

SENATE BILL NO. 10

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY SENATOR DUNLEAVY

Introduced: 1/18/17

Referred: Health and Social Services, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to home and community-based waiver services under Medicaid;**
2 **relating to personal care services; establishing an adult foster care home license and**
3 **procedures in the Department of Health and Social Services; and providing for the**
4 **transition of severely disabled individuals from foster care to adult foster care homes."**

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

6 * **Section 1.** AS 47.07.045 is amended by adding new subsections to read:

7 (e) The department shall provide payment under this section for residential
8 habilitation services if the

9 (A) recipient is a child with complex medical conditions, an
10 adult with physical and developmental disabilities, or an individual with
11 intellectual and developmental disabilities as defined by the department in
12 regulations adopted under this chapter;

13 (B) department approves the services as part of the recipient's
14 plan of care;

1 (C) department authorizes the services in advance; and

2 (D) services are provided in accordance with regulations
3 adopted by the department under this chapter.

4 (f) In addition to the payment under (e) of this section, the department shall
5 provide payment for personal care services for a recipient who receives residential
6 habilitation services in a personal residence or home

7 (1) that provides 24-hour care;

8 (2) where the primary caregiver lives in the personal residence or
9 home;

10 (3) where the health, safety, and welfare of the recipient is not at risk
11 because of the primary caregiver's other obligations; and

12 (4) where a caregiver in the personal residence or home, paid or
13 unpaid, is not a member of the recipient's immediate family.

14 (g) In this section,

15 (1) "home" includes a facility licensed under AS 47.32 as an assisted
16 living home that is authorized to care for not more than eight adults, an adult foster
17 care home, or a foster care home;

18 (2) "personal residence" means a dwelling that a recipient considers to
19 be the recipient's established or principal dwelling.

20 * **Sec. 2.** AS 47.07.900 is amended by adding a new paragraph to read:

21 (20) "residential habilitation services" means services that

22 (A) help a recipient to acquire, retain, or improve skills related
23 to activities of daily living and the self-help, social, and adaptive skills
24 necessary to enable the recipient to reside in a noninstitutional setting; and

25 (B) are provided in a recipient's personal residence, an assisted
26 living home licensed under AS 47.32 to care for not more than eight adults, a
27 foster care home licensed under AS 47.32, or an adult foster care home
28 licensed under AS 47.32.

29 * **Sec. 3.** AS 47.18.300(a) is amended to read:

30 (a) The department, in coordination with local public and private agencies,
31 shall design, develop, and implement a foster care transition program to provide

1 support and services to individuals who

2 (1) reach or have reached the age of

3 (A) 16 or older while in state foster care and have not yet
 4 reached 23 years of age; or

5 (B) 18 or older while in state foster care and are severely
 6 disabled; and

7 (2) meet other eligibility criteria established by the department under
 8 (b) of this section.

9 * **Sec. 4.** AS 47.18 is amended by adding a new section to read:

10 **Sec. 47.18.340. Transition for an individual who is severely disabled.** (a)

11 The department shall assist an individual who is 18 years of age or older while in state
 12 foster care and who is severely disabled in the transition from a placement in a state
 13 foster care home to an adult foster care home licensed under AS 47.32.

14 (b) If the foster parent of an individual who is severely disabled requests that
 15 the placement and services be maintained after the individual is released from state
 16 custody under AS 47.10.100, the department shall provide information and services
 17 necessary to continuously maintain the placement of the individual who is severely
 18 disabled in the same home with the same services, including personal care services,
 19 available to the individual while in state foster care to the extent needed for the
 20 individual.

21 (c) The department may approve the transition of an individual who is
 22 severely disabled from state foster care to an adult foster care home only if the adult
 23 foster care home is licensed under AS 47.32 and the department finds that the needs of
 24 the individual can be adequately and safely met.

25 (d) The department shall adopt regulations to implement this section. The
 26 regulations must include standards for approval of a transition from state foster care to
 27 a licensed adult foster care home of an individual who is severely disabled and
 28 periodic review of the condition of the individual while residing in an adult foster care
 29 home to ensure that an adequate level of accessible services and facilities is provided
 30 to adequately meet the individual's health and safety needs.

31 (e) In this section, "adult foster care home" has the meaning given in

1 AS 47.32.900.

2 * **Sec. 5.** AS 47.18.390 is amended by adding a new paragraph to read:

3 (4) "severely disabled" means that an individual requires a nursing
4 facility level of care, as defined by the department in regulations adopted under this
5 chapter.

6 * **Sec. 6.** AS 47.32.010(b) is amended to read:

7 (b) This chapter and regulations adopted under this chapter apply to the
8 following entities:

- 9 (1) ambulatory surgical centers;
10 (2) assisted living homes;
11 (3) child care facilities;
12 (4) child placement agencies;
13 (5) foster homes;
14 (6) free-standing birth centers;
15 (7) home health agencies;
16 (8) hospices, or agencies providing hospice services or operating
17 hospice programs;
18 (9) hospitals;
19 (10) intermediate care facilities for individuals with an intellectual
20 disability or related condition;
21 (11) maternity homes;
22 (12) nursing facilities;
23 (13) residential child care facilities;
24 (14) residential psychiatric treatment centers;
25 (15) runaway shelters;
26 (16) rural health clinics;
27 **(17) adult foster care homes.**

28 * **Sec. 7.** AS 47.32 is amended by adding a new section to read:

29 **Sec. 47.32.033. Adult foster care license; variance.** The department shall
30 streamline the application and licensing paperwork necessary for a person to be
31 approved to operate an adult foster care home if the person has a foster care license

1 issued under this chapter. The department shall approve a variance for an adult foster
2 care home as provided for a foster care license under AS 47.32.032(b).

3 * **Sec. 8.** AS 47.32.900(2) is amended to read:

4 (2) "assisted living home"

5 (A) means a residential facility that serves three or more adults
6 who are not related to the owner by blood or marriage, or that receives state or
7 federal payment for services regardless of the number of adults served; the
8 department shall consider a facility to be an assisted living home if the facility

9 (i) provides housing and food services to its residents;

10 (ii) offers to provide or obtain for its residents
11 assistance with activities of daily living;

12 (iii) offers personal assistance as defined in
13 AS 47.33.990; or

14 (iv) provides or offers any combination of these
15 services;

16 (B) does not include

17 (i) a correctional facility;

18 (ii) an emergency shelter;

19 (iii) a program licensed under AS 47.10.310 for
20 runaway minors;

21 (iv) a type of entity listed in AS 47.32.010(b)(5), (8),
22 (9), (10), (11), or (12);

23 **(v) an adult foster care home licensed under this**
24 **chapter;**

25 * **Sec. 9.** AS 47.32.900 is amended by adding a new paragraph to read:

26 (22) "adult foster care home" means a residence in which the adult head
27 of household provides 24-hour care on a continuing basis to not more than three adults
28 for compensation or reimbursement; in this paragraph, "care" means to provide for the
29 physical, mental, and social needs of an individual.

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

1 AMENDMENT TO STATE MEDICAL ASSISTANCE PLAN; ADULT FOSTER
2 CARE. The Department of Health and Social Services shall submit for approval by the United
3 States Department of Health and Human Services an amendment to the state medical
4 assistance plan to provide for necessary home and community-based waiver services,
5 including personal care services and daily reimbursement rates for residential habilitation
6 services for an individual who has transitioned to an adult foster care home from a state foster
7 care home under the transition program established under AS 47.18.300(a), as amended by
8 sec. 3 of this Act, and AS 47.18.340, enacted by sec. 4 of this Act. In this section,

9 (1) "adult foster care home" has the meaning given in AS 47.32.900;

10 (2) "residential habilitation services" has the meaning given in AS 47.07.900.