

HOUSE BILL NO. 374

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/12/04

Referred: Health, Education and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 "An Act establishing the SeniorCare program and relating to that program; and
2 providing for an effective date."

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

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

6 SENIORCARE PROGRAM. (a) The SeniorCare program is established in the
7 Department of Health and Social Services. The SeniorCare program is authorized to provide
8 cash assistance and prescription drug benefits as specified in this section as far as practicable
9 under appropriations provided by law.

10 (b) The department shall

11 (1) administer the SeniorCare program established under (a) of this section;

12 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 must

1 (1) be 65 years of age or older;

2 (2) be a resident of the State of Alaska;

3 (3) have income

4 (A) of not more than 135 percent of the federal poverty level for this
5 state to be eligible for cash assistance under (d) of this section or prescription drug
6 benefits under (e) of this section; or

7 (B) of more than 135 percent, but not more than 150 percent, of the
8 federal poverty level for this state for prescription drug benefits under (f) of this
9 section;

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

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

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

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

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

1 receive under this subsection in a fiscal year is \$1,000.

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

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

21 (i) For any 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.

27 (k) An eligible individual who leaves the state may not receive cash assistance or
28 prescription drug benefits under this section during the absence, unless the individual
29 temporarily leaves for one of the following:

30 (1) medical treatment; or

31 (2) a vacation, business trip, or other absences of less than 30 days, unless the

1 individual has applied for and received a time extension from the department for special
2 circumstances.

3 (l) An individual who receives a determination under this section from the department
4 that denies, limits, or modifies prescription drug benefits or cash assistance under this section,
5 other than a determination under (d) or (i) of this section to prorate the amount of benefits or
6 assistance, may request a hearing before the department. The department shall adopt
7 regulations for the conduct of hearings under this subsection. The hearing process under this
8 subsection is not subject to AS 44.62.330 - 44.62.630. The decision of the department is a
9 final administrative order subject to appeal to the superior court.

10 (m) An individual who receives assistance or benefits under this section when not
11 entitled to them because the information provided by the individual was inaccurate or
12 incomplete is liable to the department for the value of the assistance or benefits improperly
13 provided to the individual. In a civil action brought by the state to recover from the individual
14 the value of assistance or benefits improperly provided under this section, the state may
15 recover from the individual the costs of investigation and prosecution of the civil action,
16 including attorney fees as determined under court rules.

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

19 (o) In this section,

20 (1) "commissioner" means the commissioner of the Department of Health and
21 Social Services;

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

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

25 (4) "program" means the SeniorCare program established in this section;

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

28 (6) "resident" has the meaning given "resident" in AS 47.25.430(a).

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

31 **TRANSITION: REGULATIONS.** To the extent the regulations are not inconsistent

1 with this Act, regulations adopted by the Department of Health and Social Services in 2003 to
2 provide cash assistance of \$120 per month to seniors before the effective date of this Act
3 remain in effect as valid regulations implementing this Act until the department adopts
4 regulations under this Act and those regulations take effect under AS 44.62. Upon the filing
5 of regulations adopted under this Act, the commissioner of the Department of Health and
6 Social Services shall notify the revisor of statutes of the effective date of the regulations and
7 shall post the regulations on the department's Internet website.

8 * **Sec. 3.** This Act is repealed on the date that the commissioner of the Department of
9 Health and Social Services certifies to the revisor of statutes that the commissioner received
10 notification from the United States Department of Health and Human Services that the
11 Medicare Part D benefit under P.L. 101-173 for prescription drugs for Medicare recipients is
12 operational for recipients in this state.

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