CS FOR HOUSE BILL NO. 438 (HES)

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - SECOND SESSION

BY THE HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE

Offered: 3/6/92
Referred: Finance

Sponsor(s): REPRESENTATIVES ELLIS, Koponen, Boyer, Gruenberg, Ulmer, B.Davis, Carney, Bruckman, Donley, Brown, Parnell, Finkelstein

A BILL

FOR AN ACT ENTITLED

"An Act relating to Medicaid eligibility of persons who are eligible to be institutionalized but who are not in institutions; relating to Medicaid waivers; reordering the priorities assigned to groups of persons served under the Medicaid program; and providing for an effective date."

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

*** Section 1.** AS 47.07.020(b) is amended to read:

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

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

(2) persons in a general hospital, skilled nursing facility or intermediate care

1 facility, who, if they left the facility, would be eligible for assistance under one of the federal
2 programs specified in (1) of this subsection;
3 (3) persons under age 21 who are under supervision of the department, for whom
4 maintenance is being paid in whole or in part from public funds, and who are in foster homes
5 or private child-care institutions;
6 (4) aged, blind, or disabled persons, who, because they do not meet income and
7 resources requirements, do not receive supplemental security income under 42 U.S.C. 1381 -
8 1383c (Title XVI, Social Security Act), and who do not receive a mandatory state supplement,
9 but who are eligible, or would be eligible if they were not in a skilled nursing facility or
10 intermediate care facility to receive an optional state supplementary payment;
11 (5) persons under age 21 who are in an institution designated as an intermediate
12 care facility for the mentally retarded and who are financially eligible as determined by the
13 standards of the federal aid to families with dependent children program;
14 (6) persons in a medical or intermediate care facility whose income while in the
15 facility does not exceed 300 percent of the supplemental security income benefit rate under 42
16 U.S.C. 1381 - 1383c (Title XVI, Social Security Act) but who would not be eligible for an
17 optional state supplementary payment if they left the hospital or other facility;
18 (7) persons under age 21 who are receiving active treatment in a psychiatric
19 hospital and who are financially eligible as determined by the standards of 42 U.S.C. 601 - 615
20 (Title IV-A, Social Security Act, Aid to Families with Dependent Children);
21 (8) persons under age 21 and not covered under (a) of this section, who would
22 be eligible for benefits under the federal aid to families with dependent children program, except
23 that they have the care and support of both their natural and adoptive parents;
24 (9) pregnant women not covered under (a) of this section and who meet the
25 income and resource requirements of the federal aid to families with dependent children program;
26 (10) **persons who can be considered under 42 U.S.C. 1396a(e)(3) to be**
27 **individuals with respect to whom a supplemental security income is being paid under 42**
28 **U.S.C. 1381 - 1383c because they meet all of the following criteria:**
29 **(A) they are 18 years of age or younger and qualify as disabled**
30 **individuals under 42 U.S.C. 1382c(a);**
31 **(B) the department has determined that**

1 **(i) they require a level of care provided in a hospital, nursing**
2 **facility, or intermediate care facility for the mentally retarded;**
3 **(ii) it is appropriate to provide their care outside of an**
4 **institution; and**
5 **(iii) the estimated amount that would be spent for medical**
6 **assistance for their individual care outside an institution is not greater than**
7 **the estimated amount that would otherwise be expended individually for**
8 **medical assistance within an appropriate institution;**
9 **(C) if they were in a medical institution, they would be eligible for**
10 **medical assistance under other provisions of this chapter; and**
11 **(D) home and community-based services under a waiver approved by**
12 **the federal government are not available to them under this chapter** [REPEALED].
13 *** Sec. 2.** AS 47.07.030 is amended by adding a new subsection to read:
14 (c) Notwithstanding (b) of this section, the department may offer a service for which the
15 department has received a waiver from the federal government if the department was authorized,
16 directed, or requested to apply for the waiver by law or by a concurrent or joint resolution of the
17 legislature.
18 *** Sec. 3.** AS 47.07.035 is amended to read:
19 Sec. 47.07.035. PRIORITY OF MEDICAL ASSISTANCE. If the department finds that
20 the cost of medical assistance for all persons eligible under this chapter will exceed the amount
21 allocated in the state budget for that assistance for the fiscal year, the department shall eliminate
22 coverage for optional medical services and optionally eligible groups of individuals in the
23 following order:
24 (1) clinical social workers' services;
25 (2) psychologists' services;
26 (3) chiropractic services;
27 (4) adult dental services;
28 (5) emergency hospital services;
29 (6) treatment of speech, hearing, and language disorders;
30 (7) optometrists' services and eyeglasses;
31 (8) occupational therapy;

1 (9) mammography screening;
2 (10) prosthetic devices;
3 (11) medical supplies and equipment;
4 (12) clinic services;
5 (13) physical therapy;
6 (14) personal care services in a recipient's home;
7 (15) prescribed drugs;
8 (16) long-term care noninstitutional services;
9 (17) inpatient psychiatric facility services;
10 (18) intermediate care facility services for the mentally retarded;
11 (19) intermediate care facility services;
12 (20) **individuals described in AS 47.07.020(b)(10);**
13 (21) individuals under age 21 who are not eligible for benefits under the federal
14 aid to families with dependent children program because they are not deprived of one or more
15 of their natural or adoptive parents;
16 (22) [(21)] skilled nursing facility services for persons under age 21;
17 (23) [(22)] aged, blind, and disabled individuals who, because they do not meet
18 the income requirements, do not receive supplemental security income under Title XVI of the
19 Social Security Act, but who are eligible, or would be eligible if they were not in a skilled
20 nursing facility or intermediate care facility, to receive an optional state supplementary payment;
21 (24) [(23)] individuals in a hospital, skilled nursing facility, or intermediate care
22 facility whose income while in the facility does not exceed 300 percent of the supplemental
23 security income benefit rate under Title XVI of the Social Security Act, but who, because of
24 income, are not eligible for the optional state supplementary payment;
25 (25) [(24)] individuals under age 21 under supervision of the department, for
26 whom maintenance is being paid in whole or in part from public money and who are in foster
27 homes or private child-care institutions.
28 * Sec. 4. DEPARTMENT TO SEEK WAIVER. The Department of Health and Social Services shall
29 seek approval of a waiver for home and community-based services under 42 U.S.C. 1396n for persons
30 who are Medicaid eligible and who would otherwise require a level of care provided in a hospital,
31 nursing facility, or intermediate care facility for the mentally retarded, in the absence of home and

1 community-based services.

2 * Sec. 5. (a) Sections 1 and 3 of this Act take effect on the 180th day after the effective date of
3 Medicaid plan amendments approved by the federal government under which the state would implement
4 waivers of the type applied for under sec. 4 of this Act.

5 (b) The Department of Health and Social Services shall notify the revisor of statutes as to the
6 effective date of the plan amendments referred to in (a) of this section.

7 * Sec. 6. Sections 2 and 4 of this Act take effect immediately under AS 01.10.070(c).