

HOUSE BILL NO. 106

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - FIRST SESSION

BY THE HOUSE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 1/24/05

Referred: Health, Education and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act establishing the senior care program and relating to that program; creating a**
2 **fund for the provision of the senior care program; repealing ch. 3, SLA 2004; and**
3 **providing for an effective date."**

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

5 *** Section 1.** AS 47.45 is amended by adding new sections to read:

6 **Article 3. Senior Care Program.**

7 **Sec. 47.45.300. Senior care program.** (a) The senior care program is
8 established in the Department of Health and Social Services to provide cash assistance
9 benefits and prescription drug benefits as far as practicable under appropriations
10 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
14 program.

1 (c) If the department estimates that appropriations for the program are
 2 insufficient to meet the demands of the program in a fiscal year, the department may
 3 reduce or eliminate the benefits available to recipients. Benefits shall be reduced or
 4 eliminated in the following order:

5 (1) deductible coverage under AS 47.45.320(c);

6 (2) premium coverage under AS 47.45.320(c);

7 (3) cash assistance under AS 47.45.310(b).

8 **Sec. 47.45.310. Cash assistance benefit.** (a) To be eligible for a cash
 9 assistance benefit under the program, an individual must

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

11 (2) be a resident of the state;

12 (3) have household income that does not exceed 135 percent of the
 13 federal poverty line as defined by the federal Office of Management and Budget and
 14 revised under 42 U.S.C. 9902(2), as amended;

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

17 (5) apply on a form provided by the department; the department may
 18 use an abbreviated form for an individual who received a payment under an assistance
 19 program for seniors that paid \$120 a month and was administered by the department
 20 on or before the effective date of this section.

21 (b) An eligible individual who meets the income standard of (a)(3) of this
 22 section shall receive cash assistance of \$120 a month as far as practicable under
 23 appropriations available to the program.

24 (c) Cash assistance provided under this section is inalienable by assignment or
 25 transfer and is exempt from garnishment, levy, or execution as provided in
 26 AS 09.38.015.

27 **Sec. 47.45.320. Prescription drug benefit.** (a) To be eligible for a
 28 prescription drug benefit under the program, an individual must

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

30 (2) be a resident of the state;

31 (3) have household income that does not exceed 300 percent of the

1 federal poverty line as defined by the federal Office of Management and Budget and
2 revised under 42 U.S.C. 9902(2), as amended;

3 (4) not be receiving a cash assistance payment under AS 47.45.310;

4 (5) be enrolled in at least one of the prescription drug programs
5 described in (c) of this section;

6 (6) meet other eligibility requirements specified in this section and in
7 regulations adopted under this section; and

8 (7) apply on a form provided by the department; the department may
9 use an abbreviated form for individuals who received a payment under an assistance
10 program for seniors that paid \$120 a month and was administered by the department
11 on or before the effective date of this section.

12 (b) To receive a prescription drug benefit under this section, an individual

13 (1) may not also receive a similar prescription drug benefit, except for
14 a prescription drug program offered by a facility that operates under the authority of
15 25 U.S.C. 450 - 458bbb-2; and

16 (2) if eligible for a similar prescription drug benefit, must assign to the
17 department the individual's right to payment of the other prescription drug benefit.

18 (c) The department may pay an eligible individual's premium and deductible
19 for a prescription drug benefit authorized under

20 (1) 42 U.S.C. 1395w-101 - 1395w-152, as amended (Medicare, Part
21 D), including

22 (A) a prescription drug plan funded under 42 U.S.C. 1395w-
23 101 - 1395w-152, as amended (Medicare, Part D); and

24 (B) a Medicare Advantage plan that provides prescription drug
25 coverage qualified under 42 U.S.C. 1395w-101 - 1395w-152, as amended
26 (Medicare, Part D);

27 (2) a group health plan, including the federal employees health benefits
28 program and qualified retiree prescription drug plan as defined in 42 U.S.C. 1395w-
29 132, as amended (sec. 1860D-22(a)(2) of the Social Security Act);

30 (3) coverage of prescription drugs for veterans, survivors, and
31 dependants under 38 U.S.C. 1701 - 1774, as amended;

1 (4) coverage under a Medicare supplemental policy, such as medigap
 2 under 42 U.S.C. 1395ss, as amended (sec. 1882 of the Social Security Act) and as
 3 specified in 42 C.F.R. 403.205, that provides a prescription drug benefit regardless of
 4 whether the coverage was issued in accordance with the standardization requirement
 5 under 42 U.S.C. 1395ss(p)(1), as amended (sec. 1882(p)(1) of the Social Security
 6 Act);

7 (5) military coverage under 10 U.S.C. 1071 - 1110, as amended; or

8 (6) any other private plan that is identified by the department as
 9 providing coverage actuarially equivalent to 42 U.S.C. 1395w-101 - 1395w-152, as
 10 amended (Medicare, Part D).

11 (d) If an eligible individual has a prescription drug benefit that is specified in
 12 (c) of this section, but that benefit does not require the individual to pay either a
 13 premium or a deductible, the department may not pay a prescription drug benefit to the
 14 individual under this section.

15 (e) The total prescription drug benefit that an eligible individual may receive
 16 under this section in a fiscal year may not exceed the annual premium cost of a plan
 17 identified in (c) of this section and any deductible required under 42 U.S.C. 1395w-
 18 101 - 1395w-152, as amended (Medicare, Part D).

19 (f) The department may not pay a prescription drug benefit under this section
 20 to an individual who has a prescription drug benefit authorized under

21 (1) Medicaid under 42 U.S.C. 1396 - 1396v, as amended (Title XIX of
 22 the Social Security Act); or

23 (2) a waiver under 42 U.S.C. 1315, as amended (sec. 1115 of the
 24 Social Security Act).

25 (g) An individual residing in a public institution, a nursing facility, the Alaska
 26 Pioneers' Home, or the Alaska Veterans' Home is not eligible for a prescription drug
 27 benefit under this section. For purposes of this subsection, an individual is not
 28 considered to be residing in a public institution or nursing facility if the individual is
 29 institutionalized for medical services for a period of less than three months and
 30 continues to maintain and provide for the expenses of the individual's home or living
 31 arrangement to which that individual may return upon discharge from the institution or

1 facility.

2 **Sec. 47.45.330. Continuation of benefits.** An eligible individual who leaves
3 the state may not receive a cash assistance benefit or prescription drug benefit under
4 AS 47.45.310 or 47.45.320, respectively, during the absence unless the individual's
5 absence is temporary and is for one of the following reasons:

6 (1) medical treatment for the individual;

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

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

12 **Sec. 47.45.340. Appeal rights.** An individual who receives a determination
13 from the department that denies, limits, or modifies a cash assistance benefit or
14 prescription drug benefit under AS 47.45.300 - 47.45.390, other than a determination
15 under AS 47.45.300(c) to reduce or eliminate benefits, may request a hearing before
16 the department under regulations adopted by the department.

17 **Sec. 47.45.350. Ability to recover or recoup improper assistance benefits.**
18 An individual is liable to the department for the value of assistance or benefits
19 improperly paid to the person under AS 47.45.310 or 47.45.320 if the improper
20 payment was based on inaccurate or incomplete information provided by the
21 individual. In a civil action brought by the state to recover from the individual the
22 value of assistance or benefits improperly paid under AS 47.45.310 or 47.45.320, the
23 state may recover from the individual the costs of investigation and prosecution of the
24 civil action, including attorney fees as determined under court rules.

25 **Sec. 47.45.360. Alaska senior care fund.** The Alaska senior care fund is
26 established as an account in the general fund. The fund shall be used by the
27 commissioner of health and social services to pay for costs incurred in the provision of
28 senior services under AS 47.45.300 - 47.45.390. The fund consists of

29 (1) money in the former senior care fund established in sec. 2, ch. 3,
30 SLA 2004;

31 (2) appropriations to the Alaska senior care fund; and

1 (3) any appropriation of interest earned on money in the Alaska senior
2 care fund.

3 **Sec. 47.45.390. Definitions.** In AS 47.45.300 - 47.45.390,

4 (1) "department" means the Department of Health and Social Services;

5 (2) "eligible individual" means an individual who meets the
6 requirements of AS 47.45.310 or 47.45.320, and regulations adopted under those
7 statutes, for eligibility for the program;

8 (3) "family member" means a person who is

9 (A) legally related to an eligible individual through marriage or
10 guardianship; or

11 (B) an eligible individual's sibling, parent, grandparent, son,
12 daughter, grandson, granddaughter, uncle, aunt, niece, nephew, or first cousin;

13 (4) "program" means the senior care program established in
14 AS 47.45.300 - 47.45.390;

15 (5) "public institution" means a governmentally owned establishment
16 that furnishes food, shelter, and some additional treatment or services to 16 or more
17 persons; "public institution" does not include the Alaska Pioneers' Home or Alaska
18 Veterans' Home;

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

20 * **Sec. 2.** AS 37.05.146(c) is amended by adding a new paragraph to read:

21 (78) the Alaska senior care fund (AS 47.45.360).

22 * **Sec. 3.** Chapter 3, SLA 2004 is repealed.

23 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
24 read:

25 TRANSITION: TRANSFER OF ASSETS TO THE ALASKA SENIOR CARE
26 FUND. Subject to appropriation, the assets of the senior care fund created by sec. 2, ch. 3,
27 SLA 2004 are transferred to the Alaska senior care fund (AS 47.45.360), established by sec. 1
28 of this Act.

29 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
30 read:

31 TRANSITION: REGULATIONS. (a) To the extent the regulations are not

1 inconsistent with this Act, regulations adopted by the Department of Health and Social
2 Services in 2003 to provide cash assistance of \$120 a month to seniors that were in effect on
3 June 29, 2004, remain applicable and in effect as valid regulations until the Department of
4 Health and Social Services adopts regulations under this Act and those regulations take effect
5 under AS 44.62.

6 (b) The Department of Health and Social Services may proceed to adopt regulations
7 to implement the changes made by this Act. The regulations take effect under AS 44.62
8 (Administrative Procedure Act), but not before the effective date of the statutory changes.

9 * **Sec. 6.** Section 5(b) of this Act takes effect immediately under AS 01.10.070(c).

10 * **Sec. 7.** Except as provided in sec. 6 of this Act, this Act takes effect on the earlier of the
11 following:

12 (1) the date that the commissioner of health and social services notifies the
13 revisor of statutes that 42 U.S.C. 1395w-101 - 1395w-152 (Medicare, Part D) is operational
14 for recipients in this state, as communicated to the commissioner of health and social services
15 by the United States Department of Health and Human Services; or

16 (2) January 1, 2006.