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1 IN THE SENATE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR SENATE BILL NO. 85 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

THIRTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act suspending the certificate of need program;
7 amending provisions related to assistance for health
8 facility construction, Medicaid and general relief
9 medical assistance; and providing for an effective
10 date."

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

12 * Section 1. FINDINGS AND DECLARATION OF POLICY. (a) The legislature
13 finds and declares that health facilities are vital to the welfare of the
14 people of the state. The legislature finds that the certificate of need
15 program, as historically constituted and implemented in Alaska, has created
16 delays in the construction of health care facilities, thus adding to the
17 cost of such facilities both through the expenses of the administrative
18 process itself and through the effects of delay-induced inflation.

19 (b) Because the effects of the changes to be wrought by this Act will
20 require monitoring, and because there is a degree of uncertainty concerning
21 the federal statutory and regulatory environment, the legislature finds and
22 declares that a suspension of the certificate of need process, with auto-
23 matic review in the future, is preferable to an outright repeal of the
24 process at this time.

25 (c) The legislature acknowledges the need to pay health facilities
26 for services provided to beneficiaries of state programs at a level that
27 will meet the proportionate share of the total financial requirements of
28 the facilities that are attributable to those programs given prudent and
29 cost-effective management and operation of such facilities. The

1 legislature finds that, because Medicaid is a joint state and federal
2 program and because federal Medicaid funds have been and are likely to
3 continue to be reduced dramatically, a retrospective payment system no
4 longer serves as an appropriate method of compensation, nor does it respond
5 with appropriate flexibility to continued federal cutbacks. A prospective
6 payment system is necessary to prudently address payments to health facil-
7 ities under the Medicaid and general relief medical assistance programs.

8 * Sec. 2. AS 18.07.021 is amended to read:

9 Sec. 18.07.021. STATE HEALTH PLANNING AND DEVELOPMENT AGENCY.
10 The office of planning and research in the department is the state
11 health planning and development agency designated under 42 U.S.C. Sec.
12 300m(b)(3), (Sec. 3, P.L. 93-641) [SEC. 1521(b)(3), P.L. 93-641]. The
13 office shall perform the functions enumerated under 42 U.S.C. Sec.
14 300m-2(a)(1)-(3), (a)(6)-(8), (b) and (c), (Sec. 3, P.L. 93-641)
15 [SEC. 1523, P.L. 93-641, ADMINISTER THE CERTIFICATE OF NEED PROGRAM
16 OUTLINED IN AS 18.07.041 - 18.07.111,] and other functions prescribed
17 in this chapter.

18 * Sec. 3. AS 18.07.021 is amended to read:

19 Sec. 18.07.021. STATE HEALTH PLANNING AND DEVELOPMENT AGENCY.
20 The office of planning and research in the department is the state
21 health planning and development agency designated under 42 U.S.C. Sec.
22 300m(b)(3), (Sec. 3, P.L. 93-641). The office shall perform the
23 functions enumerated under 42 U.S.C. Sec. 300m-2 [300m-2(a)(1)-(3),
24 (a)(6)-(8), (b) AND (c)], (Sec. 3, P.L. 93-641), administer the certi-
25 ficcate of need program outlined in AS 18.07.041 - 18.07.111, and other
26 functions prescribed in this chapter.

27 * Sec. 4. AS 18.26.220 is repealed and reenacted to read:

28 Sec. 18.26.220. FACILITY COMPLIANCE WITH HEALTH AND SAFETY LAWS
29 AND LICENSING REQUIREMENTS. In order to receive financial assistance

1 under this chapter, a medical facility shall comply with AS 18.20 and
2 the licensing requirements of this chapter.

3 * Sec. 5. AS 18.26.220 is repealed and reenacted to read:

4 Sec. 18.26.220. FACILITY COMPLIANCE WITH HEALTH AND SAFETY LAWS
5 AND LICENSING REQUIREMENTS. A medical facility constructed, acquired,
6 improved, or financed under this chapter and all actions of the
7 authority are subject to AS 18.07, AS 18.20, and any other state
8 licensing requirement for the facilities or services provided under
9 this chapter. A medical facility issued a certificate of need under
10 Sec. 4, ch. 275, SLA 1976 by virtue of being in existence or under
11 construction before July 1, 1976, must fully meet the requirements of
12 AS 18.07 in order to be eligible for funding under this chapter.

13 * Sec. 6. AS 29.89.030(a)(1) is repealed and reenacted to read:

14 (1) to a municipality that has the power to provide hospi-
15 tal facilities and services and that exercises that power, \$250,000
16 per hospital for those hospitals with 10 or more acute care beds, and
17 \$50,000 per hospital for those hospitals with less than 10 acute care
18 beds; money received under this paragraph may be used only for hospi-
19 tals and shall be apportioned among qualifying hospitals as the muni-
20 cipality determines;

21 * Sec. 7. AS 47.07.070 is repealed and reenacted to read:

22 Sec. 47.07.070. PAYMENT TO HEALTH FACILITIES. (a) The commis-
23 sion shall determine prospectively the rate of payment to a health
24 facility under this chapter and AS 47.25.120 - 47.25.300 based on a
25 fair rate for reasonable costs incurred by the facility. The commis-
26 sion shall by regulation list the factors it considers in making its
27 rate determinations under this section.

28 (b) In determining a rate of payment to a health facility under
29 this section, the commission shall consider the proportionate share of

1 the facility's financial requirements for patient care for

2 (1) costs of current operations, including salaries and
3 wages; purchased services, supplies, insurance, leases, depreciation,
4 taxes, interest expense, maintenance and other health facility operat-
5 ing expenses; and

6 (2) education, research, and appropriate capital develop-
7 ment.

8 (c) In determining a rate of payment to a health facility under
9 this section, the commission may consider whether the rate of utiliza-
10 tion of the facility has been reduced because of improvident or care-
11 less development of the facility.

12 * Sec. 8. AS 47.07 is amended by adding new sections to read:

13 Sec. 47.07.071. REPORTS BY HEALTH FACILITIES. Not later than
14 120 days after the end of each fiscal year of a health facility, the
15 facility shall submit to the commission a report on the facility's
16 financial performance during the fiscal year.

17 Sec. 47.07.072. REPORT BY THE COMMISSION. Not later than Sep-
18 tember 30 of each year, the commission shall submit to the governor a
19 report on the prospective payments made under this chapter during the
20 current fiscal year and an estimate of the prospective payments that
21 will be made during the remainder of the current fiscal year and the
22 next fiscal year. The report shall state the assumptions that are
23 used as a basis for the estimates.

24 Sec. 47.07.073. UNIFORM ACCOUNTING, BUDGETING, AND FINANCIAL
25 REPORTING. (a) The commission by regulation shall require a uniform
26 system of accounting, budgeting, and financial reporting for health
27 facilities receiving prospective payments under this chapter. The
28 regulations shall provide for the reporting of revenues, expenses,
29 assets, liabilities, and units of service. The commission shall

1 specify the date the system becomes effective for each health facil-
2 ity.

3 (b) In adopting regulations under this section, the commission
4 shall consider

5 (1) accounting, budgeting, and financial reporting proce-
6 dures used by health facilities;

7 (2) variations among health facilities in the types of
8 health care services provided by health facilities;

9 (3) other factors the commission considers relevant, in-
10 cluding the size and organizational structure of health facilities and
11 the methods used by health facilities to obtain payments.

12 (c) The commission may waive or modify a requirement for ac-
13 counting, budgeting, or financial reporting for a health facility if
14 waiver or modification is

15 (1) necessary to avoid excessive costs to the facility; and

16 (2) consistent with the policies of this chapter.

17 (d) Notwithstanding other provisions of this section, the com-
18 mission may, by regulation, modify the system of accounting, budget-
19 ing, and financial reporting required under this section for a health
20 facility having less than 25 acute care beds in order to reduce the
21 operating costs of that facility.

22 Sec. 47.07.074. AUDITS AND INSPECTIONS. As a condition of
23 obtaining payment under AS 47.07.070, a health facility shall allow

24 (1) the department and the commission reasonable access to
25 the financial records of medical assistance beneficiaries; and

26 (2) inspection of financial records by state and federal
27 agencies to the extent required by federal law.

28 Sec. 47.07.075. APPLICATION OF ADMINISTRATIVE PROCEDURE ACT.
29 Actions of the commission under AS 47.07 and AS 47.25.120 - 47.25.300

1 are subject to the provisions of the Administrative Procedure Act
2 (AS 44.62).

3 * Sec. 9. AS 47.07.080 is amended by adding new paragraphs to read:

4 (6) "commission" means the Medicaid Rate Commission;

5 (7) "health facility" includes a hospital, skilled nursing
6 facility, intermediate care facility, intermediate care facility for
7 the mentally retarded, rehabilitation facility, inpatient psychiatric
8 facility, home health agency, rural health clinic, and outpatient
9 surgical clinic.

10 * Sec. 10. AS 47.07 is amended by adding new sections to read:

11 ARTICLE 2. MEDICAID RATE COMMISSION.

12 Sec. 47.07.110. MEDICAID RATE COMMISSION ESTABLISHED. The
13 Medicaid Rate Commission is established in the Department of Health
14 and Social Services.

15 Sec. 47.07.120. COMPOSITION OF COMMISSION. The commission
16 consists of five members as follows:

17 (1) the chief executive officer of a health facility that
18 is licensed by the state but not owned or operated by the state or
19 federal government and that is subject to the budget review process
20 under this chapter;

21 (2) the commissioner of administration, the commissioner of
22 health and social services, or the appointed designee of either com-
23 missioner;

24 (3) a physician licensed to practice medicine in the state
25 who is actively engaged in the practice of medicine and who is not
26 employed by the state;

27 (4) a certified public accountant with relevant experience;

28 (5) a person representing consumers of health services who
29 does not have a direct or indirect interest in an entity that provides

1 health care services.

2 Sec. 47.07.130. APPOINTMENT OF MEMBERS. Members of the commis-
3 sion are appointed by the governor and serve at the pleasure of the
4 governor.

5 Sec. 47.07.140. TERM OF MEMBERSHIP. The term of a member of the
6 commission appointed under AS 47.07.120(1),(3),(4), or (5) is three
7 years. A member may not be appointed to a successive term. The terms
8 of the members shall be staggered. A member appointed to fill a
9 vacancy serves for the unexpired term of the member. A term shall be
10 measured from January 1 of the year in which the term of the vacant
11 position begins, regardless of when the vacancy is filled.

12 Sec. 47.07.150. COMPENSATION. A member of the commission serves
13 without compensation but is entitled to per diem and travel expenses
14 authorized by law for boards and commissions under AS 39.20.180.

15 Sec. 47.07.160. OFFICERS. At the first meeting of each year,
16 the commission shall elect a chair from among its members.

17 Sec. 47.07.170. MEETINGS AND QUORUM. The commission shall meet
18 as often as is necessary to conduct its business. Three members of
19 the commission constitute a quorum.

20 Sec. 47.07.180. DUTIES. The commission shall review proposed
21 payment rates and budgets of health facilities and establish payment
22 rates for health facilities under this chapter and AS 47.25.120 -
23 47.25.300.

24 Sec. 47.07.190. EMPLOYMENT OF PERSONNEL. The commission may
25 employ and determine the salary of an executive director. With the
26 approval of the commission, the executive director may select and
27 employ additional staff. The commission shall be assisted by the
28 officers or personnel of the department as the commissioner of health
29 and social services shall direct. The executive director of the

1 commission is in the exempt service under AS 39.25.

2 * Sec. 11. AS 47.25 is amended by adding a new section to read:

3 Sec. 47.25.195. PAYMENT TO HEALTH FACILITIES FOR TREATMENT OF
4 NEEDY PERSONS. (a) The department may make payments to a health
5 facility for the treatment of a needy person.

6 (b) A health facility receiving a payment under this chapter is
7 subject to the requirements of AS 47.07.070 - 47.07.075.

8 (c) For purposes of this section, "health facility" includes a
9 hospital, skilled nursing facility, intermediate care facility, inter-
10 mediate care facility for the mentally retarded, rehabilitation facil-
11 ity, inpatient psychiatric facility, home health agency, rural health
12 clinic, and outpatient surgical clinic.

13 * Sec. 12. INTERIM PROSPECTIVE PAYMENT SYSTEM. The department shall
14 establish an interim system of prospective payments for health facilities
15 under this Act for the period July 1, 1983 to June 30, 1984.

16 * Sec. 13. This Act does not affect funds to which the sponsor of a
17 hospital or health facility construction project is entitled under AS 29.90
18 on the effective date of sec. 17 of this Act.

19 * Sec. 14. The operation of AS 18.07.031 - 18.07.101, 18.07.111(1)-(4),
20 18.07.111(7) - (9), 18.07.111(11); AS 29.90 and AS 47.80.140(b) is sus-
21 pended for a period of seven years after the effective date of sec. 17 of
22 this Act.

23 * Sec. 15. AS 47.07.080(1) is repealed.

24 * Sec. 16. Sections 3 and 5 of this Act take effect seven years after
25 the effective date of sec. 17 of this Act.

26 * Sec. 17. Sections 1, 2, 4, and 6 - 15 of this Act take effect imme-
27 diately in accordance with AS 01.10.070(c).

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