

CS FOR SENATE BILL NO. 74(HSS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY THE SENATE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered: 4/11/15

Referred: State Affairs, Finance

Sponsor(s): SENATORS KELLY, Giessel, Micciche, Bishop, MacKinnon, Hoffman, Costello, McGuire, Stedman, Stevens, Coghill, Egan, Meyer

A BILL

FOR AN ACT ENTITLED

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

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

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

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

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

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

1 medical assistance program under AS 47.07;

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

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

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

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

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

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

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

27 (1) has actual knowledge of the information;

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

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

31 **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

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

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

- 11 (1) realized cost savings related to reform efforts under this section;
- 12 (2) realized cost savings related to medical assistance reform efforts
 13 undertaken by the department other than the reform efforts described in this Act;
- 14 (3) a statement of whether the Department of Health and Social
 15 Services has met annual targets for quality and cost-effectiveness;
- 16 (4) recommendations for legislative or budgetary changes related to
 17 medical assistance reforms during the next fiscal year;
- 18 (5) changes in federal laws that the department expects will result in a
 19 cost or savings to the state of more than \$1,000,000;
- 20 (6) a description of any medical assistance grants, options, or waivers
 21 the department applied for in the previous fiscal year;
- 22 (7) the results of demonstration projects the department has
 23 implemented;
- 24 (8) legal and technological barriers to the expanded use of
 25 telemedicine, improvements in the use of telemedicine in the state, and
 26 recommendations for changes or investments that would allow cost-effective
 27 expansion of telemedicine;
- 28 (9) the percentage decrease in costs of travel for medical assistance
 29 recipients compared to the previous fiscal year;
- 30 (10) the percentage decrease in the number of medical assistance
 31 recipients identified as frequent users of emergency departments compared to the

1 previous fiscal year;

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

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

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

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

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

16 **Sec. 47.07.038. Reduction of nonurgent use of emergency department**
17 **services by medical assistance recipients; project.** (a) On or before September 1,
18 2015, the department shall design and implement a project to reduce nonurgent use of
19 emergency departments by recipients of medical assistance under this chapter and
20 improve appropriate care in appropriate settings for recipients. The project under this
21 section must include

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

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

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

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

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

4 (6) strict guidelines for the prescribing of narcotics;

5 (7) a prescription monitoring program;

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

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

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

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

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

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

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

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

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

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

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

31 (8) estimated payment error rate measurement for the medical

1 assistance program;

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

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

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

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

19 (1) comprehensive care management;

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

22 (3) health promotion;

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

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

25 (6) individual and family support;

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

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

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

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

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

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

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

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

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

22 DEPARTMENT OF HEALTH AND SOCIAL SERVICES FEASIBILITY STUDY.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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