

H B
357

COMMITTEE REPORT

HOUSE

FURTHER: FINANCE

3/18/81

(5)

Date: 3/25/82

Mr. Speaker:

The Committee on HEALTH, EDUCATION & SOCIAL SERVICES has had HR 357

"An Act relating to adult public assistance."

under consideration and reports it back as follows:

- do pass do not pass
- do pass with attached amendments(s)
- replace with CS for HR 357 same title
 new title
- and recommends _____
- AND attaches a "Letter of Intent" New Fiscal Note
- reports it back without recommendation (With Zero Fiscal Note)
- refer red to the _____ Committee

MEMBERS SIGNING DO PASS

MEMBERS HAVING OTHER RECOMMENDATIONS:

CHAIRMAN

POSITION PAPER

ON

HOUSE BILL NO. 357

"An Act relating to adult public assistance."

House Bill No. 357 is intended to make long-overdue technical changes in the Department's Old Age Assistance, Aid to the Disabled, and Aid to the Blind assistance program statutes. Most of the existing statutes have not been changed since 1953, even though these three programs changed significantly in 1974 as the result of the implementation of the nationwide Social Security Administration's Supplemental Security Income (SSI) assistance program (Title XVI of the Social Security Act).

Before 1974, our three adult assistance programs were state-administered but funded equally with federal and state funds. In 1974, SSI, a federally-funded and federally-administered welfare program established a nationwide payment level to needy aged, blind, and disabled. Because that payment level was well below the amounts provided by Alaska's program, we elected to continue our programs, supplementing SSI payments with a state-funded and state-administered supplemental program.

HB No. 357 primarily changes statutes to better reflect the existence of the SSI program and the supplemental nature of the state program. Secondly, it significantly shortens the existing statutes by repealing all Aid to the Disabled and Aid to the Blind statutes which simply repeat provisions in the Old Age Assistance statutes. It does this by modifying the Old Age Assistance statutes to include the Blind and Disabled subcategories under the program term "Adult Public Assistance." Finally, it corrects an important drafting error in AS 47.25.960 in which a permanently and totally disabled person was only defined as "a needy recipient of the state who is not eligible for assistance from another public agency or department providing similar services in the state".

In summary, HB No. 357 is a simple "housekeeping" measure intended to make existing statutes shorter, simpler for the public to understand, easier for the Department to administer, and more accurately reflective of current program policies and operations. HB No. 357 does not expand or contract the Department's authority, it does not affect eligibility criteria or payment amounts, and it will not affect program costs.

The Department strongly supports passage of House Bill No. 357.

Recommended by:

Rod Betit

Rod Betit, Director
Division of Public Assistance

Date:

April 9, 1981

Approved by:

Helen D. Beirne

Helen D. Beirne, Commissioner

Date:

4/5/81

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 357
 Title An Act Relating to Adult Public Assistance
 Requested by Rules, by Request Date 4/1/81

II. FISCAL DETAIL

Agency Affected Health & Social Services
 Program Category Affected Social and Economic Assistance for the Elderly
 BRU, Program, or Subprogram(s) Affected Old Age Assistance
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		0				
200 TRAVEL		0				
300 CONTRACTUAL		0				
400 COMMODITIES		0				
500 EQUIPMENT		0				
600 LAND & STRUCTURES		0				
700 GRANTS, CLAIMS, ETC.		0				
TOTAL		0				

FUNDING (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS		0				
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		0				
PART TIME		0				
TEMPORARY		0				

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

HB No. 357 will have no fiscal impact in FY82 or following fiscal years.

IV. DATE 3/31/81 PREPARED BY [Signature]
 AGENCY CHIEF OFS
 PHONE 465-3347
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) M&B Approval [Signature] Date 4/6/81

THE LEGISLATURE OF THE STATE OF ALASKA
TWELFTH LEGISLATURE

FISCAL NOTE

I. REQUEST

Bill/Resolution No. House Bill No. 357
 Title An Act Relating to Adult Public Assistance
 Requested by Rules, by Request Date 4/1/81

II. FISCAL DETAIL

Agency Affected Health & Social Services
 Program Category Affected Social and Economic Assistance for General Population
 BRU, Program, or Subprogram(s) Affected Aid to Blind, Aid to Disabled
 (Note: If more than one budget component is affected, separate line-item amounts and funding for each component in the analysis section.)

EXPENDITURES (Thousands of Dollars)

	FY 81	FY 82	FY 83	FY 84	FY 85	FY 86
100 PERSONAL SERVICES		0				
200 TRAVEL		0				
300 CONTRACTUAL		0				
400 COMMODITIES		0				
500 EQUIPMENT		0				
600 LAND & STRUCTURES		0				
700 GRANTS, CLAIMS, ETC.		0				
TOTAL		0				

FUNDING (Thousands of Dollars)

GENERAL FUND		0				
FEDERAL FUNDS		0				
OTHER (Specify Fund Source)						

POSITIONS

FULL TIME		0				
PART TIME		0				
TEMPORARY		0				

III. ANALYSIS (See Fiscal Note Preparation Instructions, Section III)

Hb No. 357 will have no fiscal impact in FY82 or following fiscal years.

IV. DATE 3/31/81 PREPARED BY [Signature]
 AGENCY DEFS, 001
 PHONE 465-3247
 Original: Legislative Finance
 cc: Budget and Management
 Prime Sponsor (First Legislator Named) M&B Approval [Signature] Date 4/1/81

TO: Honorable Helen D. Beirne
Commissioner
Department of Health &
Social Services

DATE: November 2, 1978

FILE NO: J-66-200-79

TELEPHONE NO:

FROM: AVRUM M. GROSS
ATTORNEY GENERAL

SUBJECT: Ratable Reduction
of Welfare Benefits

By: ^{THR}
Thomas H. Robertson
Assistant Attorney General

You have asked whether the Department of Health & Social Services may effect a ratable reduction in benefits provided under Adult Public Assistance (Old Age Assistance and Aid to the Disabled) and Aid to Families with Dependent Children upon discovery that appropriated funds are insufficient to maintain benefits at current levels throughout the fiscal year.

Adult Public Assistance

Alaska statutes relating to both Old Age Assistance, AS 47.25.430, and Aid to the Disabled, AS 47.25.940, authorize the provision of assistance "so far as practicable under the conditions in the State". Although the "conditions" are not specified, it is apparent that they may constitute any one of many possible constraints upon the provision of benefits. Since it is clear that the Department of Health & Social Services cannot distribute funds which have not been appropriated, we believe that the funds which have been appropriated for distribution under these programs constitute "conditions" within the meaning of the above statutes. See, Alaska Const., art. IX, § 13. An inability to maintain benefits at existing levels would thus appear to justify, subject to certain federally-imposed limitations, a reduction that would assure their provision throughout the fiscal year. 1/

Adult Public Assistance is funded entirely by the State of Alaska; yet it operates, in part, to supplement the federally administered program for Supplemental Security Income found in Title XVI of the Social Security Act. Several provisions of state and federal law address the relationship between these programs which, as a practical matter, limit the scope of potential reductions to the amount of the state supplementary payments.

1/ The Department of Health and Social Services should, of course, take advantage of any surplus funds available for reallocation within the relevant appropriations.

Pursuant to 42 U.S.C. 1382g, state eligibility for federal medicaid funds under Title XIX of the Social Security Act since June 30, 1977, has been conditioned upon the existence of an agreement with the Department of Health, Education and Welfare (HEW) whereby the state promises to continue supplementary payments at a level no lower than that which was in effect in December, 1976 (or later if the supplements were commenced later). 2/ This condition is

2/ 42 U.S.C. 1382g is entitled "Operation of State Supplementation Programs" and provides as follows:

(a) In order for any State which makes supplementary payments of the type described in section 1616(a) [42 USCS § 1382e(a)] including payments pursuant to an agreement entered into under section 212(a) of Public Law 93-66 [42 USCS § 1382 note], on or after June 30, 1977, to be eligible for payments pursuant to title XIX [42 USCS §§ 1396 et seq.] with respect to expenditures for any calendar quarter which begins--

(1) after June 30, 1977, or if later,

(2) after the calendar quarter in which it first makes such supplementary payments, such State must have in effect an agreement with the Secretary whereby the State will--

(3) continue to make such supplementary payments, and

(4) maintain such supplementary payments at levels which are not lower than the levels of such payments in effect in December 1976, or, if no such payments were made in that month, the levels for the first subsequent month in which such payments were made.

(b) The Secretary shall not find that a State has failed to meet the requirements imposed by paragraph (4) of subsection (a) with respect to the levels of its supplementary payments for a particular month or months if the State's expenditures for such payments in the twelve-month period (within which such month or months fall) beginning on the effective date of any increase in the level of supplemental security income benefits pursuant to section 1617 [42 USCS § 1382F] are not less than its expenditures for such payments in the preceding twelve-month period.

deemed satisfied if a state's total expenditures for supplementary payments during the relevant twelve-month period are not less than its expenditures for the preceding twelve months. See, 42 U.S.C. 1382g(b).

This section was apparently designed to mollify a Congressional concern that some states would not alter their payment schedules to reflect cost-of-living adjustments to federal SSI payments. 3/ We are informed, however, that its broad wording has been interpreted by HEW as applying to payments from state funds to aged, blind, and disabled persons whether or not they are actually eligible for SSI. 4/

A provision conditioning medicaid eligibility upon the existence of an agreement with HEW similar to 42 U.S.C. 1232g can be found in federal regulations located at 20 C.F.R. 416.2001 and 20 C.F.R. 416.2050. Presumably, these regulations are intended to eliminate the possibility that individuals eligible for SSI will receive less assistance since creation of that program than they received under the state and federal matching programs which preceded it. SSI came into being in January, 1974.

In light of the foregoing, the Department of Health & Social Services may be able to effect a limited pro rata reduction in benefits provided under Old Age Assistance and Aid to the Disabled. Before it undertakes to do so, however, we urge that it review all agreements that it has entered into with the federal government in order to assure that the amount of the reduction does not jeopardize its entitlement to federal financial participation in other areas.

3/ Cost of living adjustments to the State supplement are mandated in Alaska by AS 47.25.430 and AS 47.25.810. This mandate appears, however, to be qualified by the statutory directive to make payments only "so far as is practicable under the conditions in the state."

4/ It is not clear under this interpretation whether 42 U.S.C. 1382g requires cost of living increases in payments that have no federal counterpart or whether it requires simply that states maintain the payment levels that were outstanding as of December 1976. The validity of 42 U.S.C. 1382g, as well as the validity of HEW's interpretation, is before the United States District Court for the District of Columbia in Oklahoma v. Califano, Civil Number 78-045. No decision has been reached in that statutory and constitutional challenge.

DEPARTMENT OF HEALTH AND SOCIAL SERVICES
SHOULD TAKE ADDITIONAL ACTIONS TO REDUCE PAYMENT
OF PUBLIC ASSISTANCE FUNDS TO INELIGIBLE PERSONS

STATE OF ALASKA
OFFICE OF THE GOVERNOR
DIVISION OF INTERNAL AUDIT



06-47

SUMMARY

Public Assistance programs provide financial aid, food purchasing assistance, and medical payment assistance to eligible individuals. Over \$100 million is spent on public assistance programs in Alaska each year. The Department of Health and Social Services administers these programs through their Division of Public Assistance. To prevent erroneous payments of public assistance money, the Department has established a Quality Control Unit and a Fraud Investigation Unit.

ERRONEOUS PAYMENTS ADD TO THE COST OF THE PROGRAMS

Erroneous payments occur through the payment of public assistance benefits to persons who do not meet the eligibility criteria, or through overpayments to persons who are eligible, but for a lesser amount.

In a recent twelve month period over \$7 million of Public Assistance funds were paid in error in the State of Alaska. Errors in Public Assistance cases could also add to the state's cost through a reduction of federal assistance that will occur if federally established target error rates are not met. The Division of Public Assistance estimates that federal assistance could be reduced by \$716,000 if the state error rates are not reduced to federally mandated levels for the October 1980 - March 1981 review period.

EFFORTS TO REDUCE ERRORS NEED CLOSER MONITORING

The Department's Quality Control Unit is responsible for controlling unnecessary expenditures of Public Assistance funds. The Quality Control Unit has not controlled unnecessary expenditures because their time is essentially taken up in performing federal reporting requirements.

The Department has taken other action to control unnecessary expenditures by forming a corrective action committee that is coordinated by the Chief of the Quality Control Unit. This committee has developed an error reduction plan that is now being implemented, but monitoring of the plans implementation has been limited.

To assure the success of this plan the Department should better monitor implementation and impact on error rates. In addition, the Department needs to improve efforts to collect overpayments and efforts to refer potential fraud cases to the proper authorities.

MORE EFFECTIVE FRAUD CONTROLS ARE NEEDED

Available evidence indicates that public assistance fraud is a significant problem in Alaska. The Department established a Fraud Investigation Unit to investigate fraud cases and recover money

erroneously paid as a result of fraud. Because the Department does not consider fraud control a priority effort the Fraud Unit does not receive the resources needed to operate effectively. Few cases result in prosecution and little money is recovered. In addition, the Fraud Unit does not meet the federal requirements.

RECOMMENDATIONS

The Commissioner of Health and Social Services should take the following actions.

To assure that the error rate is reduced:

- more closely monitor the implementation of the error reduction plan,
- obtain periodic reports on the plans impact on error rates, and
- If the error rate is not reduced, take additional action to reduce the rate to an acceptable level.

To improve efforts to collect overpayments of public assistance:

- notify clients of their obligations in a timely manner,
- strengthen efforts to collect on past due accounts, and
- implement a mandatory payback system for fraud related overpayments

To assure that all potential fraud cases are referred to the Fraud Investigation Unit:

- provide prompt feedback to employees making the referrals.

To assure effective control of fraud in public assistance programs:

- develop a plan to provide the state with an effective means of controlling and deterring public assistance fraud,
- provide the resources necessary to implement this plan, and
- obtain periodic reports showing how the effectiveness of the program is being improved.

DEPARTMENT COMMENTS

The Commissioner of Health and Social Services generally agreed with the conclusions and recommendations and outlined corrective actions that are being taken to address the conditions described. However, the need for additional corrective action in the area of collections is discussed on page 11. A complete copy of the Commissioner's response is provided as Appendix I.

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PUBLIC ASSISTANCE IN THE
STATE OF ALASKA

Public Assistance programs are State or state-federal programs providing temporary or long-term financial aid, food purchasing assistance, or medical payment assistance to eligible individuals. These programs are intended to assist deprived, disabled, or low-income individuals in maintaining a reasonable living standard.

Financial Aid programs like Aid to Families with Dependent Children (AFDC), provide assistance to needy children because of an absent, disabled or deceased parent. Adult Public Assistance provides assistance to disabled, blind, or adults over 65 years old who are unable to provide for their own basic needs.

The Food Stamp program provides assistance to low-income household with the objective of raising the nutrition level of recipients.

Medical payment assistance is implemented through programs like Medicaid, a joint federal-state program providing payments to providers of medical care for eligible low-income residents of the State.

The State of Alaska, through the Division of Public Assistance, provides aid to about 6,100 families each month through the AFDC program. Each month an estimated 36,600 individuals receive aid through the food stamp program, and about 4,600 through the medical program.

STATE FINANCIAL INVOLVEMENT

In Fiscal Year 80 about \$103,128,300 was spent on public assistance programs in Alaska. About 43 percent, or \$43,910,000 of this was provided by the State of Alaska with the balance coming from the Federal government. Funding for individual public assistance programs is shown below:

Cost of Public Assistance Programs
in Alaska for Fiscal Year 80
(in thousands)

<u>Program</u>	<u>Federal Funding</u>	<u>State Funding</u>	<u>Total Cost</u>
AFDC	\$12,005.9	\$12,005.9	\$24,011.9
Medicaid	16,649.9	14,347.9	30,997.8
Food Stamps	28,036.8		28,036.8
Energy Assistance	2,525.7		2,525.7
Aid to the Blind		119.8	119.8
Aid to the Disabled		3,743.2	3,743.2
General Relief - Cash		797.7	797.7
General Relief - Medical		9,513.3	9,513.3
Old Age Assistance		3,382.2	3,382.2
TOTAL	<u>\$59,218.3</u>	<u>\$43,910.0</u>	<u>\$103,128.3</u>

Public Assistance programs in Alaska have increased dramatically in recent years. In fiscal year 1980 the total cost and average number of cases for the two major public assistance programs (AFDC and Food Stamps) was more than double what it had been in fiscal year 1978, as shown below:

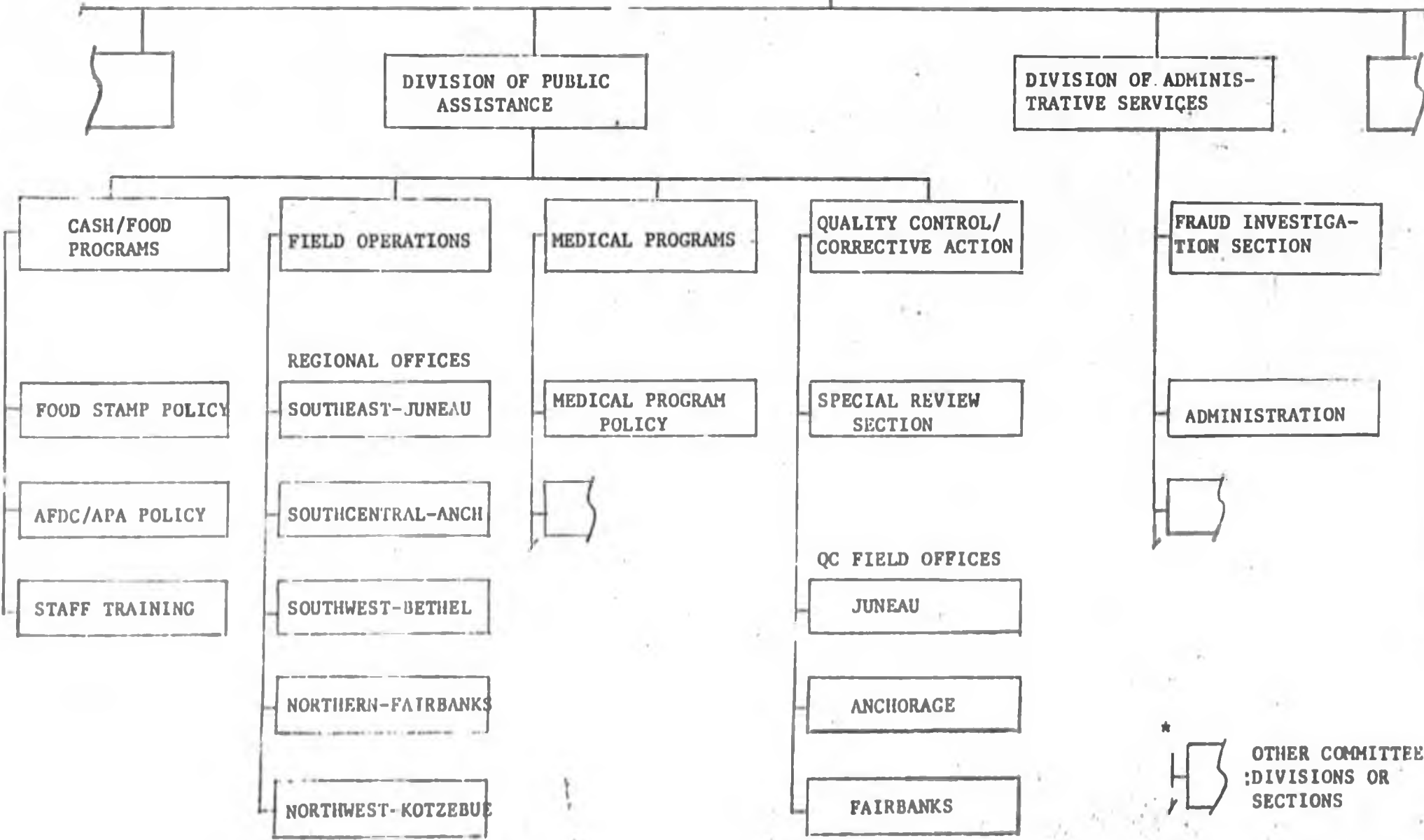
Growth in Major Public Assistance Programs
(dollars in thousands)

<u>Program</u>	<u>FY 1978</u>		<u>FY 1979</u>		<u>FY 1980</u>	
	<u>Total Cost</u>	<u>Average Cases</u>	<u>Total Cost</u>	<u>Average Cases</u>	<u>Total Cost</u>	<u>Average Cases</u>
AFDC	\$16,018	4,672	\$21,277	5,502	\$24,011	6,122
Food Stamps	7,741	3,376	11,304	5,854	23,871	11,110
TOTAL	\$23,759	8,048	\$32,581	11,356	\$47,882	17,232

STATE RESPONSIBILITY FOR PROGRAM MANAGEMENT AND CONTROL

Alaska Statute 47.05.010 authorizes the Department of Health and Social Services to administer public assistance programs. The statute also provides that the department "cooperate with the federal government in adopting state plans to make the state eligible for federal matching in appropriate categories of assistance, and in all matters of mutual concern, including adoption of the methods of administration which are found by the federal government to be necessary for the efficient operations of welfare programs."

Federal regulations require that the Department of Health and Social Services submit a state plan for public assistance programs receiving federal matching funds. The federal regulations require that the state plan provide for both quality control and fraud control. To comply, the Department has established the Quality Control Unit in the Division of Public Assistance, and the Fraud Investigation Unit in the Division of Administrations Services, as shown on the organization chart on the following page:



*  OTHER COMMITTEES,
DIVISIONS OR
SECTIONS

APA: ADULT PUBLIC ASSISTANCE

ERRONEOUS PAYMENTS ARE A SIGNIFICANT
COST OF STATE'S PUBLIC ASSISTANCE PROGRAM

Erroneous payments occur through the payment of public assistance benefits to persons who do not meet the eligibility criteria, or through overpayments and underpayments to eligible persons.

In a recent twelve month period over \$7 million of Public Assistance funds were paid in error in the State of Alaska. Errors in Public Assistance cases could also add to the state's cost through a reduction of federal assistance that will occur if federally established target error rates are not met. The Division of Public Assistance estimates that federal assistance could be reduced by \$716,000 if the state error rates are not reduced to federally mandated levels for the October 1980 - March 1981 review period.

EXPLANATION OF ERROR RATES

Error rates are derived from quality control data that is gathered in accordance with the prescribed federal regulations. An erroneous payment is the payment of public assistance benefits to persons who do not meet the program eligibility criteria or an underpayment or overpayment to eligible program participants.

According to officials in the Division of Public Assistance error statistics are defined as follows:

- (1) Case Error Rate - Total number of incorrect cases for a review period in relation to total cases reviewed in that period.
- (2) Payments Error Rate - Total dollars errors in relation to the total dollars expended in review sample.
- (3) Client Error - Those errors attributable to non-reporting or incorrect reporting of actual circumstances by the client. This includes intentional as well as unintentional failure to report circumstances.
- (4) Agency error - Those errors attributable to mistakes made by the eligibility technician. For example, a math error made in calculating a clients benefits.

PAYMENT ERRORS

Payments in error are a significant cost to the Public Assistance programs. Based on data for a recent twelve month period, it was projected that 26.5 percent of AFDC cases and 32.3 percent of food stamp cases contained errors which effected payment. These errors effected 13.3 percent and 14.6 percent of the total dollars spent in AFDC and food stamps respectively. The projected dollar loss of these two programs for the twelve month period was \$7 million, as shown below:

Error Rates and Projected Dollar Loss
October 1979 through September 1980

	<u>Case Error Rate</u>	<u>Payment Error Rate</u>	<u>Total Program Dollar</u>	<u>Projected Dollar Loss</u>
AFDC	26.5%	13.3%	\$25,578,000	\$3,401,874
Food Stamps	32.3%	14.6%	\$26,351,757	<u>\$3,834,180</u>
				<u>\$7,236,054</u>

These rates reflect both intentional and unintentional errors. They are not a measure of the loss caused by public assistance fraud since only intentional errors are fraudulent.

FISCAL SANCTIONS

To encourage states to reduce error rates, the Federal government establishes target payment error rates for each six month review period. If a state fails to meet the established rate, federal matching funds will be reduced in proportion to the difference between the targeted rate and the actual rate.

A Quality Control Official told us that to date no fiscal sanctions have been imposed on the State of Alaska. However, the likelihood of a fiscal sanction in excess of \$700,000 for the October 1980 - March 1981 review period was addressed in a recent memo of the Director of Division of Public Assistance as a very real possibility if the present payment error rate for the food stamp program remains constant. The target error rate for the October 1980 - March 1981 period is 12.6 percent but with 63 percent of the sample data completed the error rate is projected at 19.2 percent. The state would therefore be liable for 6.6 percent of the total dollar issuance for food stamps during the six month review period. This potential sanction is presently estimated at \$716,000.

EFFORTS TO REDUCE ERRORS
NEED CLOSER MONITORING

The Department's Quality Control Unit is responsible for controlling unnecessary expenditures of Public Assistance funds. The Quality Control Unit has not controlled unnecessary expenditures because their time is essentially taken up in performing federal reporting requirements.

The Department has taken other action to control unnecessary expenditures by forming a corrective action committee. This committee has developed an error reduction plan that is now being implemented, but monitoring of the plans implementation has been limited.

To assure the success of this plan the Department should better monitor implementation and impact on error rates. In addition, the Department needs to improve efforts to collect overpayments and efforts to refer potential fraud cases to the proper authorities.

QUALITY CONTROL RESPONSIBILITY

The Department developed a state plan and established a Quality Control Unit as required by federal regulations.

According to the Executive Budget it is the role of the Quality Control Unit to monitor and evaluate the appropriateness of payments to public assistance clients in order to reduce unnecessary and unauthorized expenditures of state and federal funds. The Budget also states that when quality control activities disclose areas in which expenditures are being inappropriately made or denied one or more corrective actions are initiated, such as:

- recommendations for procedural changes,
- collection actions for cases where funds are judged to be recoverable, or
- referral to the proper authorities when there is an indication of willful misrepresentation.

According to the Quality Control Supervisor, present efforts of the Quality Control Unit are limited to complying with federal sampling and reporting requirements. Quality Control case reviews are performed only on programs receiving federal funding and according to federally prescribed methods. Federal forms are completed for each of these cases and periodic reports are submitted to the federal government.

According to the Quality Control Supervisor, the present workload does not allow them to perform corrective actions.

CORRECTIVE ACTIONS ARE IN PROCESS

The Department has taken action to reduce errors. According to the Director of Public Assistance the following actions have been taken since 1979:

- The Quality Control Unit was transferred to the Division of Public Assistance, placed directly under the Director, and the Quality Control Manager's role was expanded to include development and monitoring of corrective action;
- Federal agencies were invited to participate in the Alaska error reduction effort;
- An ad hoc Corrective Action Committee was created;
- Division staff were advised that error levels were a serious problem that everyone should work to solve;
- Primary error reduction efforts were focused on the AFDC program;
- Eligibility worker and managerial positions were reclassified;
- Funding was secured for a computer system, and
- Steps were taken to assure that client records included social security numbers.

Payment error rates in the AFDC program decreased significantly when client records were corrected to include social security numbers. During the period 10/78 - 3/79 all AFDC cases that did not have a social security number were technically ineligible according to federal regulations, and were counted as payment errors. After client records were corrected they were no longer counted as errors and the payment error rate dropped substantially in the next reporting period (4/79 - 9/79) as shown below:

	<u>10/78 - 3/79</u>	<u>4/79 - 9/79</u>
State-calculated error rate	22.7%	13.1%
Federally-calculated error rate	28.8%	16.5%

Federally calculated error rates are not yet available for periods subsequent to 9/79, but the state calculated rate has declined from 13.1 percent to about 12 percent for the period ending 3/81.

The Corrective Action Committee is chaired by the Director of Public Assistance, with the Quality Control Supervisor serving as the coordinator. The committee is responsible for developing an error reduction plan designed to identify reasons for errors and corrective actions needed.

The plan is developed primarily from the result of Quality Control reviews. Other sources include weekly management reports, federal reviews and input/feedback from Field Office Staff. The Committee is responsible for reviewing and updating the plan at least quarterly.

The error reduction plan identifies problems contributing to the error rate and indicates a corresponding corrective action to reduce or eliminate the problem.

BETTER MONITORING IS NEEDED

The Corrective Action Coordinator has delegated responsibility for implementation of corrective actions specified in the error reduction plan to individuals in the Division of Public Assistance. We discussed monitoring efforts with these individuals and found that their efforts to monitor implementation are generally quite limited. For example, one official stated that monitoring efforts are limited to weekly phone calls to the Regional Assistance Payment Managers and a monthly narrative report.

For several of the problems noted the plan indicates that the Quality Assurance or Quality Control staff will monitor and evaluate the corrective action. But, we found that while they do consider this in their normal course of duty, they are taking no specific action to monitor implementation of the corrective action.

The organization chart for the Quality Control Unit includes a special review group, and according to the Corrective Action Coordinator, this group will be responsible for monitoring the implementation of corrective action. But, at the present time there is no staff assigned to this group. The Director of Public Assistance said that one staff was assigned to this group, but was reassigned to a higher priority area.

COLLECTION EFFORTS HAVE LIMITED SUCCESS

Present efforts to collect overpayments of public assistance funds are divided between the Food Stamps section in the Division of Public Assistance and the Fiscal Section in the Division of Administrative Services. The Food Stamps section is responsible for collecting overpayments on those cases where there was no fraud involved, and the Fiscal section handles those cases that result from fraud investigations.

Clients are not advised in a timely manner that they are expected to pay back the money that was erroneously paid to them. For example, as of April 2, 1981 there were forty AFDC claim determinations dating as far back as January 1981 that had been reviewed and determined to be overpayments, but no letters had been sent to the client demanding repayment. Food stamp claim determination was about two months behind schedule, with about fifty claims pending.

Collection efforts are limited to processing payments received. Follow-up letters for outstanding AFDC payback agreements were last sent in November 1980. The Fiscal section has made no follow-up efforts on delinquent accounts since they assumed the responsibility in July 1980.

Collections are limited. At the time of our review no payment had been received on 76 percent of the outstanding payback agreements, as shown below.

<u>Type of Payback Agreement</u>	<u>Number of Cases</u>	<u>Cases With No Payment Received</u>	<u>% Cases With no Payment Received</u>
Non-Fraud	304	254	84
Fraud	<u>100</u>	<u>54</u>	54
Total	<u>404</u>	<u>308</u>	<u>76</u>

These 404 cases represent \$391,400 owed to the state. Only 10.7 percent of this, or \$22,600 had been collected as of February 1981.

Some clients continue to receive public assistance even after defaulting on payback agreements, as shown below.

	<u>Amount to Payback</u>	<u>Amount Paid</u>	<u>Date of Payback Agreement</u>	<u>Date Last Public Asst. Benefits Rec'd</u>
Client A	\$ 542	\$ 114	1978	April 1981
Client B	524	35	1978	April 1981
Client C	2,729	650	1979	April 1981
Client D	6,099	10	1980	April 1981

Public Assistance officials said part of this problem could be solved by instituting a mandatory payback agreement. Under this type of regulation any client who willfully withholds information concerning their income or resources would be required to have future assistance payments reduced by a specific amount until the debt was paid. This method of collecting payments of fraud claims is optional under federal regulations for the AFDC and Food Stamps programs, but Alaska uses a voluntary payback system.

FRAUD REFERRALS ARE LIMITED

Division of Public Assistance Employees have been instructed to report all suspected fraud cases. A Fraud Complaint form has been established for this purpose. According to Chief Fraud Investigator, about 90 percent of their cases come from referrals by the Division of Public Assistance employees. However, it appears that potential fraud cases are not always reported.

For example, a January 1981 quality control review of an AFDC case found a client had been ineligible for over nine months because of a change in

income status, but had not reported the change to the Division of Public Assistance. The quality control review also disclosed that:

- The client was receiving Social Security checks that were being deposited directly to a bank in Florida,
- The clients AFDC checks were being sent to a post office box in Alaska, and then being deposited in a local bank without signature,
- The residence address shown by the client had been occupied by someone else for over one year, and the current occupant had never heard of the client, and
- The local school district had no record of a school age child shown in the case file.

According to the quality control investigator, this case had not been referred to the Fraud Unit as a potential fraud case.

Employees in the Division of Public Assistance are sometimes reluctant to report potential fraud cases because of a concern that no action will be taken anyway. A recent federal review on the Alaska AFDC program found that:

"There was concern expressed in nearly every office visited that once a fraud referral was made there was never any feedback. As a result, local office personnel are almost always unsure of the status of their fraud referrals that had been referred to the investigative unit. This creates a severe attitudinal problem for workers. If workers feel the state is indifferent to their fraud referrals, they are less apt to continue making them."

This review also found that:

- A worker in Sitka had never received a response on suspected fraud cases that had been referred to Juneau.
- The Wasilla office had sent fraud reports to the regional office, but no response was received and they were told that the fraud investigators are too busy; and
- The Juneau Office staff was neither aware of cases brought to prosecution, nor were they aware of the disposition of any cases that had been referred to the Fraud Investigation Unit.

CONCLUSIONS

The Department has taken action to reduce erroneous public assistance payments by developing an error reduction plan, but monitoring the implementation of specific actions to reduce errors is limited. A Special Review group will be responsible for monitoring implementation of the corrective actions, but the unit has not been staffed. Because the error rate is still very significant, it is important to monitor

implementation of the actions. Closer monitoring of corrective actions is needed so the Department can determine whether the action is properly implemented, and whether any additional actions are needed.

The Department's efforts to collect overpayments of public assistance funds have limited success because clients are not being advised of their obligation in a timely manner, efforts to collect past due accounts are almost non-existent, and there is no mandatory payback agreement.

The Department has instructed employees to refer potential fraud cases to the Fraud Investigation Unit, but the employees often do not make the referrals because they get little feedback on the results of their referrals.

RECOMMENDATIONS

The Commissioner of Health and Social Services should take the following action to assure that the error rate is reduced:

- more closely monitor the implementation of the error reduction plan, and
- obtain periodic reports on the plans impact on error rates, and
- if the error rate is not reduced, take additional action to reduce the rate to an acceptable level.

The Commissioner should take the following action to improve efforts to collect overpayments of public assistance:

- notify clients of their obligations in a timely manner,
- strengthen efforts to collect on past due accounts, and
- implement a mandatory payback system for fraud related overpayments.

The Commissioner should take the following action to assure that all potential fraud cases are referred to the Fraud Investigation Unit by:

- provide prompt feedback to employees making the referrals.

DEPARTMENT COMMENTS

The Commissioner agreed with the recommendation to expand monitoring efforts. However, the Commissioner's response did not fully address the recommendations concerning collection of overpayments and fraud referrals.

Collection of Overpayments

Our report points out three problems in the Department's collection

efforts--not notifying clients of their obligation to repay in a timely manner, not adequately attempting to collect on past due accounts, and not having a mandatory payback system for fraud-related overpayments.

The Commissioner's response does not address the problem of notification of clients of their obligations in a timely manner. We believe the clients must be notified of their obligation in a timely manner, if there is to be timely recovery of overpayments.

The Commissioner stated that the Department is instituting a mail follow-up procedure in an attempt to obtain more repayments of fraud-related overpayments. We believe a mandatory repayment system should be implemented for collection of fraud-related overpayments. We believe the mail follow-up procedure will improve collections, and should also be instituted for non-fraud overpayments.

Fraud Referrals

The Commissioner stated that the Department is preparing a plan for more effectively controlling and deterring public assistance fraud. However, the Commissioner did not specifically address our recommendation that action be taken to assure that all potential fraud cases are referred to the Fraud Investigation Unit. To assure effective fraud control, we believe it is important that all potential fraud cases are referred to the Fraud Unit.

MORE EFFECTIVE FRAUD CONTROLS ARE NEEDED

Available evidence indicates that public assistance fraud is a significant problem in Alaska. The Department established a Fraud Investigation Unit to prosecute fraud cases and recover money erroneously paid as a result of fraud. Because the Department does not consider fraud control a priority effort, the Fraud Unit does not receive the resources needed to operate effectively. Few cases result in prosecution and little money is recovered. In addition, the Fraud Unit does not meet federal requirements.

PUBLIC ASSISTANCE FRAUD IN ALASKA

The Department does not maintain statistics on the estimated total loss through public assistance fraud.

We discussed the significance of the fraud problem with officials in the Fraud Unit and the Division of Public Assistance. While their estimates of the exact extent of the problem varied considerably, the consensus was that public assistance fraud is a significant problem in Alaska.

Department error rate data provides another indication of the significance of the fraud problem. For a recent twelve month period the data shows that 68 percent of the errors in the AFDC program and 54 percent of the errors in the food stamps program were the result of client errors. Client errors are those attributable to non-reporting or incorrect reporting of actual circumstances by the client. These error rates include both intentional and unintentional failure to report circumstances. The errors are not fraudulent unless the incorrect reporting is intentional, and some Department officials believe that most client errors are unintentional, but this data provides an indication of the potential significance of the problem.

RESPONSIBILITY FOR CONTROLLING PUBLIC ASSISTANCE FRAUD

Federal regulations require that the "state plan" must provide:

- Methods and entries for identifying situations in which a question of fraud in the program may exist.
- Procedures developed in cooperation with State's legal authorities for referring to law enforcement officials.

The Department has established a Fraud Investigation Unit in the Division of Administrative Services and has charged them with the investigation and administrative adjudication of recipient and provider fraud cases.

According to their policy statement, the Department is committed to:

- removing all ineligible from the public assistance rolls
- prosecuting fraud to the fullest extent of the law, and
- recovering all monies erroneously paid as a result of fraud.

The unit consists of a Chief Investigator, two Fraud Investigators, and one secretary. All are located in Anchorage.

FRAUD CONTROL IS A
LOW PRIORITY

To allocate limited resources the Department must prioritize their efforts. The Department prioritizes its resources to: (1) cope with rising caseloads; (2) assure timely delivery of eligibility and payment services; (3) provide effective quality controls to minimize underpayments and overpayments through error; and, (4) provide fraud control. The Fraud Unit falls in the last priority and operates with limited resources.

The staff of the Fraud Unit has remained constant for the past five years while the programs they monitor and the staff level in the Division of Public Assistance have increased significantly, as shown on the chart on the following page. The fraud investigators stated that they cannot handle the existing caseload with current staffing, and we noted that many of the potential fraud cases are never investigated because there is no staff available to conduct the investigation.

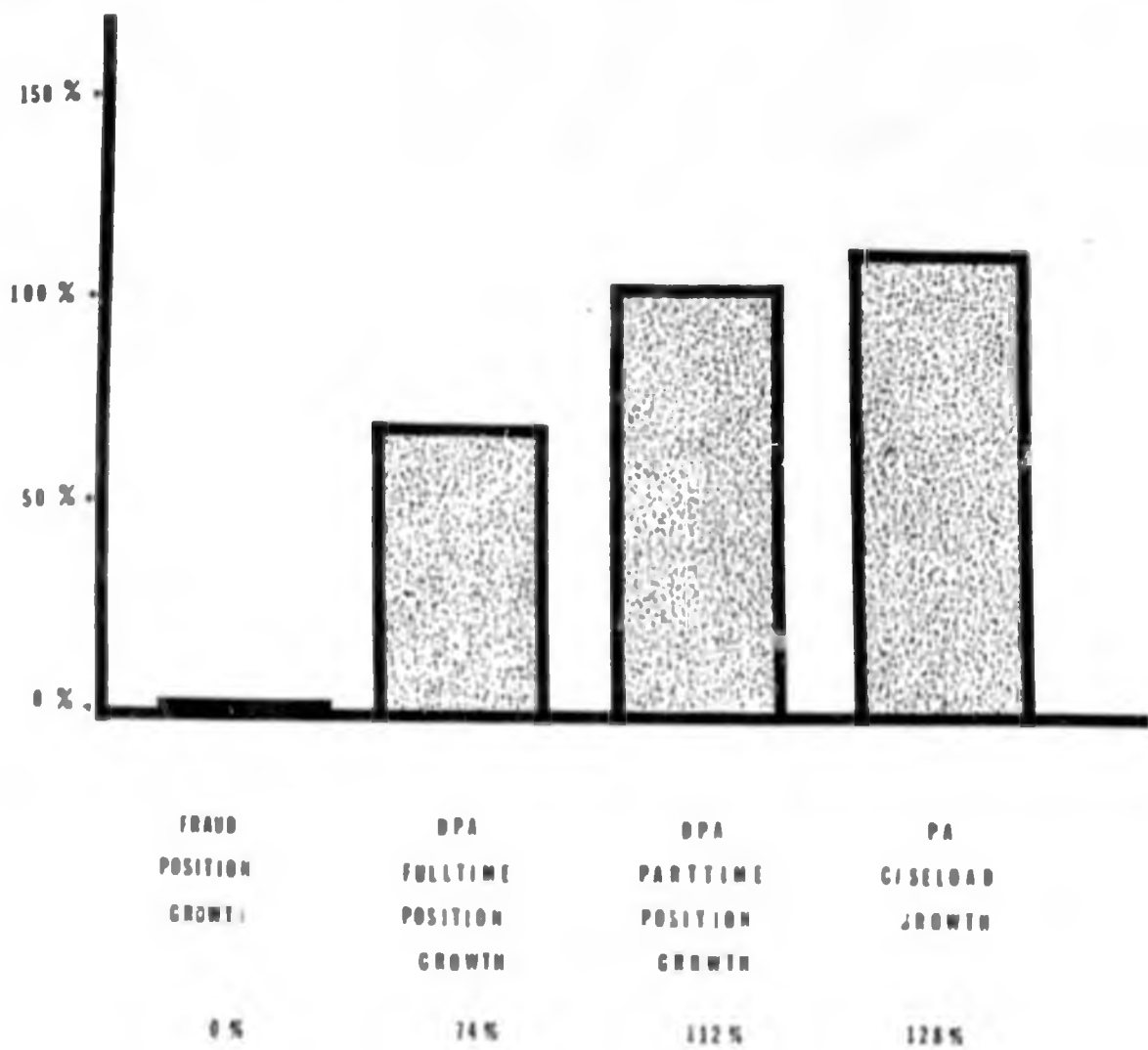
The Fraud Unit is responsible for the entire state, but because of limited travel funds they seldom do fraud investigations outside of Anchorage. The Unit's total travel budget for fiscal year 1981 was \$9,200. Fraud investigators say there is welfare fraud throughout the state, but because they have limited travel funds they seldom investigate cases outside of the Anchorage area.

When travel funds are available the unit's effort appear to be productive. The major out-of-town effort in fiscal year 1981 was a four week investigation in the Fairbanks area conducted by two investigators. The results of this effort are summarized below:

- 5 cases prepared for the District Attorney	\$40,064
- 1 lump sum payment in lieu of prosecution	20,975
- 15 payback agreements	<u>36,400</u>
	<u>\$97,439</u>

Another indication of the Unit's lack of resources is the absence of basic equipment needed to conduct fraud investigations. For example, the Assistant District Attorney suggested that they obtain and utilize a camera in their investigative efforts, but they have no photographic equipment and no funds of the purchase of photographic equipment. In another instance the District Attorney advised the fraud investigators that in order to prove fraud in court they must be able to identify in a evidentiary way persons who have committed fraud. He suggested that they have documents fingerprinted and they keep the documents and fingerprints in plastic or other ways in a manner consistent with good law enforcement practice. But, the Unit's total annual budget for supplies is \$400.00 and according to the fraud investigators this does

**FIVE YEAR GROWTH PATTERN FOR DPA / FRAUD STAFFING
AND RELATED PROGRAM GROWTH**



not allow them to purchase the plastic containers referred to by the District Attorney.

FRAUD UNIT IS NOT EFFECTIVE

When potential fraud cases are reported to the Fraud Unit most of the cases are not investigated. In addition, the cases investigated by the Unit usually do not result in payback of overpayment or prosecution.

Cases Closed by the Fraud Unit in 1980

During 1980 the Fraud Unit closed 195 cases, as shown in the following table:

FRAUD CASES CLOSED IN 1980

	<u>No. of Cases</u>	<u>Percent of Total</u>
Closed by Review	102	52.3
Closed by Admin. Action	53	27.2
Closed as Unfounded	19	9.7
Payback Agreement*	17	8.7
Prosecuted	<u>4</u>	<u>2.1</u>
TOTAL	<u>195</u>	100.0

* Only indicates a payback agreement, not actual payback.

Most Fraud Cases Are Closed Without Being Investigated

In 1980, 52 percent of the fraud cases referred to the Fraud Unit were closed by review. Cases closed by review are not investigated but are sent back to the Division of Public Assistance.

The Chief Fraud Investigator told us that the criteria used to determine which cases can be closed by review are as follows:

- The loss is less than \$400
- The information does not substantiate the allegation, or
- The case is more than one year old.

We reviewed 23 fraud cases that were closed by review and found that 20 should have been investigated based on the above criteria. These 20 cases alone represented an alleged loss of \$66,200.

Most Fraud Cases Investigated are Closed Without Obtaining a Payback or Prosecution

In 1980 the Fraud Unit investigated 93 cases, but 72 or 77 percent were

closed by "Administrative Action," or were closed as "Unfounded".

A case is closed by Administrative Action when, after investigation, it is determined that the case does not have fraud potential. A case is closed as Unfounded when, after investigation, it is determined that there is no support for the allegation of fraud. In 1980 the Fraud Unit closed 53 cases by Administrative Action and 19 cases as Unfounded.

Fraudulently Received Payments are Seldom Recovered

In 1980 there were 17 cases closed by "payback". These are cases where the client agreed to pay back to the state money that was received fraudulently. In some cases a lump sum payment was received. In some cases the client signed an agreement to pay back the amount owed on an installment basis, but these agreements were seldom honored. Installment payback agreements were signed for nine of the seventeen cases mentioned above, but only one client had complied with the terms of the agreement.

Few Cases are Prosecuted

In 1980, the Fraud Investigation prosecuted four fraud cases or 2.1 percent of the cases closed that year. The result of these cases are as follows:

- Case No. 1 - The client pleaded "no contest" to 15 counts of welfare fraud. The client was sentenced to 10 days in jail on two counts, with seven days suspended on each count. Client was ordered to make restitution of \$4,599 within 180 days, and to make restitution of \$1,500 within one year.
- Case No. 2 - Client did not appear for trial, was subsequently arrested and trial has been rescheduled.
- Case No. 3 - Client pleaded guilty to 3 counts of welfare fraud. Sentenced to 120 days in jail on each count, with 99 days suspended on each count - sentenced to run concurrently. Ordered to pay restitution of \$993 within two years.
- Case No. 4 - Client pleaded "no contest" to 2 counts of welfare fraud. Ordered to pay \$236 to the state and pay a fine of \$300. Sentenced to 60 days in jail with all suspended.

FRAUD UNIT DOES NOT MEET FEDERAL REQUIREMENTS

The federal regulations that the State has agreed to comply with specify that the State will have established procedures and methods for the prevention and control of program fraud and abuse.

A recent federal examination of Alaska's fraud and abuse program, as it relates to the Medicaid program, concluded that the State's program is not in compliance with federal regulations. A summary of the findings of this report is shown below.

<u>Criteria</u>	<u>Finding</u>
The State Agency must have procedures and methods for detection of fraud situations.	The State does not meet this requirement.
The State must have a method for verifying with recipients whether services billed by providers were received.	The State does not meet this requirement.
The State must have methods for investigating situations of fraud and abuse.	The State partially meets this requirement.
The State must have procedures for the referral of fraud and abuse cases for criminal and civil action.	The State does not meet this requirement.
The State must resolve all full-scale investigations.	The State partially meets this requirement.
Fraud and abuse information must be reported to the appropriate federal official.	The State partially meets this requirement.
The State must include a fraud on all provider claims forms or on the claimant endorsement block of the reverse of all checks.	The State meets this statement requirement.
Providers and recipients must be informed of penalties for Fraud.	The State partially meets this requirement.

CONCLUSIONS

The Department's Fraud Investigation Unit is not effective. The Unit prosecutes few fraud cases and recovers little of the money erroneously paid as a result of fraud. Department priorities focus on providing direct service to clients so only limited resources have been available for fraud control. Because there is a significant amount of fraud in public assistance programs, the Department needs to place more emphasis and resources on fraud control.

RECOMMENDATIONS

The Commissioner of Health and Social Services should take the following action to assure effective control of fraud in public assistance programs:

- develop a plan to provide the state with an effective means of controlling and deterring public assistance fraud,
- provide the resources necessary to implement this plan, and
- obtain periodic reports showing how the effectiveness of the program is being improved.

DEPARTMENT COMMENTS

The Commissioner outlined several actions planned or in process that are consistent with our recommendations for improving the effectiveness of the Fraud Investigation Unit.

PURPOSE AND SCOPE OF REVIEW

Because public assistance programs are rapidly growing this review was conducted to determine what actions the Department of Health and Social Services is taking to prevent misuse of public assistance funds. Specifically, we conducted the review to determine what actions are being taken to reduce erroneous public assistance payments, and what impact these actions are having on the error rate. We also sought to determine what actions are being taken to reduce fraud in public assistance programs.

The following review steps and procedures were used:

- Review of applicable statutes, regulations, codes and administrative procedures;
- Interviews with Department personnel, and with appropriate Federal officials;
- Examination and analysis of Department reports, documents, and statistical data.

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

OFFICE OF THE COMMISSIONER

June 29, 1981

JAY S. HAMMOND, GOVERNOR

POUCH H 01
JUNEAU, ALASKA 99811RECEIVED
JUN 29 1981

John O'Meara
Office of Internal Audit
Office of the Governor

Office of the Governor
Division of Internal Audit

Dear Mr. O'Meara:

The following comments refer to the findings in the preliminary report of June 5, 1981, addressing the problem of payment of public assistance funds to ineligible persons:

Page 17 "Quality Control Responsibility".

The Quality Control Unit was housed in the Commissioner's Office prior to 1979. As the audit report states on page 18-B, the unit was reassigned to the Division of Public Assistance in 1979 and a number of actions were immediately taken by the Division to reduce the level of error in Alaska's programs. The Division error reduction strategy was based on the following three stages; 1) isolating the primary causes of error in the programs, 2) moving quickly to implement corrective action designed to correct these problems and 3) monitoring the corrective actions at appropriate intervals to determine their effectiveness.

The audit report states that the Division has made significant progress in isolating the reasons for error and implementing actions to correct these errors. However, the audit recommends that greater emphasis be placed on monitoring.

The Division agrees with the recommendation to expand monitoring efforts now that initial corrective actions have been in place long enough to have potentially reduced errors. However, full scale monitoring prior to this time would not have been beneficial as there was insufficient data from which to judge the effectiveness of any specific corrective action.

In summary, the Division feels it has acted quickly and responsibly to implement an effective quality control/corrective action program since assuming this unit in 1979. Further monitoring has and will continue to be a major element of the Division's efforts.

Page 20 "Collection Efforts Have Limited Success".

The audit report is generally accurate in its conclusion that very little recovery of program benefits is actually realized on a monthly basis. However, the Department believes this poor showing stems primarily from Federal regulations which prohibit the State from imposing mandatory repayment on Foodstamp and AFDC households.

John O'Meara

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The States must advise recipients that repayment is voluntary for all non-fraud claims. Given this requirement coupled with these families' income situation, it is not surprising that less than 1% of all outstanding collectibles are recovered in any particular month. Officials from this Department and from the Governor's Office have met with officials from the U.S. Department of Agriculture on the issue. Changes were included in President Reagan's FY 82 legislative proposals to make repayment of non-fraud losses in Foodstamps mandatory effective October 1, 1981. With this change in Federal rules, the State will see a dramatic increase in recovery of Foodstamp losses.

At page 21 the audit report finds inadequate the Fiscal Section's follow-up efforts on cases for which the section assumed collection responsibility in July, 1980. These cases involve payback agreements arising from fraud investigations. The Fiscal Section concurs, in principle, with this finding, and is instituting procedures which will produce automatic mail follow-up, in an attempt to obtain repayment. The section points out the following:

1. The section was assigned the collection responsibility without funds or staff to carry it out. Work on collection activity must be done by staff who are authorized to accomplish other, higher priority tasks.
2. Efforts beyond mail follow-up are not feasible, as funds for such action are not available. Offset of collection fees or expenses against receipts is not allowed.
3. To expect substantial success in collecting on these cases may be unrealistic from a universe of people without much money to pay.

Page 5 and 28 "More Effective Fraud Controls are Needed".

So much as reads "...Because the Department does not consider fraud control a priority effort the Fraud Unit does not receive the resources needed to operate effectively..." would be more apt if it read "Because the Department prioritizes its resources to: (1) cope with rising caseloads, (2) assure timely delivery of eligibility and payment services, (3) provide effective quality controls to minimize underpayments and overpayments through error, and (4) provide fraud control, the fraud unit falls in last priority to receive the resources needed to operate effectively..."

Page 28 The "...federal report [showing that] a minimum of 10 per cent of the public assistance cases are fraudulent on a national average..." has not been made available to DHSS. Inquiry with respect to the "Federal report" revealed that the Chief Investigator made reference to it to State Internal Audit staff, but has been unable to produce a copy of the report as of June 19, 1981. Further discussion between staff members of this department and State Internal Audit left the issue of percentage of fraud in public assistance as unsubstantiated and, unless the "Federal report" referred to is located, the statement concerning the percentage of fraud would be deleted.

John O'Meara

-3-

Page 35 "Fraudulently Received Payments are seldom recovered".

The Chief Fraud Investigator states that of the 17 cases closed by "payback" 13 have, in fact, signed "payback" agreements. Of the remaining four cases, two were concluded by recovery action, one by lump sum payment and one by negotiation by the Fairbanks Attorney General's Office. Consequently, "payback" agreements were not necessary in those cases.

Page 38 "Recommendations".

The following actions will be taken or are already underway to make the Fraud Investigation Unit more effective:

On July 1, 1981 the Unit will be assigned under the line and technical supervision of the South Central Region Deputy Commissioner. This re-assignment will provide for on-site supervision of Fraud Investigation Unit staff and activities and permit direct application of management expertise that is unavailable in the Unit.

An incremental increase will be requested in the DHSS FY 83 Policy Budget for one investigator and one part-time clerk typist for NRO, one investigator and one part-time clerk typist for SERO, and one additional investigator for SCRO.

The monthly and quarterly reports submitted by the Chief Fraud Investigator will be expanded upon to better depict the effectiveness of public assistance fraud control.

The Deputy Commissioner, Southcentral Region will direct the Fraud Investigation Unit in the preparation of its plan for more effectively controlling and deterring public assistance fraud.

Sincerely,



Helen D. Beirne, Commissioner

MS 357

March 18, 1981

The Honorable Jim Duncan
Speaker of the House
Alaska State Legislature
Pouch V
Juneau, AK 99811

Dear Mr Speaker:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill which would revise and consolidate existing statutes dealing with adult public assistance. The primary purpose of this bill is to recognize the existence of supplemental security income (SSI) and the elimination of separate aged, blind, and disabled programs on the federal level. (See 42 U.S.C. 1381 et seq.; and P.L. 92-603, sec. 303(a) and (b), which repealed 42 U.S.C. 301 et seq. [old age], 1201 et seq. [blind], and 1351 et seq. [disabled].)

This bill would eliminate duplication and make incidental corrections and other technical improvements. This should increase clarity, efficiency of administration, and the ease of future amendments. Substantive changes are minimal. This bill would not alter the amounts to be paid recipients of adult public assistance.

A section-by-section description is attached for your convenience.

Sincerely,

S/SSH

Jay S. Hammond
Governor

117 557

SECTION-BY-SECTION DESCRIPTION

Sec. 1. This section amends AS 44.29.020, which prescribes various duties of the Department of Health and Social Services, to refer to administration of "adult public assistance" rather than to administration of separate programs for "old age assistance" and "aid to the blind".

Secs. 2, 3, and 4. These sections accomplish the same thing with respect to AS 47.05.010(1), (2), and (5), respectively.

Sec. 5. This section accomplishes the same thing in AS 47.05.050, without having to eliminate reference to "aid to the blind" because that section currently does not refer to that program.

Sec. 6. This section changes the title of art. 4 of AS 47.25 and amends AS 47.25.430 to address all three components of adult public assistance.

AS 47.25.430, as amended in this section, collects significant provisions of former AS 47.25.430 (aged), AS 47.25.620 (blind), and AS 47.25.790 (disabled). The reference to "65 years" is deleted from AS 47.25.430 and put in the definitions section -- AS 47.25.615. A definition of "resident" which parallels language of the Social Security Act is added in place of AS 47.25.780(4). Specific reference to the Alaska Pioneers' Home is deleted. A definition of "public institution," broad enough to include it, is added to AS 47.25.615. Citations are appropriately changed and several phrases are modified in the interest of style.

Sec. 7. The language of AS 47.25.435 is amended to include all income exclusions specified in federal law. The SSI exclusions are included to assure that recipients of Adult Public Assistance will be eligible for Medicaid.

Reference to regulatory authority is deleted because it is addressed in AS 47.05.010. This section also includes a citation change necessitated by the consolidation of provisions.

- Sec. 8. This section simply clarifies AS 47.25.450.
- Sec. 9. This section amends AS 47.25.460. Subsection (b), as amended, consolidates the language of former AS 47.25.480 and AS 47.25.510 with this section. Other provisions are clarified. The deleted sentence in (d) (formerly (c)) relates to a procedure which the modern level of mail service renders unnecessary.
- Sec. 10. This section makes a citation change in AS 47.-25.470.
- Sec. 11. This section amends AS 47.25.500. Subsection (a) is amended to add clarity and to make it clear that there will be no prehearing termination of benefits, in accordance with United States Supreme Court decisions on this subject. Also, in the sentence on enforcement actions, the term "shall" is changed to "may" to conform to corresponding provisions in former AS 47.25.740 (blind) and AS 47.25.920 (disabled); this will assure continued prosecutorial discretion in the attorney general. Subsection (b) is amended to allow the department, within certain guidelines, to waive or reduce the amount to be recovered. The former language of this subsection is deleted to reflect the fact that the federal government awards SSI benefits independently.
- Sec. 12. This section makes minor, technical amendments to AS 47.25.515.
- Sec. 13. This section amends AS 47.25.520 to eliminate archaic language.
- Sec. 14. This section makes a citation change in AS 47.-25.550.

- Sec. 15. This section makes technical amendments to AS 47.25.580, including one related to the deletion of the former language of AS 47.25.500(b).
- Sec. 16. This section makes citation and name changes in AS 47.25.590. It also adds language relating to relations with the federal government which derives from former AS 47.25.930.
- Sec. 17. This section amends AS 47.25.600 to reflect the terminology of the new criminal code. A class B misdemeanor is punishable by up to 90 days in jail, a \$1000 fine, or both.
- Sec. 18. This section amends AS 47.25.610 to proscribe violation of both statutes and regulations. Confusing language concerning "no other penalty" is deleted. Reference is also made to a class B misdemeanor.
- Sec. 19. This section, which derives from AS 47.25.780 and AS 47.25.960, includes the definitions mentioned above.
- Sec. 20. This section repeals statutes which are unnecessary or which concern matters that are readily addressed by regulation.

3-10-82

Attached are statistics from the Ombudsman's Office with regard to handling complaints and assistance payments. In 1981 464 complaints were processed by the Ombudsman's office. This year the to-date total comes to 131 and an increase over last year is anticipated.

Because of the \$7 million error rate in eligibility determinations, the Department of Health and Social Services has requested that applications be processed more slowly and with an emphasis on individual situations. To do this, eligibility workers are now making home visits. The time for resolving complaints will increase as will the amount of complaints over processing times.

3/10/82

DISPOSITION OF COMPLAINTS--BY CASE TYPE
OFFICE OF THE OMBUDSMAN
STATE OF ALASKA

PAGE 1

(OMBZ4001)

(OMBZ4001)

THIS REPORT INCLUDES ALL 1982 CASES ON THE CLOSED CASE FILE FOR THE DEPT. OF HEALTH AND SOCIAL SERVICES, PUBLIC ASSISTANCE

CASE TYPE	CASE	DESCRIPTION	TALLY	PERCENT
1	ASSIST	EXPLAIN/ADVISE	68	51.9044
1	ASSIST	EXPEDITE	36	27.4788
			104	79.3832
			104	79.3832
2	DECLIN	PREMATURE	17	12.9761
2	DECLIN	TRIVIAL/BAD FAITH	1	.7633
2	DECLIN	KNOWLEDGE FOR MORE T	1	.7633
2	DECLIN	DISCRETIONARY	2	1.5266
			21	16.0293
			21	16.0293
3	DISCON	COMPLAINT RESOLVED	5	3.8165
			5	3.8165
			5	3.8165
4	INVEST	FULLY JUSTIFIED	1	.7633
			1	.7633
			1	.7633
FINAL TOTALS			131	99.9923

3/10/82

DISPOSITION OF COMPLAINTS--BY CASE TYPE
OFFICE OF THE OMBUDSMAN
STATE OF ALASKA

PAGE 1

(OMBZ4001)

(OMBZ4001)

THIS REPORT INCLUDES ALL 1981 CASES ON THE CLOSED CASE FILE FOR THE DEPT. OF HEALTH AND SOCIAL SERVICES, PUBLIC ASSISTANCE

CASE TYPE	CASE	DESCRIPTION	TALLY	PERCENT
1	ASSIST	NONE POSSIBLE	12	2.5860
1	ASSIST	EXPLAIN/ADVISE	197	42.4535
1	ASSIST	EXPEDITE	165	35.5575
			374	80.5970
			374	80.5970
2	DECLIN	PREMATURE	43	9.2665
2	DECLIN	INSUFFICIENT PERSONA	1	.2155
2	DECLIN	ELECTED OFFICIAL	1	.2155
2	DECLIN	UNION	3	.6465
2	DECLIN	DISCRETIONARY	6	1.2930
			54	11.6370
			54	11.6370
3	DISCON	COMPLAINT RESOLVED	12	2.5860
3	DISCON	DISCRETIONARY	8	1.7240
3	DISCON	WITHDRAWN	3	.6465
3	DISCON	LOST CONTACT	7	1.5085
			30	6.4650
			30	6.4650
4	INVEST	FULLY JUSTIFIED	2	.4310
4	INVEST	PARTIALLY JUSTIFIED	1	.2155
4	INVEST	UNSUPPORTED	3	.6465
			6	1.2930
			6	1.2930
FINAL TOTALS			464	99.9920

ANALYSIS OF HB 357 as of 3/10/82
ADULT PUBLIC ASSISTANCE
AS 47.25.430-615

The purpose of this bill is to "clean up" antiquated language and bring the statutes into conformity with SSI programs under Title XVI. The SSI program was instituted over five years ago and this language has not been addressed yet.

This bill lends flexibility to the department so that it can deal on an individual basis with each case. It also gives statutory basis for hearings on any types of changes in assistance if requested by the recipient. This is reflective of the current regulations and is not anticipated to affect the operations of the department.

A turn-around time of 30 days is set for notification of eligibility determinations. Cases of fraud or violations of these statutes or the regulations relating to these statutes is classed as a B misdemeanor.

Language referring to tuberculosis is retained in this bill even though there are no tuberculosis facilities in Alaska.

Proposed Amendment for HB 307

Sec. 2, line 27: This line would read, "the state a sum. . . sufficient to compensate the state for the full cost of care and support of the person at the home, unless it can be shown that this would create an undue hardship on that person. This standard shall be implemented for persons currently in residence at the facility, if they were not subject to it upon admission."

The intent of the proposed language is to provide a statutory imperative for the Pioneer Home administration to charge up to the full cost of care for each resident if they are able to pay this. Since the Pioneer Homes are for the needy, it is hoped that those persons residing there who are not needy shall be charged for their care or given the option to find other accommodations and thus free-up their beds for persons on the waiting lists who are destitute.



Official Business

Alaska State Legislature

House of Representatives

Committee on

Health, Education & Social Services

Pouch V
State Capitol
Juneau, Alaska 99811

March 10, 1982

Agenda

HB 844 Financing of Rural Health Facility improvements.

CSSB 692 Duties of Coroners and the Coroner's Inquest. ✓

HB 357 Relating to Public Assistance.

WITNESSES:

HB 844 Rep. Ernie Haugen

Dept. of Health and Social Services *W. Haugen*

Dennis DeWitt, Hospital Association

CSSB 692 Art Snowden, Administrator, Alaska Court System

HB 357 Rod Betit, DHSS

Campbell
CARRA *R. Johnson*

STATE OF ALASKA

JAY S. HAMMOND, GOVERNOR

DEPARTMENT OF LAW

OFFICE OF THE ATTORNEY GENERAL

March 24, 1981

POUCH K - STATE CAPITOL
JUNEAU, ALASKA 99811
PHONE: (907) 465-3600

The Honorable Donald E. Clocksin
Chairman
Health, Education & Social
Services Committee
Alaska State House of
Representatives
Pouch V
Juneau, AK 99811

Re: HB 357 (Adult Public Assistance)
Our File No.: J-77-095-81

Dear Don:

As you requested, a copy of your January 12, 1979 letter to me is attached. A copy of the draft version of the bill you were commenting on in that letter is also attached, along with my December 5, 1978 cover letter.

That cover letter of mine includes a section-by-section commentary on that draft. Since the governor's March 18, 1981 transmittal letter for HB 357 also includes a section-by-section description (see 1981 HJ, pp.601-604), be sure that the old one and the current one don't get mixed up.

The current bill is different in many respects from the 1978 draft. I think that most changes were made in response to your comments--agreeing with some completely and, I believe, reaching a compromise on some others. The controversial sec. 7 of that draft has been deleted and the point of that section is not addressed in this bill. Assistant Attorney General Rick Robertson, to whom the project was assigned for this session, has made some additional improvements on the earlier version.

I do not think that this bill should be controversial, and I hope that it will pass easily so that we can finally clean up our statutes on adult public assistance.

Yours truly,

WILSON L. CONDON
ATTORNEY GENERAL

By: 
Arthur H. Peterson
Assistant Attorney General

Attachments

cc: Rick Robertson

*Grana -
file w/ HB 357
note in calendar
file - please review
if you have time*

Peterson

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION
524 WEST SIXTH AVENUE, SUITE 204
ANCHORAGE, ALASKA 99501
TELEPHONE 272-9431

January 12, 1979

RECEIVED
Department of Law
Juneau, Alaska

JAN 15 1979

Arthur H. Peterson
Assistant Attorney General
Department of Law
Pouch K
Juneau, Alaska 99811

AM PM
7,8,9,10,11,12,1,2,3,4,5,6

Re: Proposed Adult Public
Assistant Legislation

Dear Art:

Thank you for giving us the opportunity to comment on this proposed legislation. My comments are both technical and substantive. We have a number of substantial objections to your proposal -- both for what it contains and what it doesn't contain.

1. P.1, line 17: If you wish to update the program titles, A.S. 47.05.01~~0~~(5) and A.S. 47.05.050 should be amended as well as the other sections. ✓✓

2. P. 1, lines 21-22: The phrase "so far as practicable under the conditions in the state" should be deleted. The obligation to provide aid to the destitute should be an absolute obligation of the state, just as is the obligation to provide food stamps and AFDC. The attempt in the existing legislation to distinguish between the obligation of the Legislature and the obligation of the Department of Health and Social Services is inappropriate here. Such a concept should be addressed in a bill on the budgeting process and should apply to all agencies of government equally. ✓

3. P.1, line 22: There is an inconsistency in terminology here. The term "disabled" here becomes "permanently disabled" on page eight, line nine and "permanently and totally disabled" on page nine, line twelve. Please compare with Gordon Landes' draft proposed regulations which use the term "disability." 7 AAC 40.090. The existence of those draft proposed regulations and of Rod Betit's October 30, 1978 memo on APA Eligibility Policy creates some confusion. I'm not sure whether both of those administrative steps are only interim measures or whether there is some attempt being made to implement the proposed legislative changes prematurely. } ?

January 12, 1979

4. P. 1, lines 27-28: The new definition of "resident" includes a requirement of "no present intention of leaving." This changes A.S. 47.25.780(4) which makes blind people eligible if they reside in the state. I am very aware of the case law on residency requirements, but it seems to me that imposing a new eligibility criterion (intent to remain in the state) is more restrictive than the present law. The standard should be simply residency, both from the standpoint of administrative convenience and of practicality. I have seen no evidence of a mass immigration of out-of-staters coming to Alaska temporarily just so they can get a \$350 per month payment for disability or blindness.

5. P.1, line 28 to p. 2, line 3: There are two substantial problems with this language. First, by adopting the "old age" language and repealing the "blind" and "disabled" language (A.S. 47.25.640 & .810), you have eliminated the obligation to determine the amount of assistance "with due regard to the resources and needs of the person and the conditions existing in each case." This requirement for individual eligibility determinations based upon the current financial situation of the applicant is crucial. Without it, people could be denied help even though they had no other income just because of the potential for future income. Such a restriction has apparently been imposed in anticipation of this legislative change. In the October 30 Betit memo (II.2) and Gordon Landes' draft regulations -- 7 AAC 40.370(b) -- potential SSI income is deducted from the state APA standard even though it has not been received. This changes existing practice, at least in many cases, and is an irrational rejection of the concept that poverty is measured by actual income, not a potentiality. Reinsertion of the quoted language would affirm that concept.

Landes
says no.

The second problem with proposed section 47.25.430(a) is that it would eliminate people from the APA program whose income exceeds the SSI need standard but is less than the APA standard. Prior to Betit's October 30 memo, people were able to receive APA payments independently of SSI. We believe it is very important that the APA program be more than just a supplement to the SSI program so that people with a little income (making them ineligible for SSI) could still receive aid from APA. To accomplish this, the term "needy resident" should be defined as follows:

The bill makes no change in the regard
See Landes comment

"a needy resident is a resident of the state whose income, as determined under sections 430 to 625 of this chapter and regulations adopted by the department, is less than the [income eligibility standard] for adult public assistance."

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6. P. (1), lines 18-21: I'm confused about the use of the terms "institution", "public institution" and "public medical institution." The term "institution", used in section 47.25.430(c) is not defined. Do you mean a "public institution"? Can one receive payment while in a non-public institution? See also A.S. 47.25.140.

The bill does not make any change in this regard.

7. P. 2, lines 29 to p. 3, line 2: This section continues to incorporate the federal income exclusions and deductions. It should be noted that no comparable "resource exclusion" section appears in existing law or this proposal, despite the appearance of a comparable federal provision -- 42 U.S.C. 1382b.

The problem is that the proposed language does not give the state the flexibility to exclude other items not excluded under the federal rules. See 42 U.S.C. 1382e(c)(2). There are items which should be excluded which may be unique to Alaska -- Alaska Longevity Bonus payments, limited entry fishing permits, food obtained by subsistence hunting and fishing, etc. Apparently the Department supports this more liberal exclusion rule since, at least in Gordon Landes' draft, items are excluded which are not necessarily excluded under the federal law or regulations. 7 AAC 40.320(c) and (g).

8. P. 3, line 15: The proposed changes require "prompt" investigation of each applicant's eligibility, but eliminate the existing promptness requirement for making a decision. That requirement appears in existing A.S. 47.05.101(a) and A.S. 47.25.840, which is repealed by this proposal. We believe that a thirty-day deadline for processing applications should be imposed upon the Department. There is a problem with delayed eligibility determinations, especially since the Betit October 30 memo provides for APA eligibility determinations independent of the SSI process. (II.2) With this new eligibility determination procedure, the danger of delays is increased. Only a mandatory deadline will insure prompt payment of benefits to needy people. Where a 30-day deadline might hurt our clients because of delays in medical exams, the state should continue to provide GR assistance for consultative exams. A 30-day limit is utilized in other programs (food stamps, GRA/GRM), so it is clearly feasible.

But don't forget that you are in 3d of preceding page?

9. P. 3, lines 24-29: While we recognize that the language allowing "reconsideration" whenever the department wants it appears in existing law (A.S. 47.25.510), we believe the potential for harassment is serious. Perhaps "reconsideration" could be changed to "period" review and the remainder of the sentence could read "when circumstances warrant." This

✓

would allow review on a scheduled basis (e.g., every three months) and also allow review when there is some indication of a change of circumstances. There must be a balance between the state's obligation to assume eligibility and the recipient's right not to be unnecessarily harassed.

10. P.3, line 26: The words "with whom he or she is living" should be added after "recipient". This would be consistent with department policy (see draft 7 AAC 40.240) and reflect reality. Also, the word "non-exempt" should be added after "acquires" to assure that only countable income and resources affect eligibility. Even with those changes, there is a problem with this section since it tries to simplify complex income and resources rules. Perhaps the standards should be stated here, e.g., "non-exempt property exceeding resource limitations or non-exempt income exceeding the need standard" Another example is the provision allowing reduction to an amount determined "sufficient." Why not "an amount reflecting the reduced need as determined by regulation"?

Finally, the wording of this new subsection (b) implies that assistance can be reduced without reconsideration and that only upon reconsideration is a hearing available. I don't believe this is the intention, but it should be made absolutely clear.

11. P.4, line 11: "Within a reasonable time" should be changed to "promptly," particularly for people who have been denied upon original application and are receiving no benefits pending the appeal.

12. P.4, lines 16-17: This amendment eliminates the authority of the department to pay more than one month's payments at one time where slow mails make it desirable. I am not aware of a problem with mail delivery, but if there is no evidence of a problem, this authority should remain. I would guess there are areas of Alaska with limited postal service which require the multi-payment procedure.

13. P.4, line 25 (Section 7): This proposed section is the most objectionable. It would allow the department to decide it does not have enough money to help eligible recipients and reduce benefits without any opportunity to dispute that reduction. There are a number of problems with this section. First, quite frankly, our experience is that the department is unable to tell if and when funds will run out. The situation with General Relief funds which ran out in 1977-78 because of the department's error makes me feel that they cannot

Arthur H. Peterson

Page Five

January 12, 1979

be trusted with that decision, particularly since you make it essentially unreviewable.

Second, a percentage reduction is not the only way to handle a fiscal crisis, and other options should be left open, e.g., line item transfers, supplemental appropriation, reducing salaries, etc. Third, you apparently would deprive recipients of continued benefits while an appeal is pending despite the presence of factual issues. A hearing must be held before the reduction takes effect. Fourth, limiting the issues at an administrative appeal to the single issue of the lack of funds is simplistic. As the GRA shortfall showed, the issues are complex, and in that case it was clear that the department was unable to solve them without the help of recipients and their representatives. By limiting the issues to the one -- lack of money -- the department closes off any real policy-level analysis of the problem. Once again, I cannot overstate the unimaginative, incompetence the department used to solve the shortfall problem last fall. We cannot leave that problem to them again.

Finally, I am surprised at your attempt to alter the budget process by imposing a statutory obligation to request a supplemental appropriation. Even further, you attempt to prejudge how the supplemental appropriation is to be spent. (See p. 5, lines 17-19). The ideas presented in this section are intolerable, and if they are a part of the bill filed in the Legislature, will be met with well-documented attack on the department's budgeting abilities.

14. P.6, line 10: This section rewords the provisions on recovery of assistance improperly awarded. The sections seem satisfactory except for a misinterpretation which was possible, as well, under the old language. "The assistance" may be cancelled if "assistance was improperly granted." It is a basic principle of welfare law that a past overpayment may not, of itself, result in a finding of current ineligibility. Therefore, the section should be amended to assure that assistance is "cancelled" only if the impropriety which created the original overpayment continues and includes all of the current grant.

I also strongly suggest incorporating into the section the waiver of overpayment provisions in Landes' draft regulations 7 AAC 40.490. In addition, no recovery action should start while a hearing or waiver request is pending, and appeal should be provided prior to recoupment. Elliot v. Weinberger, 504 F.2d 1219 (9th Cir. 1977), cert. granted ___ U.S. ___.

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} leave
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Arthur H. Peterson
Page Six
January 12, 1979

15. P. 8, lines 17-22: This section would make it a crime to violate a department regulation and would eliminate a court's option to impose penalties other than a fine or imprisonment (e.g., reimbursement, community work). First, a criminal act should require some criminal intent. Many provisions of the law and regulations aren't worth a criminal penalty. Besides, this is another example of the bias against poor people and the assumption that they must be punished for wrongfully (not wilfully) obtaining government benefits. It isn't a crime to make an error in filling out an application for a liquor license, nor is it a crime to make a mistake in filling out an application to become a member of the bar association. When an intentional error in applying for other governmental licenses and benefits becomes a crime, then making it a crime to fail to follow welfare regulations won't be quite as hypocritical. I suggest neither of those types of crimes are good public policy. } No.

16. P.9, line 4: This section denies a blind person eligibility for benefits unless he or she is certified as blind by a physician or optometrist "enrolled with the department". No standards for enrollment are provided, and there is no explanation why the regulatory provisions in 12 AAC 48.010 et seq. are not sufficient to protect the department and the public. All this "enrollment" does is reduce the number of people capable of providing services to poor people.

Thank you for an opportunity to comment..

Sincerely,

ALASKA LEGAL SERVICES CORPORATION


Donald E. Clocksin
Chief Counsel

December 5, 1978

Donald E. Clocksin, Esquire
General Counsel
Alaska Legal Services Corporation
524 West 6th Avenue
Suite 204
Anchorage, Alaska 99501

Re: Legislation re adult public
assistance (AS 47.25.430 -
47.25.970)
Our File: J-77-003-78

Dear Don:

You will find attached a copy of the bill on this subject which I mentioned to you earlier. Your comments on it and suggestions for change are invited. I would like to be able to send the bill to the governor in final form by the end of this month, so the sooner you get your response to me the better.

The basic purpose of this bill is to recognize the existence of supplemental security income (SSI) and the elimination of the separate blind, disabled, and old age programs, on the federal level. (42 U.S.C. 1381 et seq.; and P.L. 92-603, sec. 303(a) and (b), which repealed 42 U.S.C. 301 et seq. [old age], 1201 et seq. [blind], and 1351 et seq. [disabled].) In so doing, this bill eliminates duplication and makes incidental corrections and other technical improvements. This should increase clarity, efficiency of administration, and efficiency of any future legislative action. Substantive change is minimal; but note secs. 4 and 7. A very brief section-by-section commentary is attached.

Hope to hear from you soon. Thanks for your help.

Yours truly,

AVRUM M. GROSS
ATTORNEY GENERAL

By: Arthur H. Peterson
Assistant Attorney General

12/5/78

SECTION-BY-SECTION COMMENTARY

("An Act relating to adult public assistance.")

Sec. 1. The "duties" paragraph of AS 47.05.010 is changed to refer to "adult public assistance" instead of "old age" and "blind", and to insert "families with" in the AFDC reference because of the change of title of that program which was never recognized in this statute.

Sec. 2. The same language changes are made in the "regulations" paragraph of AS 47.05.010.

Sec. 3. This makes a heading change for AS 47.25's article 4 and for AS 47.25.430.

The reference to "65 years" is deleted from AS 47.25.430 and put in the definitions section. The prohibition against "voluntary assignment or transfer of property" is deleted because of the more liberal resource standards in the new "Supplemental Security Income" article of the Social Security Act (see 42 U.S.C. 1381 et seq.) under which federal assistance is now administered. The ban on transfer is also a relic; it is from the period when the state imposed a lien on recipients' property; those lien provisions were repealed in 1970. A definition of "resident" is added, replacing AS 47.25.780(4).

Specific reference to the Alaska Pioneers' Home is deleted, and a definition of "public institution" put in the definitions section. Citations are appropriately changed.

Sec. 4. Expanded to take in all federal income exclusions -- not just the \$65 one. The SSI exclusions must be covered because eligibility for Medicaid which provides most of the medical portion of Adult Public Assistance does not employ a separate application but is based directly on this section. Also, regulatory authority is deleted from this section because it has already been specifically conferred by AS 47.05.010. In addition, this section includes a citation change necessitated by the bill's consolidation of provisions.

Sec. 5. This clarifies AS 47.25.450.

- Sec. 6. This makes a heading, name, and citation change in AS 47.25.460(a).

The new (b) consolidates the language of AS 47.25.480 and 47.25.510 (repealed in sec. 18) with this section. With the amendments in (c) (formerly (b)), this will permit the department to provide a consolidated hearing when the matter complained of appears to be beyond the control of the department and it cannot grant relief. Deletion of the word "fair" in (c) simply removes a superfluous word; clearly, a hearing may not legally be unfair. Other clarifications are also made.

The deleted sentences in (d) (formerly (c)) related to a procedure which the improved mail service has rendered unnecessary.

- Sec. 7. This adds a new AS 47.25.465 to provide guidance to the Department of Health and Social Services when the legislative appropriation is insufficient to meet program demands. The approach specified would provide the most benefit to the most people during the period of the shortfall. Since art. IX, sec. 13, of the Alaska Constitution prohibits withdrawing money from the state treasury except in accordance with appropriations made by law, and, since no factual determination which could be made by the department as to an individual applicant or recipient could legally affect the result, the consolidated-hearing approach, providing public scrutiny of the department's determination, is more straightforward and is a more efficient use of public resources than innumerable individual hearings would be.
- Sec. 8. This makes a citation change in AS 47.25.470.
- Sec. 9. AS 47.25.500 is amended in two basic respects. What used to be designated subsection (a) is changed so that the basic sentence makes sense and so that it is clear that there will be no prehearing termination of benefits, in accordance with the U.S. Supreme Court's decisions on this general subject. Also, "shall" is changed to "may" to conform to corresponding provisions in AS 47.25.740 (blind) and AS 47.25.920 (disabled), which are being repealed in sec. 18; this will assure continued prosecutorial discretion in the attorney general.

Secondly, subsection (b) is deleted. The state and the federal government still share clients but give them assistance in separate checks under the SSI program. If a federal check is paid improperly, the federal government will recover it and (b) is no longer necessary.

Sec. 10. This section makes technical amendments to AS 47.-25.515.

Sec. 11. This makes a technical amendment in AS 47.25.520, to eliminate an archaic usage.

Sec. 12. This is a citation change in AS 47.25.550.

Sec. 13. This simply makes technical amendments in AS 47.25.-580, including one related to the deletion of AS 47.25.500(b) in sec. 9 of this bill.

Sec. 14. This makes a citation and name change in AS 47.25.-590. Also, this amendment combines this section with AS 47.25.930 (repealed in sec. 18 of this bill), relating to relations with the federal government.

Sec. 15. This includes violations of regulations adopted under statutes, as well as violations of statutes themselves, in the penalty clause (AS 47.25.610). Confusing language regarding "other penalty" is deleted; it did not appear in the corresponding penalty sections being repealed by sec. 18 of this bill.

Sec. 16. Duplicative material is deleted from AS 47.25.620. A provision is inserted limiting the individual's choice of an ophthalmologist or optometrist to ophthalmologists and optometrists enrolled with the department. } wif

Sec. 17. Previously mentioned definitions are inserted in this section, based upon AS 47.25.760 and 47.25.960.

Sec. 18. Unnecessary sections are repealed.

Note that sec. 4, ch. 172 SLA 1975, as amended by sec. 1, ch. 83 SLA 1976, is neither amended nor repealed. The maximum level of assistance is thus left at \$334 a month for an individual recipient.

AHP:md

#5

12/5/78

For an Act entitled: "An Act relating to adult public assistance."

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

* Section 1. AS 47.05.010(1) is amended to read:

(1) administer adult public [OLD AGE] assistance, aid to families with dependent children, [AID TO THE BLIND,] and all other assistance programs, and receive and spend funds made available to it;

* Sec. 2. AS 47.05.010(2) is amended to read:

(2) adopt regulations necessary for the conduct of its business and for carrying out federal and state laws granting adult public [OLD AGE] assistance, aid to families with dependent children, [AID TO BLIND PERSONS] and other assistance;

* Sec. 3. AS 47.25.430 is amended to read:

ARTICLE 4. ADULT PUBLIC [OLD AGE] ASSISTANCE.

Sec. 47.25.430. ADULT [PERSONS ENTITLED TO OLD AGE] ASSISTANCE.

(a) Financial assistance shall be given under secs. 430 - 625 [610] of this chapter, ^{((CAPS))} so far as practicable under the conditions in the ~~state, to every~~ aged, blind, or disabled needy resident [OF THE STATE] who has been determined eligible under regulations adopted by the department [ATTAINED THE AGE OF 65 YEARS, WHO HAS NOT MADE A VOLUNTARY ASSIGNMENT OR TRANSFER OF PROPERTY TO QUALIFY FOR ASSISTANCE]. As used in this subsection, "resident" means a person who has established domicile in Alaska by being physically present, and having no present

~~in intention of leaving.~~ ^{((INSERT B))} Assistance shall be in an amount which will provide the applicant with reasonable subsistence compatible with

decency and health in accordance with standards established by the department and with the standards established under Title XVI of the Social Security Act. When benefit amounts under Title XVI of the Social Security Act are increased as a result of an increase in the cost of living, the state shall pass along the increase to recipients, and shall increase the amount of the state contribution to recipients by a percentage of the state contribution equal to the percentage increase in the benefit amounts under Title XVI. Direct payments for medical services and remedial care may not be considered in determining the maximum amount payable.

(b) No payment under secs. 430 - 625 [610] of this chapter may be made to an individual who is a resident of a [THE ALASKA PIONEERS' HOME OR ANOTHER] public institution (except as a patient in a public medical institution) or an individual who is (1) a patient in a public or private institution for tuberculosis or mental diseases, or (2) diagnosed as having tuberculosis or psychosis and is a patient in a medical institution as a result of the diagnosis.

(c) A resident of an [THE ALASKA PIONEERS' HOME OR OTHER] institution may, at any time he wishes to leave the institution, apply for assistance under secs. 430 - 625 [610] of this chapter instead of the support and maintenance provided in the [HOME OR] institution.

* Sec. 4. AS 47.25.435 is amended to read:

Sec. 47.25.435. EXCLUSION OF INCOME. Notwithstanding the provisions of secs. 430 - 625 [610] of this chapter, if the applicable provisions of the federal Social Security Act, as amended, permit, in determining the need of an applicant for, or a recipient of, an [OLD AGE] assistance grant under secs. 430 - 625 [610] of this chapter, the department shall exclude from the computation of the applicant's or recipient's income the amounts specified in 42 U.S.C. sec. 1382a(b).

amounts specified in

and any amounts specified by the department by regulation as an exclusion of income from the net worth test.

as amended, ~~and~~ the regulations adopted to implement the Supplemental Security Income ^{provisions} ~~sections~~ of the federal ^{Law} Social Security Act [A SUM NOT TO EXCEED \$65 A MONTH PLUS ONE-HALF OF THE BALANCE OF THE INCOME THAT IS EARNED IN ANY MANNER, UNTIL FINANCIAL INELIGIBILITY IS REACHED. THE DEPARTMENT MAY PROMULGATE REGULATIONS IT CONSIDERS APPROPRIATE TO CARRY OUT THE PROVISIONS OF THIS SECTION].

* Sec. 5. AS 47.25.450 is amended to read:

Sec. 47.25.450. INVESTIGATION OF APPLICANT. Upon application, the [THE] department shall promptly investigate each applicant's eligibility [PROMPTLY AND RECORD THE CIRCUMSTANCES OF EACH PERSON APPLYING FOR OLD AGE ASSISTANCE TO DETERMINE THE FACTS SUPPORTING THE APPLICATION AND OTHER INFORMATION REQUIRED BY THE DEPARTMENT].

* Sec. 6. AS 47.25.460 is amended to read:

Sec. 47.25.460. AWARD REDUCTION, TERMINATION, AND APPEAL. (a) Upon completion of the investigation, the department shall ^{promptly} decide whether the applicant is eligible for and should receive adult public [OLD AGE] assistance, the amount of it, the manner of paying it and the date on which it starts. The department may make additional investigation which it considers necessary, and shall make its decision as to the granting of assistance and the amount and nature of it as in its opinion is justified and in conformity with secs. 430 - 625 [610] of this chapter. The department shall notify the applicant of its decision in writing, by sending or mailing it to him or her ^{at his} later than the 20th day after the date of application.

(b) Assistance under secs. 430 - 625 of this chapter is subject to review every three months and at such other times as circumstances warrant, to reconsideration as often as the department requires. If a recipient of adult public assistance or the spouse of a recipient acquires ^{with whom he or she is living} property, or income sufficient to maintain the recipient properly, then the assistance granted to the recipient shall either be terminated or ^{reflecting the reduced need as determined by} reduced to an amount which the department determines ~~is sufficient.~~ _{in accordance with applicable regulations.}

Upon ~~reconsideration~~ ^{reconsideration}, the department may, after having provided opportunity for a hearing under (c) of this section, change the assistance granted or terminate it entirely if it finds that the circumstances are changed sufficiently to warrant this action.

(c) A recipient whose award is proposed to be modified or terminated, or an [AN] applicant whose application is denied ¹¹ DISCONTINUED OR MODIFIED] by the department shall be granted an opportunity for a [FAIR] hearing before a representative [THE DEPARTMENT OR BEFORE AN AGENT] of the department, appointed for that purpose, except as provided in sec. 465 of this chapter in the circumstances to which it applies. The hearing shall be held ^{promptly ((CAPS))} within a reasonable time] after request [DEMAND] for it is made. ^{The Association Line} ~~IF a representative~~ ^{IF} [AN AGENT] ^{((CAPS))} is designated to conduct the hearing, the ~~representative~~ [AGENT] shall be governed by the regulations prescribed for that purpose by the department.

(d) [(c)] Each award [ALLOWANCE] shall be paid on a monthly basis. ^{((l.c.))} ^{IN CASE IT IS IMPRACTICABLE BY REASON OF SLOW OR INTERRUPTED MEANS OF COMMUNICATION FOR A WARRANT COVERING A MONTH'S BENEFIT TO REACH THE BENEFICIARY IN DUE COURSE, THE DEPARTMENT MAY TRANSMIT WARRANTS COVERING PAYMENTS FOR MORE THAN ONE MONTH AND MAY DELIVER ALL OF THEM TO THE BENEFICIARY AT ONE TIME. [ALL WARRANTS SHALL BE REGISTERED IN A BOOK KEPT FOR THAT PURPOSE AND WHEN REGISTERED SHALL IN THE ORDER OF THEIR REGISTRATION TAKE PRIORITY OVER ALL OTHER WARRANTS AGAINST THE OLD AGE ASSISTANCE FUND.]}

* Sec. 7. AS 47.25 is amended by adding a new section to read:

Sec. 47.25.465. EMERGENCY REDUCTION OF BENEFITS. (a) If the department determines that funds appropriated by the legislature for the provision of benefits under secs. 430 - 625 of this chapter are insufficient to provide benefits at established levels for the remain-

der of any fiscal year, it may provide benefits to current recipients and eligible future applicants at a level reduced by the percentage that the amount of funds available for the provision of benefits is expected to fall short of the amount necessary to continue benefits at established levels. However, in no case may the reduced level be lower than that which prevailed in December 1973. If the department in its discretion makes such a decision, it shall notify applicants and recipients of the reduction, at least 30 days before it is to take effect, and inform them that they may appeal the reduction to a consolidated hearing at which the sole question of fact to be considered is the department's lack of funds to continue the program without modification.

(b) If the department reduces benefits under (a) of this section, it shall request a supplemental appropriation from the legislature. If additional funds are appropriated, the department shall provide benefits to eligible individuals at levels commensurate with the amount of the appropriation, but may provide additional benefits for the period in which the reduction was in effect only by the express direction of the legislature.

(c) As used in this section, "consolidated hearing" is one held in a single location in the state, at the request of one or more persons who are receiving or who have applied for benefits at the time the reduction is decided upon. The department shall receive any written or oral testimony questioning or explaining the necessity for the department's action.

* Sec. 8. AS 47.25.470 is amended to read:

Sec. 47.25.470. PAYMENT WHEN RECIPIENT INCAPACITATED. If a person receiving assistance is incapable of taking care of himself or of the funds granted under secs. 430 - 625 [610] of this chapter, the

department may direct the payment of the funds to his legally appointed guardian or to another person as designated by the department for his benefit.

* Sec. 9. AS 47.25.500 is amended to read:

Sec. 47.25.500. RECOVERY OF ASSISTANCE [ALLOWANCE] IMPROPERLY GRANTED. [(a)] If the department believes that assistance [FINDS THAT AN OLD AGE ALLOWANCE] was improperly granted, it shall investigate and, if it appears as a result of the investigation that assistance was improperly granted, it may, after providing opportunity for a hearing, terminate [CANCEL] the assistance [ALLOWANCE] and notify the recipient to that effect, ^{THE [, AND THE]} and the state [THE] has a claim against ^a [THE] person who received ^{an} [THE] improper ^{amount of} assistance [ALLOWANCE]. The claim may [SHALL] be enforced by an action instituted in the name of the state by the attorney general to recover the amount paid to the person, with interest, together with the necessary costs of the action.

<sup>see
draft
proposed</sup> [(b) THE UNITED STATES SHALL, IF IT REQUIRES, BE REIMBURSED OUT OF THE MONEY ON A PRO RATA BASIS IN PROPORTION TO THE AMOUNT IT EXPENDED IN THE CASE, AND THE REMAINING AMOUNT SHALL BE PAID TO THE STATE FOR THE OLD AGE ASSISTANCE FUND.]

* Sec. 10. AS 47.25.515 is amended to read:

Sec. 47.25.515. CANCELLATION OF WARRANTS. (a) Warrants issued to an [OLD AGE] assistance recipient under secs. 430 - 625 of this chapter after the date of death of the recipient shall be returned to the Department of Administration and canceled.

(b) Assistance [OLD AGE ASSISTANCE] warrants issued before the death of the recipient but not negotiated at death shall be returned to the Department of Administration, and shall be canceled, unless claimed by the authorized representative of the estate of the recipient within 90 days of the date of death.

(c) The state is [SHALL.] not [BE] liable to the estate, heirs, or creditors of the deceased [OLD AGE] assistance recipient for payment on warrants canceled under (a) or [AND] (b) of this section.

* Sec. 11. AS 47.25.520 is amended to read:

Sec. 47.25.520. MOVE [REMOVAL] FROM STATE. A person receiving assistance who moves [REMOVES] from the state may not thereafter receive assistance unless the department otherwise directs.

* Sec. 12. AS 47.25.550 is amended to read:

Sec. 47.25.550. ALIENATION AND ATTACHMENT. Assistance granted under secs. 430 - 625 [610] of this chapter is inalienable by an assignment or transfer and is exempt from garnishment, levy, or execution under the laws of this state.

* Sec. 13. AS 47.25.580 is amended to read:

Sec. 47.25.580. ACTION AGAINST PERSON LIABLE FOR CARE OF RECIPIENT. If during the continuance of assistance [AN ALLOWANCE] the department finds that a person liable for the support of the recipient of assistance is able to provide the necessary care and support of the recipient, and the person liable for the care and support of the recipient fails or refuses to support and care for the recipient then the state has a cause of action for the assistance against the person liable for it. The action shall be brought in the name of the state by the attorney general against the person liable for the recovery of the amount of money, with interest, paid to the recipient, together with the costs and disbursements of the action. The [THE UNITED STATES SHALL, IF IT REQUIRES, BE REIMBURSED OUT OF THE MONEY COLLECTED ON A PRO RATA BASIS IN PROPORTION TO THE AMOUNT IT EXPENDED IN THE CASE, AND THE REMAINING] amount collected shall be paid to the Department of Revenue [FOR THE OLD AGE ASSISTANCE FUND].

* Sec. 14. AS 47.25.590 is amended to read:

Sec. 47.25.590. POLICY AND PURPOSE. (a) It is the policy of the state and the purpose of secs. 430 - 625 [610] of this chapter to cooperate and coordinate with the United States government and its agencies in providing for and administering the laws of the federal and state governments' having for their purpose adult public [OLD AGE] assistance for residents of this state.

(b) The purpose of secs. 430 - 625 [610] of this chapter is to furnish financial assistance as far as practicable to needy aged, blind, or ~~permanently~~ disabled persons [INDIVIDUALS], and to help them attain self-support or self-care.

(c) The department may enter into agreements, arrangements, or contracts with any federal agency, department, or official under which funds made available to the federal agency, department, or official may be transferred to the department and spent in accordance with secs. 430 - 625 of this chapter.

* Sec. 15. AS 47.25.610 is amended to read:

Sec. 47.25.610. VIOLATIONS. A person who violates a provision of secs. 430 - 625 [610] of this chapter or a regulation adopted under any of those sections is guilty of a ^{class B} misdemeanor, ~~and [IF NO OTHER PENALTY IS PROVIDED, THE PERSON] upon conviction, is punishable by a fine of not more than \$500, or by imprisonment in a jail for not more than six months or by both.~~

* Sec. 16. AS 47.25.620 is amended to read:

[ARTICLE 5. AID TO THE BLIND.]

Sec. 47.25.620. ELIGIBILITY FOR AID DUE TO BLINDNESS [TO THE BLIND]. [FINANCIAL ASSISTANCE, SO FAR AS PRACTICABLE, SHALL BE GIVEN UNDER SECS. 620 - 780 OF THIS CHAPTER TO A MEFDY BLIND RESIDENT OF THE STATE WHO IS ELIGIBLE UNDER REGULATIONS ESTABLISHED BY THE DEPARTMENT. ALL REGULATIONS OF THE DEPARTMENT SHALL BE MADE AVAILABLE TO ALL

INTERESTED PERSONS.] No [HOWEVER, NO] application for assistance due to blindness [AID TO THE BLIND] may be approved until a physician skilled in diseases of the eye or a registered optometrist, whichever ^{applicant [INDIVIDUAL]} the ~~individual~~ selects from those enrolled with the department, examines the applicant and certifies his findings in the manner and form required by the department.

* Sec. 17. AS 47.25 is amended by adding a new section to read:

Sec. 47.25.625. DEFINITIONS. In secs. 430 - 625 of this chapter

- (1) "aged" means ~~attainment of the age of 65 years~~ ^{or more} of age;
- (2) "assistance" means money payments to or medical care in behalf of, or any type of remedial care recognized by the department in behalf of, needy aged, blind, or ~~permanently and totally~~ disabled persons who are 18 years of age or older and residents of the state;
- (3) "blind" ^{means having} ~~refers to one who has~~ no vision or whose ^{vision} ~~vision~~ is so defective as to prevent the performance of ordinary activities for which eyesight is essential;
- (4) "department" means the Department of Health and Social Services;
- (5) "permanently and totally disabled person" means or who is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be ~~expected~~ ^{is expected} to result in death or which has lasted or can be expected to last for a continuous period of not less than 12 months;
- (6) "public institution" ^{means a governmentally owned} ~~is an~~ establishment ^{whose pro-} ~~prietor~~ ^{is a government}, which furnishes food, shelter, and some additional treatment or services to 16 or more persons;
- (7) "public medical institution" means a public hospital or a public institution providing medical care, except an institution for the treatment of tuberculosis or mental disease.

* Sec. 18. AS 47.25.480, 47.25.510, ^{47.25.610,} 47.25.630 - 47.25.710, 47.25.730 -
47.25.880, and 47.25.905 - 47.25.970 are repealed.