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1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

SENATE CS FOR CS FOR HOUSE BILL NO. 98 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - SECOND SESSION

5

A BILL

6 For an Act entitled: "An Act relating to medical assistance; and providing
7 for an effective date."

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

9 * Section 1. AS 44.77 is amended by adding a new section to read:

10 Sec. 44.77.015. CLAIMS FOR MEDICAL SERVICES. (a) For the
11 purposes of filing claims for medical services provided under AS 47.07
12 or 47.25.120 - 47.25.300, "promptly," in AS 44.77.010(a), means (1)
13 within six months after the date of service, or as provided in (b) of
14 this section, if there is no third-party claim, or (2) within 12
15 months after the date of service if there is a third-party claim.
16 Except as provided in (c) of this section, a claim may not be paid if
17 it is not filed promptly; an inference to the contrary may not be
18 drawn from AS 09.10.050, AS 09.50.250 - 09.50,300, or AS 37.25.010.

19 (b) In accordance with (a) of this section, a claim may be
20 considered to be filed promptly if (1) the claim was filed more than
21 six months after the date of service because the medical provider had
22 reason to believe that the beneficiary was ineligible for service
23 under AS 47.07 or AS 47.25.120 - 47.25.300; (2) a court of competent
24 jurisdiction or an administrative hearing officer finds that the
25 beneficiary was eligible for service under AS 47.07 or AS 47.25.120 -
26 47.25.300 on the date of service; and (3) the claim is filed within
27 six months after the date that the court or administrative finding is
28 rendered. The beneficiary is responsible for notifying the medical
29 provider of the judicial or administrative finding. The department

1 shall make a good faith effort to notify the medical provider of the
2 judicial or administrative finding if the department has reason to
3 believe that services have been provided to the beneficiary.

4 (c) The commissioner of health and social services may authorize
5 payment to a medical provider of a claim not promptly filed, upon good
6 cause shown. Payments under this subsection may not exceed 50 percent
7 of the allowable charges presented in the claim.

8 (d) In this section,

9 (1) "beneficiary" means a person who is found to be eligi-
10 ble to receive medical services under AS 47.07 or AS 47.25.120 -
11 47.25.300;

12 (2) "medical provider" means a person, firm, corporation,
13 association, or institution that, on the date of service, was approved
14 to provide medical assistance, in accordance with regulations adopted
15 by the Department of Health and Social Services.

16 * Sec. 2. AS 47.05 is amended by adding a new section to read:

17 Sec. 47.05.070. SUBROGATION. (a) If the department provides or
18 pays for medical assistance for injury or illness under this title,
19 the department is subrogated to the rights of the recipient of that
20 medical assistance for any claim arising from the injury or illness
21 and to the proceeds of an insurance policy covering the injury or
22 illness to the extent of the value of the medical assistance provided.

23 (b) If a recipient of medical assistance under this title set-
24 tles a claim or obtains an award or judgment arising from the injury
25 or illness for which the medical assistance was received, the depart-
26 ment shall reimburse the recipient for attorney fees and costs commen-
27 surate with the amount of the settlement, award, or judgment to which
28 the department is entitled under (a) of this section. Regardless of
29 the manner in which the amount of the attorney fees is derived,

1 reimbursement of attorney fees shall be in accordance with the appli-
2 cable rules of court governing the award of attorney fees in civil
3 matters.

4 * Sec. 3. AS 47.07.020(b) is amended to read:

5 (b) In addition to the persons specified in (a) of this section,
6 the following optional groups of persons for whom the state may claim
7 federal financial participation are eligible for medical assistance:

8 (1) persons eligible for but not receiving assistance under
9 any plan of the state approved under 42 U.S.C. 601 - 615 (Title IV-A,
10 Social Security Act, Aid to Families with Dependent Children) or 42
11 U.S.C. 1381 - 1383c (Title XVI, Social Security Act, Supplemental
12 Security Income);

13 (2) persons in a general hospital, skilled nursing facility
14 or intermediate care facility, who, if they left the facility, would
15 be eligible for assistance under one of the federal programs specified
16 in (1) of this subsection;

17 (3) persons under age 21 who are [YEARS OF AGE] under
18 supervision of the department, for whom maintenance is being paid in
19 whole or in part from public funds, and who are in foster homes or
20 private child-care institutions;

21 (4) aged, blind, or disabled persons, who, because they do
22 not meet income requirements, do not receive supplemental security
23 income under 42 U.S.C. 1381 - 1383c (Title XVI, Social Security Act),
24 and who do not receive a mandatory state supplement, but who are
25 eligible, or would be eligible if they were not in a [GENERAL HOSPITAL
26 OR] skilled nursing facility or intermediate care facility to receive
27 an optional state supplementary payment;

28 (5) persons under age 21 who are [YEARS OF AGE] in an
29 institution designated as an intermediate care facility for the

1 mentally retarded and who are financially eligible as determined by
2 the standards of the federal aid to families with dependent children
3 program;

4 (6) persons in a medical or intermediate care facility
5 whose income while in the facility does not exceed 300 percent of the
6 supplemental security income benefit rate under 42 U.S.C. 1381 - 1383c
7 (Title XVI, Social Security Act) but who would not be eligible for an
8 optional state supplementary payment if they left the hospital or
9 other facility;

10 (7) persons under age 21 who are [YEARS OF AGE] receiving
11 active treatment in a psychiatric hospital and who are financially
12 eligible as determined by the standards of 42 U.S.C. 601 - 615 (Title
13 IV-A, Social Security Act, Aid to Families with Dependent Children);

14 (8) persons under age 21 and not covered under (a) of this
15 section, [YEARS OF AGE] who would be eligible for benefits under the
16 federal aid to families with dependent children program, except that
17 they have the care and support of both their natural and adoptive
18 parents [BUT WHO DO NOT QUALIFY BECAUSE THEY ARE NOT DEPENDENT CHILD-
19 REN];

20 (9) [WOMEN WHO ARE] pregnant women not covered under (a) of
21 this section and who meet the income and resource requirements of the
22 federal aid to families with dependent children program.

23 * Sec. 4. AS 47.07.030 is repealed and reenacted to read:

24 Sec. 47.07.030. MEDICAL SERVICES TO BE PROVIDED. (a) The de-
25 partment shall offer all mandatory services required under 42 U.S.C.
26 1396 - 1396p (Title XIX of the Social Security Act).

27 (b) In addition to the mandatory services specified in (a) of
28 this section, the department may offer only the following optional
29 services: personal care services in a recipient's home; emergency

1 hospital services; long-term care noninstitutional services; medical
2 supplies and equipment; clinic services; inpatient psychiatric facili-
3 ty services for individuals age 65 or older and individuals under age
4 21; physical therapy; occupational therapy; chiropractic services;
5 treatment of speech, hearing, and language disorders; adult dental
6 services; prosthetic devices and eyeglasses; optometrists' services;
7 intermediate care facility services, including intermediate care
8 facility services for the mentally retarded; skilled nursing facility
9 services for individuals under age 21; and reasonable transportation
10 to and from the point of medical care.

11 * Sec. 5. AS 47.07.035 is repealed and reenacted to read:

12 Sec. 47.07.035. PRIORITY OF MEDICAL ASSISTANCE. If the depart-
13 ment finds that the cost of medical assistance for all persons eligi-
14 ble under this chapter will exceed the amount allocated in the state
15 budget for that assistance for the fiscal year, the department shall
16 eliminate coverage for optional medical services and optionally eligi-
17 ble groups of individuals in the following order:

- 18 (1) chiropractic services;
- 19 (2) adult dental services;
- 20 (3) emergency hospital services;
- 21 (4) treatment of speech, hearing, and language disorders;
- 22 (5) optometrists' services and eyeglasses;
- 23 (6) occupational therapy;
- 24 (7) prosthetic devices;
- 25 (8) medical supplies and equipment;
- 26 (9) clinic services;
- 27 (10) physical therapy;
- 28 (11) personal care services in a recipient's home;
- 29 (12) long-term care noninstitutional services;

- 1 (13) inpatient psychiatric facility services;
2 (14) intermediate care facility services for the mentally
3 retarded;
4 (15) intermediate care facility services;
5 (16) individuals under age 21 who are not eligible for
6 benefits under the federal aid to families with dependent children
7 program because they are not deprived of one or more of their natural
8 or adoptive parents;
9 (17) skilled nursing facility services for persons under age
10 21;
11 (18) aged, blind, and disabled individuals who, because they
12 do not meet the income requirements, do not receive supplemental
13 security income under Title XVI of the Social Security Act, but who
14 are eligible, or would be eligible if they were not in a skilled
15 nursing facility or intermediate care facility, to receive an optional
16 state supplementary payment;
17 (19) individuals in a hospital, skilled nursing facility, or
18 intermediate care facility whose income while in the facility does not
19 exceed 300 percent of the supplemental security income benefit rate
20 under Title XVI of the Social Security Act, but who, because of in-
21 come, are not eligible for the optional state supplementary payment;
22 (20) individuals under age 21 under supervision of the
23 department, for whom maintenance is being paid in whole or in part
24 from public money and who are in foster homes or private child-care
25 institutions.

26 * Sec. 6. AS 47.07.040 is amended to read:

27 Sec. 47.07.040. STATE PLAN FOR PROVISION OF MEDICAL ASSISTANCE.

28 The department shall prepare a state plan in accordance with the
29 provisions of 42 U.S.C. 1396 1396p (Title XIX, Social Security Act,

1 Medical Assistance) and submit it for approval to the United States
2 Department of Health and Human Services. The plan shall designate
3 that the Department of Health and Social Services is the single state
4 agency to administer this plan. The department shall act for the
5 state in any negotiations relative to the submission and approval of
6 the plan. The department, including the Medicaid Rate Commission,
7 [AND] may make those arrangements or regulatory changes, not inconsis-
8 tent with law, as may be required under federal law to obtain and
9 retain approval of the United States Department of Health and Human
10 Services to secure for the state the optimum federal payment under the
11 provisions of 42 U.S.C. 1396 - 1396p (Title XIX, Social Security Act,
12 Medical Assistance). In addition, the department shall provide a
13 report to the legislature no later than March 15 of each year concern-
14 ing the status of this program and recommendations, with supporting
15 fiscal data, as to any changes in the coverage of eligible persons or
16 services to be provided.

17 * Sec. 7. AS 47.07.070 is amended by adding a new subsection to read:

18 (d) In determining a rate of payment to a health facility under
19 this section, the commission shall consider the appropriation limit
20 set by the legislature for the department's programs under this chap-
21 ter and under AS 47.25.120 - 47.25.300, and available federal revenue.

22 * Sec. 8. AS 47.07.180 is repealed and reenacted to read:

23 Sec. 47.07.180. DUTIES. (a) The commission shall review pro-
24 posed payment rates for health facilities under this chapter and
25 AS 47.25.120 - 47.25.300.

26 (b) The commission may review budgets of, and shall establish
27 payment rates for, health facilities under this chapter and AS 47.-
28 25.120 - 47.25. 300.

29 (c) The commission shall consult with the department on the

1 state plan as it relates to health facilities. The commission may not
2 change the unit of payment without the written consent of the depart-
3 ment.

4 (d) By March 1 of each year, the commission shall develop for
5 the fiscal year starting the next July 1 an annual estimate of medical
6 assistance program expenditures in health facilities under the juris-
7 diction of the commission. The estimate shall consider anticipated
8 utilization and payment rates for each facility. The methodology used
9 by the commission to develop the estimate shall be consistent with the
10 regulations governing the commission's rate-setting process.

11 * Sec. 9. AS 47.07.900(1) is amended to read:

12 (1) "clinic services" means services provided by state-
13 approved outpatient community mental health clinics that receive
14 grants under AS 47.30.520 - 47.30.620, state-operated community mental
15 health clinics, outpatient surgical care centers, and physician clin-
16 ics;

17 * Sec. 10. AS 47.07.900 is amended by adding new paragraphs to read:

18 (7) "adult dental services" means minimum treatment for the
19 immediate relief of pain and acute infection provided by a licensed
20 dentist;

21 (8) "chiropractic services" includes only services that are
22 provided by a chiropractor licensed under AS 08.20 that consist of
23 treatment by means of manual manipulation of the spine and x-rays
24 necessary for treatment;

25 (9) "emergency hospital services" means services that
26 (A) are necessary to prevent the death or serious
27 impairment of the health of the individual; and
28 (B) because of the threat to the life or health of the
29 individual, necessitate the use of the most accessible hospital

1 available that is equipped to furnish the services, even if the
2 hospital does not currently meet

3 (i) the conditions for participation under Medi-
4 care; or

5 (ii) the definitions of inpatient or outpatient
6 hospital services under 42 C.F.R. secs. 440.10 and 440.20.

7 (10) "personal care services in a recipient's home" means
8 services prescribed by a physician in accordance with the recipient's
9 plan of treatment and provided by an individual who is

10 (A) qualified to provide the services;

11 (B) supervised by a registered nurse; and

12 (C) not a member of the recipient's family.

13 * Sec. 11. AS 44.77.010(b) is repealed.

14 * Sec. 12. This Act takes effect immediately in accordance with AS 01.-
15 10.070(c).