

CS FOR HOUSE BILL NO. 292(HSS)

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-SECOND LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH AND SOCIAL SERVICES COMMITTEE

Offered: 4/20/22

Referred: Finance

Sponsor(s): REPRESENTATIVES SNYDER, Story, Fields, Tarr

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to home and community-based services; and providing for an effective
2 date."

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

4 * **Section 1.** AS 47.07.045(a) is amended to read:

5 (a) The department may provide home and community-based services under a
6 waiver or 1915(k) state plan option and Medicaid personal care services under
7 [IN ACCORDANCE WITH] 42 U.S.C. 1396 - 1396p (Title XIX, Social Security
8 Act), this chapter, and regulations adopted under this chapter, if the department has
9 received approval from the federal government and the department has appropriations
10 allocated for the purpose. To supplement the standards in (b) and (c) of this section,
11 the department shall establish in regulation additional standards for eligibility and
12 payment for the services.

13 * **Sec. 2.** AS 47.07.045(b) is amended to read:

14 (b) Before the department may terminate payment for services or reduce the

1 level of services provided under (a) of this section.

2 (1) the department [RECIPIENT] must conduct [HAVE HAD] an
3 annual assessment to determine whether the recipient continues to meet the standards
4 under (a) of this section;

5 (2) an independent qualified health care professional under
6 contract with the department must review the annual assessment conducted
7 under (1) of this subsection; [THE ANNUAL ASSESSMENT MUST HAVE BEEN
8 REVIEWED BY AN INDEPENDENT QUALIFIED HEALTH CARE
9 PROFESSIONAL UNDER CONTRACT WITH THE DEPARTMENT; FOR
10 PURPOSES OF THIS PARAGRAPH, "INDEPENDENT QUALIFIED HEALTH
11 CARE PROFESSIONAL" MEANS,

12 (A) FOR A WAIVER BASED ON INTELLECTUAL OR
13 DEVELOPMENTAL DISABILITY, A PERSON WHO IS QUALIFIED
14 UNDER 42 C.F.R. 483.430 AS A QUALIFIED INTELLECTUAL
15 DISABILITY PROFESSIONAL;

16 (B) FOR OTHER ALLOWABLE WAIVERS, A
17 REGISTERED OR ADVANCED PRACTICE REGISTERED NURSE
18 LICENSED UNDER AS 08.68 WHO IS QUALIFIED TO ASSESS
19 CHILDREN WITH COMPLEX MEDICAL CONDITIONS, OLDER
20 ALASKANS, AND ADULTS WITH PHYSICAL DISABILITIES FOR
21 MEDICAL ASSISTANCE WAIVERS; AND]

22 (3) for purposes of a reduction in the level of personal care and
23 chore services under 42 U.S.C. 1396n(k) or Medicaid personal care services
24 under 42 U.S.C. 1396 - 1396p (Title XIX, Social Security Act), the annual
25 assessment must find that the recipient's condition has materially improved since the
26 previous assessment; in [FOR PURPOSES OF] this paragraph, "materially improved"
27 means that a recipient who has previously qualified for services is able to function in
28 a home setting with the reduced level of services;

29 (4) for purposes of a termination of payment for services, the
30 annual assessment must find that the recipient's condition has materially
31 improved since the previous assessment; in this paragraph, "materially

1 **improved" means that a recipient who has previously qualified for a service** [A
2 WAIVER] for

3 (A) a child with complex medical conditions, no longer needs
4 technical assistance for a life-threatening condition, and is expected to be
5 placed in a skilled nursing facility for less than 30 days each year;

6 (B) intellectual or developmental disability, no longer needs the
7 level of care provided by an intermediate care facility for persons with
8 intellectual and developmental disabilities either because the qualifying
9 diagnosis has changed or the recipient is able to demonstrate the ability to
10 function in a home setting without the need for [WAIVER] services; or

11 (C) an older Alaskan or adult with a physical disability, no
12 longer has a functional limitation or cognitive impairment that would result in
13 the need for nursing home placement, and is able to demonstrate the ability to
14 function in a home setting without the need for [WAIVER] services; **and**

15 **(5) the department must provide the notices required by (e) and (f)**
16 **of this section.**

17 * Sec. 3. AS 47.07.045(d) is amended to read:

18 (d) In [(c) OF] this section,

19 **(1) "military" means the armed forces of the United States, the United**
20 **States Coast Guard, or the Alaska National Guard;**

21 **(2) "independent qualified health care professional" means**

22 **(A) for a waiver based on intellectual or developmental**
23 **disability, a person who is qualified under 42 C.F.R. 483.430 as a qualified**
24 **intellectual disability professional;**

25 **(B) for other allowable waivers, a registered or advanced**
26 **practice registered nurse licensed under AS 08.68 who is qualified to**
27 **assess children with complex medical conditions, older Alaskans, and**
28 **adults with physical disabilities for medical assistance waivers.**

29 * Sec. 4. AS 47.07.045 is amended by adding new subsections to read:

30 (e) Not later than 10 days after the department receives the results of a
31 recipient's assessment or reassessment under this section, the department shall notify

1 the recipient, or a parent, guardian, or other individual with legal authority to act on
2 the recipient's behalf, in writing of the results.

3 (f) Not later than 10 days after the department makes a determination relating
4 to a recipient's eligibility, payment for services, or an assessment or reassessment
5 under this section, the department shall notify the recipient, or a parent, guardian, or
6 other individual with legal authority to act on the recipient's behalf, in writing of the
7 determination and that the recipient has a right to appeal the determination. The
8 department shall provide the notice at least 30 days before the date the determination
9 takes effect.

10 (g) Unless prohibited by federal law, the state shall allow a legally responsible
11 person to provide personal care services under this section to a recipient of medical
12 assistance under the home and community-based services waiver or 1915(k) state plan
13 option under 42 U.S.C. 1396n.

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

16 REPORT TO THE LEGISLATURE. Not later than one year after the effective date of
17 secs. 1 - 4 this Act, the Department of Health shall submit a report to the senate secretary and
18 chief clerk of the house of representatives and notify the legislature that the report is
19 available. The report must

20 (1) include an assessment of the payment rates for home and community-
21 based services in the state under a waiver or 1915(k) state plan option under 42 U.S.C.
22 1396n(k); the assessment must address the adequacy of those rates to ensure sufficient
23 workforce needs for independent qualified health care professionals; and

24 (2) assess and identify the adequacy of services under AS 47.07.045(a); this
25 analysis shall include the number of individuals eligible for services, the number of
26 individuals receiving services, the average length of time for which an individual is placed on
27 a waitlist for services, and the average hours of service each recipient receives annually,
28 monthly, and weekly; and

29 (3) assess and recommend additional changes to state statute, regulations, and
30 payment for services to enhance the delivery of services under AS 47.07.045(a) to individuals
31 eligible to receive care, particularly changes involving decreasing waitlists, reducing services,

1 and addressing workforce shortages.

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

4 TRANSITION: REASSESSMENT. If, between January 1, 2019, and January 1, 2022,
5 the Department of Health and Social Services reduced the level of services provided to a
6 recipient under AS 47.07.045(a), the department shall notify the recipient that the recipient
7 may apply to the department for a reassessment. The reassessment shall be conducted under
8 the standards established in AS 47.07.045(b), as amended by sec. 2 of this Act, for a reduction
9 in the level of services provided to a recipient under AS 47.07.045(a). The department shall
10 establish by regulation a process that allows a recipient to apply for a reassessment.

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

13 MEDICAID STATE PLAN FEDERAL APPROVAL. The Department of Health shall
14 amend and submit for federal approval the state plan for medical assistance coverage
15 consistent with AS 47.07.045(a), (b), and (d), as amended by secs. 1 - 3 of this Act, and
16 AS 47.07.045(e) - (g), enacted by sec. 4 of this Act.

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

19 RETROACTIVITY. Section 6 of this Act is retroactive to January 1, 2019.

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

22 CONDITIONAL EFFECT; NOTIFICATION. (a) Sections 1 - 4 of this Act take effect
23 only if, and only to the extent that, the United States Department of Health and Human
24 Services approves the amendments to the state plan for medical assistance under
25 AS 47.07.045(a), (b), and (d), as amended by secs. 1 - 3 of this Act, and AS 47.07.045(e) -
26 (g), enacted by sec. 4 of this Act.

27 (b) If the United States Department of Health and Human Services approves some or
28 all of the amendments to the state plan submitted under sec. 7 of this Act, the commissioner of
29 health shall notify the revisor of statutes in writing not later than 30 days after receiving
30 notice of the approval.

31 * **Sec. 10.** If secs. 1 - 4 of this Act take effect, they take effect on the day after the date the

- 1 revisor of statutes receives notice from the commissioner of health under sec. 9 of this Act.
- 2 * **Sec. 11.** Sections 6 and 8 of this Act take effect immediately under AS 01.10.070(c).