HOUSE BILL NO. 190

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - FIRST SESSION

BY THE HOUSE FINANCE COMMITTEE

Introduced: 4/11/15
Referred: Finance

A BILL

FOR AN ACT ENTITLED

"An Act relating to a medical assistance reform program; relating to the duties of the Department of Health and Social Services; establishing medical assistance demonstration projects; relating to civil penalties for medical assistance fraud; relating to studies by the Department of Health and Social Services; relating to cost-containment measures for medical assistance; and providing for an effective date."

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

*** Section 1.** AS 47.05 is amended by adding new sections to read:

Sec. 47.05.202. False claims for medical assistance; civil penalty. (a) A person may not

(1) knowingly submit, authorize, or cause to be submitted to a medical assistance agency a false or fraudulent claim for payment or approval;

(2) knowingly make, use, or cause to be made or used, a false record or statement to get a false or fraudulent claim for payment paid or approved by the

medical assistance program under AS 47.07;

(3) conspire to defraud the medical assistance program by getting a false or fraudulent claim paid or approved;

(4) knowingly make, use, or cause to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the medical assistance program under AS 47.07.

(b) A violation under this section is punishable by a civil penalty of not less than $100 and not more than $25,000 in addition to the costs and fees associated with an enforcement action brought under AS 37.10.090 and 37.10.100.

(c) In addition to a civil penalty and costs and fees assessed under (b) of this section, and except as provided under (d) of this section, a court shall award damages in an amount that is three times the amount of actual damages sustained by the state for a violation of (a) of this section.

(d) A court may reduce the damages assessed for a violation of (a) of this section to the amount of actual damages sustained by the state and waive the civil penalty allowed under (b) of this section if the court finds, by a preponderance of the evidence, that the person who committed the violation furnished a state official who is investigating the violation with all information known to that person about the violation and fully cooperated with the investigation, and the information and cooperation led state officials to discover additional violations within 30 days after receiving the information.

(e) The damages and penalties available under this section are not exclusive, and the remedies provided are in addition to other remedies provided by applicable law.

(f) In this section, "knowingly" means that a person, with or without specific intent to defraud,

(1) has actual knowledge of the information;

(2) acts in deliberate ignorance of the truth or falsity of the information; or

(3) acts in reckless disregard of the truth or falsity of the information.

Sec. 47.05.203. Department authority to impose civil penalties. The

department may adopt regulations to assess the civil penalties provided under AS 47.05.202(b) against a medical assistance provider, and, if the penalties are not paid, the department may refer the case to the attorney general for prosecution under AS 47.05.202.

*** Sec. 2.** AS 47.05 is amended by adding a new section to read:

Sec. 47.05.260. Medical assistance reform program. (a) The department shall adopt regulations to design and implement a program for reforming the state medical assistance program under AS 47.07. The reform program must include

(1) referrals to community and social support services, including career and education training services available through the Department of Labor and Workforce Development under AS 23.15, the University of Alaska, or other sources;

(2) distribution of an explanation of medical assistance benefits to recipients for health care services received under the program;

(3) expanding the use of telemedicine for primary care, behavioral health, and urgent care;

(4) enhancing fraud prevention, detection, and enforcement;

(5) reducing the cost of behavioral health, senior, and disabilities services provided to recipients of medical assistance under the state's home and community-based services waiver under AS 47.07.045;

(6) pharmacy initiatives;

(7) enhanced care management;

(8) redesigning the payment process by implementing fee agreements based on performance measures that include premium payments for centers of excellence according to nationally acceptable criteria and penalties for hospital acquired infections, readmissions, and failures of outcomes;

(9) stakeholder involvement in setting annual targets for quality and cost-effectiveness;

(10) to the extent consistent with federal law, reducing travel costs by requiring a recipient to obtain medical services in the recipient's home community, to the extent appropriate services are available in the recipient's home community.

(b) The department shall identify the areas of the state where improvements in

access to telemedicine would be most effective in reducing the costs of medical assistance and improving access to health care services for medical assistance recipients. The department shall make efforts to improve access to telemedicine for recipients in those locations. The department may enter into agreements with Indian Health Service providers, if necessary, to improve access by medical assistance recipients to telemedicine facilities and equipment.

(c) On or before October 15 of each year, the Department of Health and Social Services shall prepare a report and submit the report to the senate secretary and the chief clerk of the house of representatives and notify the legislature that the report is available. The report must include

(1) realized cost savings related to reform efforts under this section;

(2) realized cost savings related to medical assistance reform efforts undertaken by the department other than the reform efforts described in this Act;

(3) a statement of whether the Department of Health and Social Services has met annual targets for quality and cost-effectiveness;

(4) recommendations for legislative or budgetary changes related to medical assistance reforms during the next fiscal year;

(5) changes in federal laws that the department expects will result in a cost or savings to the state of more than $1,000,000;

(6) a description of any medical assistance grants, options, or waivers the department applied for in the previous fiscal year;

(7) the results of demonstration projects the department has implemented;

(8) legal and technological barriers to the expanded use of telemedicine, improvements in the use of telemedicine in the state, and recommendations for changes or investments that would allow cost-effective expansion of telemedicine;

(9) the percentage decrease in costs of travel for medical assistance recipients compared to the previous fiscal year;

(10) the percentage decrease in the number of medical assistance recipients identified as frequent users of emergency departments compared to the

previous fiscal year;

(11) the percentage increase or decrease in the number of hospital readmissions within 30 days after a hospital stay for medical assistance recipients compared to the previous fiscal year;

(12) the percentage increase or decrease in average state general fund spending for each medical assistance recipient compared to the previous fiscal year;

(13) the percentage increase or decrease in uncompensated care costs incurred by medical assistance providers compared to the percentage change in private health insurance premiums for individual and small group health insurance.

(d) In this section, "telemedicine" means the practice of health care delivery, evaluation, diagnosis, consultation, or treatment, using the transfer of medical data through audio, visual, or data communications that are performed over two or more locations between providers who are physically separated from the recipient or from each other.

*** Sec. 3.** AS 47.07 is amended by adding a new section to read:

Sec. 47.07.038. Reduction of nonurgent use of emergency department services by medical assistance recipients; project. (a) On or before September 1, 2015, the department shall design and implement a project to reduce nonurgent use of emergency departments by recipients of medical assistance under this chapter and improve appropriate care in appropriate settings for recipients. The project under this section must include

(1) to the extent consistent with federal law, a system for electronic exchange of patient information among emergency departments;

(2) a process for defining and identifying frequent users of emergency departments;

(3) a procedure for educating patients about the use of emergency departments and appropriate alternative services and facilities for nonurgent care;

(4) to the extent consistent with federal law, a process to disseminate lists of frequent users to hospital personnel to ensure that frequent users can be identified through the electronic information exchange system described under (1) of this subsection;

(5) a process for assisting frequent users with plans of care and for assisting patients in making appointments with primary care providers within 96 hours after an emergency department visit;

(6) strict guidelines for the prescribing of narcotics;

(7) a prescription monitoring program;

(8) designation of medical personnel to review feedback reports regarding emergency department use.

(b) The department shall adopt regulations necessary to implement this section and request technical assistance from and apply to the United States Department of Health and Human Services for waivers or amendments to the state plan as necessary to implement the projects under this section.

*** Sec. 4.** AS 47.07 is amended by adding a new section to read:

Sec. 47.07.076. Report to legislature. (a) The department and the attorney general shall annually prepare a report relating to the medical assistance program under AS 47.07. The report must identify

(1) the amount and source of funds used to prevent or prosecute fraud, abuse, payment errors, and errors in eligibility determinations for the previous fiscal year;

(2) actions taken to address fraud, abuse, payment errors, and errors in eligibility determinations during the previous fiscal year;

(3) specific examples of fraud or abuse that were prevented or prosecuted;

(4) identification of vulnerabilities in the medical assistance program, including any vulnerabilities identified by independent auditors with whom the department contracts under AS 47.05.200;

(5) initiatives the department has taken to prevent fraud or abuse;

(6) recommendations to increase effectiveness in preventing and prosecuting fraud and abuse;

(7) the return to the state for every dollar expended by the department and the attorney general to prevent and prosecute fraud and abuse;

(8) estimated payment error rate measurement for the medical

assistance program;

(9) results from the Medicaid Eligibility Quality Control program.

(b) On or before October 15 of each year, the department shall submit the report required under this section to the senate secretary and the chief clerk of the house of representatives and notify the legislature that the report is available.

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

MEDICAID MANAGED CARE OR CASE MANAGEMENT DEMONSTRATION PROJECT. (a) On or before January 31, 2016, the Department of Health and Social Services shall design and initiate one or more managed care or case management demonstration projects. The department shall contract with a third party to provide managed care or case management services for a group or groups of individuals who qualify for medical assistance under AS 47.07 and may separate a group or groups of individuals into different managed care or case management demonstration projects based on efficiency and cost savings. The purpose of a demonstration project is to ensure sustainability while reducing the cost of medical assistance payments and increasing access to and improving the quality of care available to all medical assistance recipients. A project or projects developed under this section may include

(1) comprehensive care management;

(2) care coordination, including the assignment of a primary care case manager located in the local geographic area of the recipient;

(3) health promotion;

(4) mental health parity as described in 42 U.S.C. 300gg-26.3;

(5) comprehensive transitional care from and follow-up to inpatient treatment;

(6) individual and family support;

(7) referral to community and social support services, including career and education training services available through the Department of Labor and Workforce Development under AS 23.15, the University of Alaska, or other sources.

(b) The department shall enter into contracts with one or more third-party primary care case managers, managed care organizations, prepaid ambulatory health plans, or prepaid inpatient health plans to implement the project established under this section. The contract

must provide for a fee based on a per capita expense that is fair and economical. The department or administrator shall develop a comprehensive system of prior authorizations for payment of services under the project. However, prior authorization may not be required for mental health or primary care services.

(c) The department or a third-party administrator shall designate health care providers or one or more teams of health care providers to provide services that are primary care and patient centered as described by the department for purposes of a project under this section. The department or a third-party administrator shall enter into necessary provider and fee agreements. For primary care case managers, the fee agreement must include an incentive-based management fee system. The fee agreements may not be based on a fee for service but must be based on performance measures, as determined by the department.

(d) A project under this section must include additional cost-saving measures that include innovations to

(1) reduce travel through the expanded use of telemedicine for primary care, urgent care, and behavioral health services; to the extent legal barriers prevent the expanded use of telemedicine, the department shall identify those barriers;

(2) simplify administrative procedures for providers, including streamlined audit, payment, and stakeholder engagement procedures.

(e) In this section, "department" means the Department of Health and Social Services.

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

DEPARTMENT OF HEALTH AND SOCIAL SERVICES FEASIBILITY STUDY. (a) The department shall conduct a study analyzing the feasibility of privatizing services delivered at Alaska Pioneers' Homes, the Alaska Psychiatric Institute, and select facilities of the division of juvenile justice. The department shall deliver a report summarizing the department's conclusions to the senate secretary and the chief clerk of the house of representatives and notify the legislature that the report is available within 10 days after the convening of the Second Regular Session of the Twenty-Ninth Alaska State Legislature.

(b) In this section, "department" means the Department of Health and Social Services.

*** Sec. 7.** The uncodified law of the State of Alaska is amended by adding a new section to read:

MEDICAID STATE PLAN; WAIVERS; INSTRUCTIONS; NOTICE TO REVISOR OF STATUTES. The Department of Health and Social Services shall amend and submit for federal approval a state plan for medical assistance coverage consistent with this Act. The Department of Health and Social Services shall apply to the United States Department of Health and Human Services for any waivers necessary to implement this Act. The commissioner of health and social services shall certify to the revisor of statutes if the provisions of AS 47.05.260(a)(5), (8), and (10), added by sec. 2 of this Act, the provisions of AS 47.07.038, added by sec. 3 of this Act, and the provision of sec. 5 of this Act are approved by the United States Department of Health and Human Services.

*** Sec. 8.** The uncodified law of the State of Alaska is amended by adding a new section to read:

TRANSITION: REGULATIONS. The Department of Health and Social Services may adopt regulations necessary to implement the changes made by this Act. The regulations take effect under AS 44.62 (Administrative Procedure Act), but not before the effective date of the relevant provision of this Act implemented by the regulation.

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

CONDITIONAL EFFECT. (a) AS 47.05.260(a)(5), enacted by sec. 2 of this Act, takes effect only if the commissioner of health and social services certifies to the revisor of statutes under sec. 7 of this Act, on or before October 1, 2017, that all of the provisions added by that section have been approved by the United States Department of Health and Human Services.

(b) AS 47.05.260(a)(8), enacted by sec. 2 of this Act, takes effect only if the commissioner of health and social services certifies to the revisor of statutes under sec. 7 of this Act, on or before October 1, 2017, that all of the provisions added by that section have been approved by the United States Department of Health and Human Services.

(c) AS 47.05.260(a)(10), enacted by sec. 2 of this Act, takes effect only if the commissioner of health and social services certifies to the revisor of statutes under sec. 7 of this Act, on or before October 1, 2017, that all of the provisions added by that section have been approved by the United States Department of Health and Human Services.

(d) AS 47.07.038, enacted by sec. 3 of this Act, takes effect only if the commissioner of health and social services certifies to the revisor of statutes under sec. 7 of this Act, on or

before October 1, 2017, that all of the provisions added by that section have been approved by the United States Department of Health and Human Services.

(e) Section 5 of this Act takes effect only if the commissioner of health and social services certifies to the revisor of statutes under sec. 7 of this Act, on or before October 1, 2017, that all of the provisions added by that section have been approved by the United States Department of Health and Human Services.

*** Sec. 10.** If AS 47.05.260(a)(5), enacted by sec. 2 of this Act, takes effect, it takes effect on the day after the date the commissioner of health and social services makes a certification to the revisor of statutes under secs. 7 and 9(a) of this Act.

*** Sec. 11.** If AS 47.05.260(a)(8), enacted by sec. 2 of this Act, takes effect, it takes effect on the day after the date commissioner of health and social services makes a certification to the revisor of statutes under secs. 7 and 9(b) of this Act.

*** Sec. 12.** If AS 47.05.260(a)(10) takes effect, it takes effect on the day after the date the commissioner of health and social services makes a certification to the revisor of statutes under secs. 7 and 9(c) of this Act.

*** Sec. 13.** If AS 47.07.038, enacted by sec. 3 of this Act, takes effect, it takes effect on the day after the date the commissioner of health and social services makes a certification to the revisor of statutes under secs. 7 and 9(d) of this Act.

*** Sec. 14.** If sec. 5 of this Act takes effect, it takes effect on the day after the date the commissioner of health and social services makes a certification to the revisor of statutes under secs. 7 and 9(e) of this Act.

*** Sec. 15.** Sections 6, 7, and 8 of this Act take effect immediately under AS 01.10.070(c).