



LAWS OF ALASKA

2004

Source

CSHB 374(FIN) am

Chapter No.

AN ACT

Establishing the senior care program and relating to that program; creating a new fund for the provision of senior services; relating to aid to senior citizens; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1

AN ACT

1 Establishing the senior care program and relating to that program; creating a new fund for the
2 provision of senior services; relating to aid to senior citizens; and providing for an effective
3 date.

4

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

7 SENIOR CARE PROGRAM. (a) The senior care program is established in the
8 Department of Health and Social Services. Under the program, the department shall provide
9 cash assistance and prescription drug benefits as specified in this section as far as practicable
10 under appropriations provided by law.

11 (b) The department shall

12 (1) administer the program; and

13 (2) adopt regulations under AS 44.62 to carry out the purposes of the program.

14 (c) In order to be eligible for the program, an individual shall

- 1 (1) be 65 years of age or older;
2 (2) be a resident of the state;
3 (3) have household income

4 (A) that does not exceed 135 percent of the federal poverty guideline
5 as defined by the federal Office of Management and Budget and revised under 42
6 U.S.C. 9902(2) to be eligible for cash assistance under (d) of this section or
7 prescription drug benefits under (e) of this section; or

8 (B) that exceeds 135 percent, but not exceeding 150 percent, of the
9 federal poverty guideline as defined by the federal Office of Management and Budget
10 and revised under 42 U.S.C. 9902(2) for prescription drug benefits under (f) of this
11 section;

12 (4) meet other eligibility requirements specified in this section and in
13 regulations adopted under this section; and

14 (5) apply on a form provided by the department; the department may use an
15 abbreviated form for individuals who received payments under an assistance program for
16 seniors paying \$120 a month and administered by the department on or before March 31,
17 2004.

18 (d) An eligible individual who meets the income standard of (c)(3)(A) of this section
19 shall receive cash assistance of \$120 a month as far as practicable under appropriations
20 available to the program. The department may prorate the amount of cash assistance paid
21 under this subsection if the department estimates that appropriations for the program are not
22 sufficient to meet the demands for the program in a fiscal year.

23 (e) In place of the cash assistance under (d) of this section, an eligible individual may
24 once annually elect to receive prescription drug benefits, provided in the manner specified by
25 the department in regulation. The total maximum prescription drug benefits an individual
26 may receive under this subsection in a fiscal year is \$1,600. An individual who has
27 prescription drug coverage under AS 47.07 is not eligible to receive prescription drug benefits
28 under this subsection.

29 (f) An eligible individual who meets the income standard of (c)(3)(B) of this section
30 may receive only prescription drug benefits as provided in this subsection. The provisions of
31 (e) of this section apply to prescription drug benefits provided under this subsection except

1 that the total maximum prescription drug benefits that an individual may receive under this
2 subsection in a fiscal year is \$1,000.

3 (g) To receive prescription drug benefits under (e) or (f) of this section, an eligible
4 individual must assign to the department the individual's rights to payments under any other
5 prescription drug program for a prescription drug benefit paid under this section. Payment
6 may not be made under this section for an amount that would otherwise qualify for payment
7 under another prescription drug benefit plan, except for prescription drug coverage received
8 from health care facilities that operated under the authority of 25 U.S.C. 450 - 458 bbb-2 (P.L.
9 93-638).

10 (h) Except as otherwise provided in this subsection, the department may pay under (e)
11 and (f) of this section only for a prescription drug, insulin, and insulin syringes. The
12 department may not pay under (e) and (f) of this section for drugs used to treat obesity,
13 baldness, infertility, or impotence; drugs that are prohibited from receiving funding under the
14 medical assistance program in AS 47.07; smoking cessation products; drugs used for
15 symptomatic relief of coughs and colds; oral vitamins; or brand-name multisource drugs if a
16 therapeutically equivalent generic drug is on the market, except that the department shall pay
17 for brand-name multisource drugs if the prescriber writes on the prescription "medically
18 necessary." The department may also restrict coverage of drugs under (e) and (f) of this
19 section to be consistent with the preferred drug list implemented by the department for
20 purposes of the medical assistance program under AS 47.07.

21 (i) For a fiscal year in which prescription drug benefits under (e) and (f) of this
22 section are not available for a full 12 months, the commissioner may prorate the total
23 maximum amounts available under (e) and (f) of this section according to the number of
24 months for which those benefits are available.

25 (j) The department may not make payment or authorize a benefit under this section to
26 or on behalf of an individual residing in a public institution or nursing facility. For purposes
27 of this subsection, an individual is not considered to be residing in a public institution or
28 nursing facility if the individual is institutionalized for medical services for a period of less
29 than three months and continues to maintain and provide for the expenses of the individual's
30 home or living arrangement to which that individual may return upon discharge from the
31 institution or facility.

1 (k) An eligible individual who leaves the state may not receive cash assistance or
2 prescription drug benefits under this section during the absence unless the individual
3 temporarily leaves for one of the following reasons:

4 (1) medical treatment for the individual;

5 (2) to accompany the individual's family member who is receiving medical
6 treatment outside the state; or

7 (3) a vacation, business trip, or other absence of fewer than 30 consecutive
8 days, unless the individual has applied for and received a time extension from the department
9 for special circumstances.

10 (l) An individual who receives a determination under this section from the department
11 that denies, limits, or modifies prescription drug benefits or cash assistance under this section,
12 other than a determination under (d) or (i) of this section to prorate the amount of benefits or
13 assistance, may request a hearing before the department. The department shall adopt
14 regulations for the conduct of hearings under this subsection. The hearing process under this
15 subsection is not subject to AS 44.62.330 - 44.62.630. The decision of the department after a
16 hearing under this subsection is a final administrative order subject to appeal to the superior
17 court.

18 (m) An individual who receives assistance or benefits under this section when not
19 entitled to them because the information provided by the individual was inaccurate or
20 incomplete is liable to the department for the value of the assistance or benefits improperly
21 provided to the individual. In a civil action brought by the state to recover from the individual
22 the value of assistance or benefits improperly provided under this section, the state may
23 recover from the individual the costs of investigation and prosecution of the civil action,
24 including attorney fees as determined under court rules.

25 (n) Cash assistance provided under this section is inalienable by assignment or
26 transfer and is exempt from garnishment, levy, or execution as provided in AS 09.38.

27 (o) In this section,

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

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

30 (3) "eligible individual" means an individual who meets the requirements of
31 this section and regulations adopted under this section for eligibility for the program;

1 (4) "family member" means a person who is

2 (A) legally related to the individual through marriage or guardianship;

3 or

4 (B) the individual's sibling, parent, grandparent, son, daughter,
5 grandson, granddaughter, uncle, aunt, niece, nephew, or first cousin;

6 (5) "program" means the program established in this section;

7 (6) "public institution" means a governmentally owned establishment that
8 furnishes food, shelter, and some additional treatment or services to 16 or more persons;

9 (7) "resident" has the meaning given in AS 47.25.430(a).

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

12 SENIOR CARE FUND. A senior care fund is established as an account in the general
13 fund. The fund shall be used by the commissioner of health and social services to pay for the
14 costs incurred for the provision of senior services under sec. 1 of this Act. The fund consists
15 of money appropriated to the fund by the legislature. The legislature may appropriate interest
16 earned on money in the fund to the fund.

17 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
18 read:

19 TRANSITION: REGULATIONS. To the extent the regulations are not inconsistent
20 with this Act, regulations adopted by the Department of Health and Social Services in 2003 to
21 provide cash assistance of \$120 a month to seniors that are in effect on March 31, 2004,
22 remain in effect as valid regulations until the department adopts regulations under this Act
23 and those regulations take effect under AS 44.62. Upon the filing of regulations adopted
24 under this Act, the commissioner of health and social services shall post the regulations on the
25 department's Internet website.

26 * **Sec. 4.** (a) This Act is repealed on the date that the Medicare Part D benefit under P.L.
27 101-173 for prescription drugs for Medicare recipients is operational for recipients in this
28 state, as communicated to the commissioner of health and social services by the United States
29 Department of Health and Human Services.

30 (b) The commissioner of health and social services shall notify the revisor of statutes
31 of the date described in (a) of this section.

1 (c) Money in the fund established in sec. 2 of this Act reverts to the unreserved
2 general fund on June 30 in the fiscal year in which this Act is repealed under (a) of this
3 section.

4 * **Sec. 5.** This Act takes effect April 1, 2004.