

## SENATE BILL NO. 288

IN THE LEGISLATURE OF THE STATE OF ALASKA

SEVENTEENTH LEGISLATURE - FIRST SESSION

BY THE SENATE RULES COMMITTEE BY REQUEST OF THE GOVERNOR

Introduced: 5/13/91

Referred: HES, Finance

## A BILL

## FOR AN ACT ENTITLED

1 "An Act relating to audits and inspections of health facilities receiving payment for medical  
2 assistance for needy persons and to the use of audit and inspection results in recapturing  
3 overpayments and reimbursing underpayments to such health facilities; and providing for  
4 an effective date."

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

6 \* Section 1. FINDINGS. The legislature finds that

7 (1) the state commits a substantial amount of public money to provide medical assistance  
8 for eligible needy persons in Alaska, approximately 50 percent of which is reimbursed by the federal  
9 government for services covered by medicaid;

10 (2) the budget for medical assistance in Alaska has dramatically increased over the past  
11 10 years, and in fiscal year 1991 exceeded \$180,000,000;

12 (3) approximately 55 percent of the total medical assistance budget is paid to facilities  
13 that provide necessary hospital and nursing home services to needy persons eligible for the program;

14 (4) in 1983 the legislature authorized the facilities' rates for medical assistance to be set

1 prospectively under AS 47.07.070 in order to prudently adjust payment to health facilities and to give  
2 the state flexibility in responding to federal funding changes;

3 (5) the legislature recognized its responsibility then, as now, to prudently protect and  
4 monitor the spending of public money;

5 (6) audits are a critical tool in monitoring the spending of public money for facilities  
6 receiving medical assistance payments, because auditors review data used to calculate rates and review  
7 payment of public money;

8 (7) in changing to a prospective rate-setting system in 1983, the legislature did not intend  
9 to eliminate the important role of audits in setting fair rates based on reasonable costs for facility  
10 services receiving medical assistance payments, even though the rates are prospective in type and  
11 therefore may require adjustment after the end of the fiscal year for which the rate was set based on  
12 audit results;

13 (8) in 1990 the Alaska Supreme Court ruled in City of Cordova v. Medicaid Rate  
14 Commission, 789 P.2d 346 (Alaska 1990), that, with respect to Medicaid payments for 1984 and 1985,  
15 the rate-setting statute for facilities (AS 47.07.070) was silent on the subject of prospective recoupment  
16 from a facility based on audit results and, therefore, precluded recoupment by the program;

17 (9) it is therefore necessary to clarify that the legislature's intent in AS 47.07.070 was  
18 always to allow the state to recoup overpayments based on audit results and to allow for the  
19 consideration of audit results in rate-setting, even though the rate-setting statutes were silent on the role  
20 of audits;

21 (10) the amendments of AS 47.07.070 in this Act are adopted and made retroactive to  
22 make clear that audits were always intended to be used to adjust prospective rates, to recoup  
23 overpayments of public money, and to provide a sound basis for the state to set rates.

24 \* Sec. 2. AS 47.07.070(a) is amended to read:

25 (a) The department shall set the prospective rate of payment to a health facility  
26 under this chapter and AS 47.25.120 - 47.25.300 based on a fair rate for reasonable costs  
27 incurred by the facility and on available results of department audits and inspections.

28 The department may not set a rate until after a public hearing before the Medicaid Rate  
29 Advisory Commission except that this hearing requirement is not applicable if a new rate  
30 is immediately necessary to afford exceptional relief to a facility as determined under  
31 regulations adopted by the department. The department shall by regulation list the factors

1 it considers in making its rate determinations under this section. A rate set under this  
2 section does not take effect until it is approved in writing by the commissioner of health  
3 and social services or the agency assigned by the commissioner to perform this function.  
4 The written determination of a rate set by the department after a hearing must include a  
5 statement of the department's findings, a description of the basis of the findings and  
6 conclusions, a citation to the regulations supporting the findings and conclusions, and a  
7 statement of the decision.

8 \* Sec. 3. AS 47.07.070 is amended by adding a new subsection to read:

9 (g) The department may conduct audits and inspections of a health facility's  
10 records to assure compliance with state and federal law. Using the results of the  
11 department's audits and inspections, the department shall

12 (1) recapture amounts due from the facility through assessment, adjustment  
13 to the facility's prospective rate, or withholding from payments due to the facility under  
14 this chapter and AS 47.25.120 - 47.25.300; or

15 (2) make a payment to the facility for any amount due to the facility as  
16 a result of the audit or inspection.

17 \* Sec. 4. Sections 2 and 3 of this Act are retroactive to July 26, 1983.

18 \* Sec. 5. This Act takes effect immediately under AS 01.10.070(c).