

Offered: 3/27/85
Referred: Finance

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR HOUSE BILL NO. 209 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FOURTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act relating to substitution of generic drugs by
7 pharmacists; adding pharmaceuticals to the Medicaid
8 program; and providing for an effective date."

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

10 * Section 1. AS 08.80.295(a) is amended to read:

11 (a) Unless the prescriber expressly states that a prescription
12 is to be dispensed only as written [EXCEPT AS LIMITED BY (b) AND (c)
13 OF THIS SECTION, WITH THE CONSENT OF THE PURCHASER], the pharmacist
14 may substitute a drug product with the same generic name in the same
15 strength, quantity, dose and dosage form as the prescription, provided
16 the substitute drug [PRESCRIBED DRUG WHICH] is, in the pharmacist's
17 professional opinion, therapeutically equivalent and meets the stan-
18 dards of (g) of this section. The [UPON SUBSTITUTION THE] pharmacist
19 shall notify the purchaser and the prescriber [PERSON WHO PRESCRIBED
20 THE DRUG] of the substitution, and shall record on the prescription
21 and keep a record of the name and manufacturer of the drug
22 substituted. If a substitution is permitted under this section but
23 the pharmacist does not make the substitution, the pharmacist shall
24 inform the purchaser that a substitution was not made and the reason
25 why it was not made.

26 * Sec. 2. AS 08.80.295 is amended by adding new subsections to read:

27 (i) A pharmacist who substitutes a drug in compliance with this
28 section incurs no greater liability in filling the prescription by
29 dispensing the equivalent drug product than would be incurred in

1 filling the prescription by dispensing the prescribed brand name drug.

2 (j) Every pharmacy shall post a sign in a location easily seen
3 by patrons at the counter where prescriptions are dispensed stating
4 that "Under Alaska law a therapeutically equivalent but less expensive
5 drug may, in some cases, be substituted for the drug prescribed by
6 your doctor. Please consult your pharmacist or physician." The
7 printing on the sign shall be in block letters not less than one inch
8 in height.

9 * Sec. 3. AS 17.20.105(b) is amended to read:

10 (b) In preparing a prescription, a pharmacist may [NOT] substi-
11 tute a drug only in accordance with AS 08.80.295 [FOR A REGISTERED
12 BRAND OR TRADE NAME PRODUCT SPECIFIED UNLESS THE PHARMACIST OBTAINS
13 PERMISSION FROM THE AUTHOR OF THE PRESCRIPTION; BUT IF THE PRESCRIBING
14 PHYSICIAN, OSTEOPATHIC PHYSICIAN, DENTIST OR VETERINARIAN IS TEMPO-
15 RARILY UNAVAILABLE, THE PHARMACIST MAY, IF UNABLE TO SUPPLY THE DRUG
16 REQUESTED, SUBSTITUTE A DRUG OR PREPARATION OF APPROXIMATELY EQUAL
17 THERAPEUTIC VALUE SO LONG AS THE PHARMACIST NOTIFIES THE AUTHOR OF THE
18 PRESCRIPTION AT AN EARLY OPPORTUNITY].

19 * Sec. 4. AS 47.07.030 is amended to read:

20 Sec. 47.07.030. MEDICAL SERVICES TO BE PROVIDED. Medical ser-
21 vices to be offered to eligible persons include inpatient hospital,
22 outpatient hospital, rural health clinic, outpatient surgical care
23 centers, laboratory and X-ray, refractions and eye examinations by
24 ophthalmologists or optometrists, eyeglasses prescribed by a physician
25 skilled in diseases of the eye or by an optometrist, inpatient psychi-
26 atric hospital for persons age 65 or older and persons under age 21,
27 skilled and intermediate nursing home, physician, nurse midwife, home
28 health care services, early periodic screening diagnosis and treatment
29 of persons under 21 years of age, clinic services, treatment of

1 speech, hearing and language disorders, physical therapy, occupational
2 therapy, prosthetic devices and medical supplies, long-term care
3 noninstitutional services, prescribed drugs, and reasonable transpor-
4 tation to and from the point of medical care. Additional services may
5 not be provided unless approved by the legislature.

6 * Sec. 5. AS 47.07.035 is amended to read:

7 Sec. 47.07.035. PRIORITY OF SERVICES. If the funding in a
8 fiscal year is inadequate to finance the total medical assistance
9 program under this chapter, the department shall, to the extent that
10 federal law and funding permits, provide medical assistance in the
11 following order:

12 (1) aged, blind, or disabled persons who

13 (A) do not receive supplemental security income, under
14 42 U.S.C. 1381 - 1383c (Title XVI, Social Security Act) because
15 they do not meet income and resources requirements; and

16 (B) are eligible to receive an optional state supple-
17 mentary payment;

18 (2) persons in a medical or intermediate care facility

19 (A) whose income while in the facility does not exceed
20 300 percent of the supplemental security income benefit rate
21 under 42 U.S.C. 1381 - 1383c (Title XVI, Social Security Act);
22 and

23 (B) who would not be eligible for an optional state
24 supplementary payment if they left the facility;

25 (3) persons under 21 years of age

26 (A) who are under the supervision of the department;

27 (B) whose maintenance is paid in whole or in part from
28 public funds; and

29 (C) who are in foster homes or private child-care

1 institutions;

2 (4) persons under 21 years of age who

3 (A) receive treatment in a psychiatric hospital; and

4 (B) are financially eligible as determined by the

5 standards of 42 U.S.C. 601 - 615 (Title IV-A, Social Security

6 Act, Aid to Families with Dependent Children);

7 (5) persons under 21 years of age who are

8 (A) in an institution designated by the department as

9 an intermediate care facility for the mentally retarded; and

10 (B) financially eligible as determined by the stan-

11 dards of the federal aid to families with dependent children

12 program;

13 (6) women who are pregnant;

14 (7) persons under 21 years of age who do not qualify for

15 benefits under the federal aid to families with dependent children

16 program because they are not dependent children;

17 (8) intermediate nursing home services;

18 (9) prescribed drugs;

19 (10) eye examinations by an ophthalmologist or optometrist;

20 or eyeglasses prescribed by a physician skilled in the diseases of the

21 eye or by an optometrist;

22 (11) [(10)] treatment of speech, hearing, or language disor-

23 ders;

24 (12) [(11)] physical or occupational therapy;

25 (13) [(12)] care at an intermediate care facility for the

26 mentally retarded;

27 (14) [(13)] care at an inpatient psychiatric facility;

28 (15) [(14)] community mental health clinic services;

29 (16) [(15)] surgical care center services;

- 1 (17) [(16)] nurse midwife services;
2 (18) [(17)] medical supplies and equipment;
3 (19) [(18)] long-term care noninstitutional services.

4 * Sec. 6. AS 47.07 is amended by adding a new section to read:

5 Sec. 47.07.400. PAYMENT FOR PRESCRIBED DRUGS. Payment for
6 prescribed drugs must be made in accordance with 42 CFR 447.331,
7 447.332, 447.333, and 447.334.

8 * Sec. 7. AS 47.07.900 is amended by adding a new paragraph to read:

9 (7) "prescribed drugs" has the meaning given in 42 CFR
10 440.120.

11 * Sec. 8. AS 08.80.295(b), (c), and (f) are repealed.

12 * Sec. 9. This Act takes effect October 1, 1985.