

**SENATE BILL NO. 364**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-THIRD LEGISLATURE - SECOND SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 3/8/04

Referred: Health, Education and Social Services, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to liability for expenses of placement in certain mental health facilities;**  
2 **relating to the mental health treatment assistance program; and providing for an**  
3 **effective date."**

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

5 \* **Section 1.** AS 47.30.910(a) is amended to read:

6 (a) A patient, the patient's spouse, or the patient's parent if the patient is under  
7 18 years of age shall pay the charges for the care, transportation, and treatment of the  
8 patient when the patient is hospitalized under AS 47.30.670 - 47.30.915 at a state-  
9 operated facility, an evaluation facility, or a designated treatment facility providing  
10 services under AS 47.30.670 - 47.30.915. The patient, the patient's spouse, or the  
11 patient's parent if the patient is under 18 years of age shall make arrangements with a  
12 state-operated facility, an evaluation facility, or a designated treatment facility for  
13 payment of charges, including providing income information necessary to determine  
14 eligibility for benefits under AS 47.31. Charges assessed for services provided under

1 AS 47.30.670 - 47.30.915 when a patient is hospitalized at a state-operated facility  
 2 may not exceed the actual cost of care and treatment. The department may, when  
 3 assessing charges for services provided at a state-operated facility, consider the ability  
 4 to pay of a patient, a patient's spouse, or a patient's parent if the patient is under 18  
 5 years of age. In order to impose liability for a patient's cost of care at a state-operated  
 6 facility, the department shall issue an order for payment within six months after the  
 7 date on which the charge was incurred. The order remains in effect unless modified  
 8 by subsequent court order or department order. The department may not impose  
 9 liability for a patient's cost of care at a state-operated facility if the patient would **be**  
 10 **eligible for financial assistance under** [OTHERWISE MEET THE ELIGIBILITY  
 11 CRITERIA, OTHER THAN LOCATION OF SERVICE, IN] AS 47.31.010 **if the**  
 12 **care was provided by an evaluation facility or a designated treatment facility.**

13 \* **Sec. 2.** AS 47.31 is amended by adding a new section to read:

14 **Sec. 47.31.007. Limitation on financial assistance and appeals due to lack**  
 15 **of appropriations; notification.** (a) Notwithstanding any contrary provision of this  
 16 chapter, financial assistance under this chapter is subject to appropriation by the  
 17 legislature. Nothing in this chapter creates an entitlement to financial assistance under  
 18 this chapter. Notwithstanding any contrary provision of this chapter, a denial of  
 19 financial assistance under this chapter due to lack of appropriations is not appealable  
 20 under AS 47.31.035.

21 (b) If the department projects, based on registrations, that the need for  
 22 financial assistance under this chapter will exceed the amount of appropriations made  
 23 for financial assistance under this chapter, the department shall post notification of the  
 24 projection on the department's Internet website and provide electronic notice to  
 25 evaluation facilities and designated treatment facilities that have previously served  
 26 patients who received assistance under this chapter.

27 \* **Sec. 3.** AS 47.31.010 is amended to read:

28 **Sec. 47.31.010. Eligibility for assistance.** (a) The department **may** [SHALL]  
 29 provide financial assistance under this chapter to a patient who

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

1 (2) has no **insurance or other third-party resources, including**  
 2 **Medicaid or Medicare**, [THIRD PARTY] to pay for the evaluation or treatment  
 3 provided under AS 47.30; [AND]

4 (3) **has been registered under AS 47.37.012; and**

5 (4) meets the criteria in this chapter.

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

7 (1) been admitted for inpatient evaluation or treatment at an evaluation  
 8 facility or a designated treatment facility other than a state-operated hospital after  
 9 either

10 (A) an involuntary commitment under AS 47.30.700 -  
 11 47.30.915; or

12 (B) a voluntary admission chosen by the patient after a  
 13 determination by the patient's treating physician that the patient meets the  
 14 involuntary commitment criteria in AS 47.30.700 - 47.30.915 and that  
 15 involuntary commitment proceedings would be initiated if the patient did not  
 16 choose to be admitted voluntarily; [AND]

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

20 (3) **no insurance or other third-party resources, including**  
 21 **Medicaid or Medicare, to pay for the cost of evaluation or treatment;**

22 (4) **been timely registered in accordance with AS 47.31.012; and**

23 (5) **not become eligible for discharge in accordance with**  
 24 **AS 47.30.780 during the period for which financial assistance is requested.**

25 \* Sec. 4. AS 47.31 is amended by adding a new section to read:

26 **Sec. 47.31.012. Registration of eligibility for assistance.** (a)  
 27 Notwithstanding any contrary provision of this chapter, the department may not  
 28 provide financial assistance under this chapter unless the patient has been registered  
 29 under this chapter. The registration must be received by the department within 24  
 30 hours after the patient's admission to the facility. The registration may be made by  
 31 telephone call, electronic message, or other means approved by the department. In

1 order to register, information specified by the department by regulation must be  
2 supplied to demonstrate the patient's eligibility for assistance.

3 (b) Registration under (a) of this section must be made for each admission.

4 (c) Following registration for each admission, a complete application for  
5 assistance must be submitted in accordance with AS 47.31.015 and evaluated by the  
6 department for eligibility under this chapter.

7 \* **Sec. 5.** AS 47.31.015(a) is amended to read:

8 (a) To receive assistance under this chapter, a patient or a patient's legal  
9 representative must apply in writing on a form provided by the department. A patient  
10 must apply for assistance within **90** [180] days after the date of **admission to**  
11 **[DISCHARGE FROM]** the facility.

12 \* **Sec. 6.** AS 47.31.015(b) is amended to read:

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

17 (1) the patient, the patient's spouse, or the patient's parent if the patient  
18 is under 18 years of age failed within **60** [150] days after the date of **admission to**  
19 **[DISCHARGE FROM]** the facility to make arrangements to pay the evaluation facility  
20 or designated treatment facility; or

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

23 \* **Sec. 7.** AS 47.31.025 is amended by adding a new subsection to read:

24 (b) Notwithstanding (a) of this section, if the department determines that the  
25 amount of appropriations made for financial assistance under this chapter is less than  
26 the projected need for financial assistance under this chapter, and the department has  
27 given notice under AS 47.31.007(b), the department may reduce the rates calculated  
28 under (a) of this section by the percentage of the shortfall.

29 \* **Sec. 8.** AS 47.31.035(a) is amended read:

30 (a) **Except as provided in (d) of this section, a** [A] patient or the patient's  
31 legal representative may appeal a denial of assistance by sending written notice of

1 objection to the department within 30 days after the date of the notice of denial. The  
2 written notice of objection must include an explanation of the reasons for the objection  
3 and may include documentation supporting the objection. AS 44.62 (Administrative  
4 Procedure Act) does not apply to the appeal.

5 \* **Sec. 9.** AS 47.31.035 is amended by adding a new subsection to read:

6 (d) A denial or reduction of assistance under this chapter due to insufficient  
7 appropriations for financial assistance under this chapter may not be appealed under  
8 this section.

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

11 **APPLICABILITY.** The provisions of this Act do not apply to applications for  
12 assistance under AS 47.31 for admissions occurring on or before the effective date of secs. 1 -  
13 9 of this Act.

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

16 **TRANSITION: REGULATIONS.** The Department of Health and Social Services  
17 may proceed to adopt regulations necessary to implement the changes made by this Act. The  
18 regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the  
19 effective date of the respective statutory change.

20 \* **Sec. 12.** Section 11 of this Act takes effect immediately under AS 01.10.070(c).

21 \* **Sec. 13.** Except as provided in sec. 12 of this Act, this Act takes effect July 1, 2004.