patient, the patient's legal representative acting in a
8 representative capacity, the patient's spouse, or the patient's parents if the patient is
9 under the age of 18 shall pay or contribute to the payment of charges for the care,
10 transportation, and treatment of the patient when the patient is hospitalized under
11 AS 47.30.670 - 47.30.915 at a state-operated facility, an evaluation facility, or a
12 designated treatment facility providing services under AS 47.30.670 - 47.30.915.
13 Charges assessed when a patient is hospitalized at a facility operated by the department
14 or a facility designated by the department to provide services under AS 47.30.670 -

1 47.30.915 may not exceed the actual cost of care and treatment.

2 (b) The department may order payment by the patient or by the person
3 responsible for payment for the patient's care and treatment under this section if the
4 patient is hospitalized at a state-operated facility unless the patient would meet the
5 eligibility criteria in AS 47.31.010 but for the fact that the patient is hospitalized at a
6 state-operated facility. The department may investigate to determine the patient's
7 ability to pay and may require sworn statements by the patient, the patient's legal
8 representative acting in a representative capacity, the patient's spouse, or the patient's
9 parent regarding the income of the patient, the patient's spouse, or the patient's parent.
10 The commissioner may impose full liability for the patient's actual cost of care and
11 treatment on the patient, the patient's legal representative acting in a representative
12 capacity, the patient's spouse, or the patient's parent for refusal to supply a sworn
13 statement of income. In order to impose liability for the cost of a patient's care, an
14 order for payment shall be issued by the department within six months after the date
15 on which the charge was incurred. The order remains in effect unless modified by
16 subsequent court or department order.

17 (c) If a person who is hospitalized under AS 47.30.670 - 47.30.915 at an
18 evaluation facility or a designated treatment facility, a patient's spouse, or a patient's
19 parent cannot pay or contribute to the payment of charges described in (a) of this
20 section, the patient may apply for assistance under AS 47.31.

21 (d) The department may charge or accept money or property from a person for
22 the care or treatment of a patient. Money paid by the patient or on the patient's behalf
23 to the department under this section shall be deposited in the general fund.

24 (e) In this section, "actual cost of the care and treatment" means

25 (1) the rate provided for by a contract entered into under AS 47.30.660;

26 or

27 (2) in the absence of a contract under AS 47.30.660, a daily rate
28 determined by the department.

29 * **Sec. 2.** AS 47.30.915(4) is amended to read:

30 (4) "designated treatment facility" means a hospital, clinic, institution,
31 center, or other health care facility that has been designated by the department for the

1 treatment or rehabilitation of mentally ill persons under AS 47.30.670 - 47.30.915
 2 [AND FOR THE RECEIPT OF THESE PERSONS BY COURT-ORDERED
 3 COMMITMENT,] but does not include correctional institutions;

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

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

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

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

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

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

15 (3) meets the criteria in this chapter.

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

17 (1) been admitted for inpatient evaluation or treatment at an evaluation
 18 facility or a designated treatment facility other than a state-operated hospital after
 19 either

20 (A) an involuntary commitment under AS 47.30.700 -
 21 47.30.915; or

22 (B) a voluntary commitment chosen by the patient after a
 23 determination by the patient's treating physician that the patient meets the
 24 involuntary commitment criteria in AS 47.30.700 - 47.30.915; and

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

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

1 (b) A patient who applies for assistance under this chapter, a patient's legal
 2 representative, a patient's spouse, or a patient's parent must agree to release to the
 3 department and the facility, if appropriate, records and information necessary to verify
 4 eligibility for the assistance.

5 (c) The department may accept an application submitted by an evaluation
 6 facility or a designated treatment facility on a patient's behalf if the facility shows to
 7 the department's satisfaction that the patient

8 (1) was incapable of applying for assistance and a legal representative
 9 was not available to apply on the patient's behalf under (a) of this section; or

10 (2) refused to apply for assistance for reasons related to the patient's
 11 mental illness.

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

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

19 **Sec. 47.31.025. Eligible services; rates.** The department shall identify the
 20 type and level of services for which assistance is available under this chapter. The
 21 department shall establish the rates of payment for those services.

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

29 **Sec. 47.31.035. Appeals.** (a) A patient or the patient's legal representative
 30 may appeal a denial of assistance by sending written notice of objection to the
 31 department within 30 days after the date of the notice of denial. The written notice

1 of objection must include an explanation of the reasons for the objection and may
 2 include documentation supporting the objection. AS 44.62 (Administrative Procedure
 3 Act) does not apply to the appeal.

4 (b) The commissioner or the commissioner's designee shall review the notice
 5 of objection and issue a decision within 90 days after its receipt. The commissioner
 6 or the commissioner's designee may request additional information on the appeal from
 7 either the patient, the facility, or department staff. A request for additional information
 8 suspends the time period for the appeal until the department determines that the
 9 additional information has been received.

10 (c) The decision on the appeal under (b) of this section is a final agency
 11 decision and may be appealed to the superior court under the Alaska Rules of
 12 Appellate Procedure.

13 **Sec. 47.31.900. Regulations.** The department may adopt regulations to
 14 interpret or implement this chapter.

15 **Sec. 47.31.990. Definitions.** In this chapter, unless the context otherwise
 16 requires,

17 (1) "commissioner" means the commissioner of health and social
 18 services;

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

20 (3) "designated treatment facility" has the meaning given in
 21 AS 47.30.915;

22 (4) "evaluation facility" means a health care facility that has been
 23 designated by the department to perform the evaluations described in AS 47.30.670 -
 24 47.30.915, including a facility licensed under AS 18.20.020 or operated by the federal
 25 government;

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

28 (6) "household" means persons who reside together in one residence
 29 as a family unit;

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

31 * **Sec. 4. APPLICABILITY.** This Act applies to expenses incurred for mental health

- 1 services received on or after the effective date of this Act.
- 2 * **Sec. 5.** This Act takes effect immediately under AS 01.10.070(c).