

Introduced: 2/18/80  
Referred: Health, Education &  
Social Services

1 IN THE HOUSE

BY MONTGOMERY, HAYES, BEIRNE,  
MARTIN AND PHILLIPS

2 HOUSE BILL NO. 781

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 ELEVENTH LEGISLATURE - SECOND SESSION

5 A BILL

6 For an Act entitled: "An Act relating to assistance to the elderly and to  
7 persons disabled by illness or accident; and providing  
8 for an effective date."

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

10 \* Section 1. AS 47 is amended by adding a new chapter to read:

11 CHAPTER 32. ASSISTANCE FOR THE CARE OF THE  
12 ELDERLY AND DISABLED.

13 Sec. 47.32.010. PAYMENT TO PROVIDERS OF RESIDENTIAL CARE SERVICES.

14 The Department of Health and Social Services shall pay providers of  
15 residential care for costs incurred for providing residential care  
16 treatment for an elderly person or a person disabled by an illness or  
17 accident when the costs of care are beyond the means of the person or  
18 his family.

19 Sec. 47.32.020. RESIDENTIAL CARE REVIEW COMMITTEE. There is  
20 established the Residential Care Review Committee consisting of

21 (1) a medical review officer from the department;

22 (2) a representative of the Department of Administration  
23 appointed by the governor; and

24 (3) a member appointed by the governor.

25 Sec. 47.32.030. APPLICATIONS FOR ASSISTANCE. An application for  
26 assistance under this chapter may be filed by

27 (1) an elderly person or a person who is disabled because of  
28 an illness or accident;

29 (2) a parent, spouse, or legal guardian of an elderly person

1 or a person who is disabled because of an illness or accident; or

2 (3) any other interested party with the written consent of  
3 the elderly person or the person who has been disabled by an illness or  
4 accident.

5 Sec. 47.32.040. STANDARDS FOR PAYMENT TO PROVIDERS. The amount  
6 that the committee authorizes for payment to a provider for residential  
7 care services for an elderly person or for a person who is disabled  
8 because of illness or accident may not exceed the total anticipated  
9 costs related to the residential care services. The committee

10 (1) may pay medical expenses which are related to the illness  
11 or accident only for periods not to exceed 12 months; the first 12-month  
12 period begins with the date of receipt of the application for assistance;

13 (2) may not pay a provider if the total residential care  
14 expenses related to the illness or accident of a person are expected to  
15 be less than \$1,000 for the first 12-month period described in (1) of  
16 this section, after all sources of third-party payment have been ex-  
17 hausted by the person or by someone responsible for the care of the  
18 person;

19 (3) may not pay a provider for the share of the total resi-  
20 dential care expenses required to be paid by the person under AS 47.32.-  
21 050(b).

22 Sec. 47.32.050. CALCULATION OF AMOUNTS OF ASSISTANCE. (a) Annu-  
23 ally, not later than 30 days after enactment of an Act making an appro-  
24 priation for payments authorized by this chapter, the committee shall  
25 determine the expenses payable under this chapter considering the amount  
26 of the appropriation and the expected need.

27 (b) As often as necessary the committee shall adopt a formula to  
28 be used to determine a person's share of total expenses for residential  
29 care, based on the person's annual gross income, number of dependents,

1 amount of assets, and anticipated third-party payments, all considered  
2 with reference to the requirement of this chapter that the person's  
3 share will be paid to the provider on a payment schedule covering a  
4 period of the person's anticipated need for residential care.

5 (c) In applying a formula adopted by the committee to determine  
6 the amount which may be paid by the state for a person under this chap-  
7 ter, the total gross income and the total assets of the family of the  
8 person shall be considered. However, the following may not be con-  
9 sidered:

10 (1) the appraised value of the person's permanent place of  
11 residence;

12 (2) one noncommercial vehicle belonging to the person;

13 (3) tools, equipment, vehicles and other assets required by  
14 the person for a trade or business;

15 (4) the ordinary household and personal effects of the per-  
16 son;

17 (5) \$1,000 of liquid assets of the person;

18 (6) all nonliquid assets of the person unless an exclusion of  
19 those assets would bring about an inequitable result; however, all  
20 income derived from nonliquid assets shall be considered in determining  
21 the person's gross income;

22 (7) inalienable shares in a Native corporation created under  
23 the Alaska Native Claims Settlement Act, P.L. 92-203; 43 U.S.C. 1601 et  
24 seq., for the period of their inalienability as specified in the Act;

25 (8) longevity bonus payments made to the person under AS 47.-  
26 45; and

27 (9) any other assets specifically restricted for the use of  
28 the person by state or federal law.

29 (d) Assets received by the person as a custodian, guardian, con-

1 servator, or trustee for another are not considered assets of the per-  
2 son.

3 Sec. 47.32.060. EXCLUSIONS FROM ASSISTANCE PAYMENTS. Payments may  
4 not be made for the following under this chapter:

5 (1) dentistry and optometry unless prescribed by a licensed  
6 dentist or physician as medically necessary as the result of the injury  
7 or illness;

8 (2) elective medical or surgical procedures;

9 (3) drugs and medications not prescribed by a licensed physi-  
10 cian;

11 (4) services received as a result of a pregnancy or birth  
12 without unusual complications;

13 (5) private psychological or psychiatric treatment or private  
14 alcoholism treatment, unless not available from public agencies or  
15 programs; and

16 (6) chiropractic services.

17 Sec. 47.32.070. DECISION BY COMMITTEE. The committee shall  
18 promptly notify a person applying for assistance of its decision with  
19 written reasons for the amount of the award or denial.

20 Sec. 47.32.080. RECONSIDERATION. (a) A person who is dissatis-  
21 fied with a decision of the committee may apply to the committee for  
22 reconsideration within 30 days of receipt of the decision. The request  
23 for reconsideration must include a written statement of grounds for  
24 reconsideration and any supporting documentation which was not available  
25 to the committee for its original decision.

26 (b) Within 30 days after receipt of a request for reconsideration,  
27 the committee shall affirm, amend, or reverse its original decision.  
28 The committee shall promptly notify the person of its decision on recon-  
29 sideration, with written reasons for its action.

1 (c) Information describing hearing rights and procedures shall be  
2 furnished with a written notification of denial issued by the committee.

3 Sec. 47.32.090. HEARING. A person who is dissatisfied with the  
4 committee's decision on reconsideration may request a hearing in accor-  
5 dance with procedures established by the department under AS 47.25.180.

6 Sec. 47.32.100. FINALITY OF DECISIONS. Decisions made by the  
7 committee are final

8 (1) 30 days after the person receives the committee's deci-  
9 sion unless a reconsideration is requested during that time;

10 (2) 30 days after the person receives the committee's deci-  
11 sion on reconsideration unless a hearing is requested during that time;

12 (3) 15 days after the person receives the hearing authority's  
13 decision if that decision is not appealed to the director during that  
14 time;

15 (4) upon notice of the decision of the director if an appeal  
16 is taken to the director in accordance with procedures established under  
17 AS 47.25.180.

18 Sec. 47.32.110. EXTENSION OF TIME LIMITS. Time limits for recon-  
19 sideration or for requesting an appeal may be extended, at the discre-  
20 tion of the committee, upon application or upon the committee's own  
21 motion. A request for reconsideration or for a hearing shall be con-  
22 sidered made on the date when the request is dispatched rather than the  
23 date when it is received by the committee.

24 Sec. 47.32.120. RECOVERY FROM A COLLATERAL SOURCE. (a) If a  
25 provider receives payment from any other source for medical expenses  
26 which were paid by the committee, the provider is liable to the commit-  
27 tee in the amount of that payment.

28 (b) A provider may not be paid by the committee unless the provi-  
29 der agrees to the repayment as required by this section.

1           Sec. 47.32.130. REGULATIONS. The department shall adopt regula-  
2 tions, in accordance with the Administrative Procedure Act (AS 44.62),  
3 which

4           (1) establish standards of residential care services which  
5 are to be provided under this chapter;

6           (2) establish rates of payment and a payment schedule to  
7 providers for residential care services;

8           (3) assure that a prospective provider of residential care  
9 services is

10           (A) licensed when required by law or regulation;

11           (B) able to meet standards of fiscal accountability for  
12 the receipt of public money; and

13           (C) able to provide levels of residential care to eli-  
14 gible persons in accordance with standards which the department has  
15 adopted.

16           Sec. 47.32.140. DEFINITIONS. In this chapter

17           (1) "committee" means the Residential Care Review Committee,  
18 created under AS 47.32.020;

19           (2) "elderly person" means a person 65 years of age or older;

20           (3) "family" means two or more persons related by blood or  
21 marriage or adoption living as one economic unit;

22           (4) "liquid assets" means assets which can be readily con-  
23 verted to cash without significant loss of value;

24           (5) "nonliquid assets" means all assets which are not liquid  
25 assets;

26           (6) "permanent place of residence" means a dwelling, or a  
27 dwelling unit in a multiple dwelling, and the entire parcel or tract;

28           (7) "provider" means a skilled nursing home, intermediate  
29 care facility, residential home or similar facility, or health main-

1       tenance facility which provides residential care services under this  
2       chapter;

3               (8) "residential care services" means services in a residen-  
4       tial home or similar facility which provides care to eligible persons on  
5       a full-time residential basis without related medical services;

6               (9) "third-party payments" means payments of medical expenses  
7       related to an accident or illness from sources other than the person or  
8       the committee, including but not limited to state and federal medical  
9       assistance programs, private health insurance, employment-related health  
10       insurance, military health insurance, workmen's compensation, violent  
11       crimes compensation, Indian Health Service of the United States Depart-  
12       ment of Health, Education and Welfare, and awards in legal actions.

13       \* Sec. 2. This Act takes effect July 1, 1980.

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