

HB

157

(11)

HOUSE COMMITTEE REPORT

Date referred: 5/1/87

FURTHER REFERRAL :

DATE: 5-5-87

The Finance Committee has considered HB 157

"An Act relating to public assistance; and providing for an effective date."

RECOMMENDS:

- replace with C.S HB 157 (HESS) the same title
- attached amendment(s) a new title
- do pass
- do not pass
- no recommendation
- individual recommendations
- additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(S):

- fiscal impact same as previous fiscal note published 5-1-87
- zero fiscal note same as previous zero fiscal note published _____
- zero with analysis

SIGNING DO PASS:

Pat Fauchald
Glenn
Mark Bejer *hurry reluctantly*
J. Cook

SIGNING OTHER RECOMMENDATIONS:

Ronald J. ... *No Rec.*
Steve ... *No Recommendation*
Ray Wallie *do not pass*
Tan Brown *DO NOT PASS*
Michael ... *do not pass*

Pat Fauchald *Chairman*
 Chairman's signature

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

CSHB 157 (HESS)

REQUEST: _____

Bill Version: _____
Publish Date: _____

Revision Date: April 27, 1987

Agency Affected: Health & Social Services
BRU: Assistance Payments BRU

Title: An act providing for APA payments
and for refund of certain payments

Sponsor: Rules Committee
Requestor: Governor

Components: Adult Public Assistance
(APA)

THIS FISCAL NOTE IS BASED ON THE HOUSE FINANCE FY88 BUDGET

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	0	0	0	0	0	0
MISCELLANEOUS	0	0	0	0	0	0
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-

CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
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REVENUE	-0-	-0-	-0-	-0-	-0-	-0-
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FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	(400.0)	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	400.0	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

ANALYSIS : (Attach a separate page if necessary) The original version of HB 157 provided the Governor with a vehicle to accomplish in statute what he had already proposed in his FY88 Budget: suspension of the AFDC and APA COLAs and elimination of the Aid to the Disabled Interim Assistance Program. However, contrary to the Governor's FY88 Budget, the FY88 Budget adopted by the House Finance Committee fully funds both programs. However, to achieve cost savings, the House HESS Committee has substantially amended HB 157 by changes to the Interim Assistance program. This fiscal note therefore addresses the costs savings achieved by CSHB 157 (HESS). This fiscal note generates \$400.0 in Federal funds to partially off-set \$400.0 in General Funds currently contained in the FY88 House Finance Committee Budget for the Interim Assistance program.

Prepared by: John R. Taber, Director
Division: Division of Public Assistance

Phone: 465-3347
Date: 4-30-87

Approved by Commissioner: Marya M. Muench
Agency: Department of Health & Social Services

Date: 4/30/87

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management and Budget
 - Impacted Agency(ies)
 - Senate Secretary

The House HESS Committee Substitute for House Bill No. 157 amends AS 47.25.455 but does not eliminate the Interim Assistance program, as proposed in the FY88 Governor's budget; however, the changes to the Interim Assistance program proposed by CSHB 157 (HESS) will result in a significant cost savings to the State.

Background on the Interim Assistance Program

Adult Public Assistance (APA) applicants who claim to be disabled and whose income is below the Social Security Administration's Supplemental Security Income (SSI) program income qualifying limits must apply for SSI and have their disability determined by Social Security. It takes Social Security an average of approximately 111 days to make a disability decision. If a decision is positive, SSI benefits are provided retroactive to the date of SSI application. Regular Adult Public Assistance benefits are also provided back to the date of APA application.

AS 47.25.455 provides that otherwise-eligible APA applicants awaiting an SSI disability decision will receive \$280 per month in state-funded "Interim Assistance."

A-1986 Alaska Supreme Court decision found that Interim Assistance had to be continued for applicants who received a negative initial SSI disability decision, provided that they were pursuing their appeal rights through the three-stage SSI appeals process. Approximately 69 percent of all initial SSI disability decisions are denied; almost 60 percent of those denied applicants who appeal are found eligible at some point in the appeals process. About 53 percent of all applicants are eventually determined to be eligible for assistance.

Background on the Genesis of HB 157

The Governor's FY88 budget reduced the Adult Public Assistance component by \$1008.0, for the elimination of the Aid to the Disabled Interim Assistance coverage.

On March 2, 1987, HB 157 was introduced into the Alaska House of Representatives by the House Rules Committee at the request of Governor Cowper.

Section 1 of the bill would have eliminated Interim Assistance payments and Section 2 of the bill would have suspended the COLA increase due to take effect on January 1, 1988 for the AFDC and APA programs. The Governor's FY88 Budget was written with the assumption that HB 157 would pass [i.e., if this proposed legislation did not pass, the projected FY88 COLA savings of \$782.8 and the projected Interim Assistance savings of \$1,008.0 (for a total of \$1,790.8) had to be restored to the FY88 Assistance Payments BRU budget request]. Therefore, this department prepared a zero fiscal note for HB 157 because the dollars saved by this proposed legislation had already been removed from the Governor's FY88 Budget request.

House Finance Budget

The FY88 budget approved by the House Finance Committee on Wednesday, April 29, 1987, includes \$782.8 for the FY88 COLA and \$1008.0 for continuation of the Interim Assistance program in FY88.

This fiscal note we have therefore prepared for CSHB 157 (HESS) reflects the impact to the FY88 House Budget where full COLA and Interim Assistance cost have been restored.

Effect of CSHB 157 (HESS)

House Bill 157, as revised by HESS, proposes changes to -- but does not eliminate -- the Interim Assistance program.

The proposed amendments to AS 47.25.455 would authorize implementation of an Interim Assistance Agreement with the Social Security Administration. As a part of this agreement, Interim Assistance applicants would be required to assign their retroactive SSI checks to the State. The State would use part of those funds to reimburse itself for the amount of Interim Assistance paid while awaiting the SSI eligibility decision. Applicants would also no longer be eligible to receive retroactive APA payments for the months in which they received Interim Assistance.

Implementation of the proposed amendments would produce estimated general fund savings of 400.0 in the FY88 House Budget.

Fiscal Year 88 Impact of CSHB 157 on Aid to the Disabled Interim Assistance Program on the House Budget:

The FY88 House Finance Budget: 300 Interim Assistance clients at \$280 monthly payment for 12 months.	\$1008.0	General Fund
FY88 Interim Assistance General Fund program savings with changes proposed by CSHB 157 (HESS)	(400.0)	General Funds
FY88 Federal funds received to reimburse state for the amount of Interim Assistance paid to clients awaiting the SSI eligibility decision.	400.0	Federal Funds
FY88 House Finance Budget for Interim Assistance program with the Fiscal Note	\$1008.0	
Funding Source:		
General Fund	608.0	
Federal	400.0	

Original sponsor: Rules/Governor

1 IN THE HOUSE

BY THE HEALTH, EDUCATION AND
SOCIAL SERVICES COMMITTEE

2

CS FOR HOUSE BILL NO. 157 (HESS)

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act providing for the commencement of adult
7 public assistance payments and for the refund of
8 certain interim assistance payments; and providing
9 for an effective date."

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

11 * Section 1. AS 47.25.430 is amended by adding a new subsection to
12 read:

13 (e) Except as provided in AS 47.25.455, payment under AS 47.25.-
14 430 - 47.25.615 shall begin in the month following the month in which
15 it is determined that the person is eligible for benefits under 42
16 U.S.C. 1381 - 1385.

17 * Sec. 2. AS 47.25.455 is amended by adding a new subsection to read:

18 (c) As a condition of receiving payments under this section, a
19 person shall sign an agreement to refund to the department any payment
20 received under this section for a month for which the person receives
21 payment under 42 U.S.C. 1381 - 1385.

22 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

**STATE OF ALASKA 1987 LEGISLATIVE SESSION
FISCAL NOTE**

REQUEST:

Bill Version: HB 157
Publish Date: HOUSE 3/2/87

Revision Date: _____
Title: An act suspending COLAs for AFDC,
APA, and elimination of AD Interim
Sponsor: Rules Committee
Requestor Governor

Agency Affected: Health & Social Services
BRU: Assistance Payments BRU

Components: AFDC, Adult Public Assistance
(APA)

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 87	FY 88	FY 89	FY 90	FY 91	FY 92
PERSONAL SERVICES	-0-	-0-	-0-	-0-	-0-	-0-
TRAVEL	-0-	-0-	-0-	-0-	-0-	-0-
CONTRACTUAL	-0-	-0-	-0-	-0-	-0-	-0-
SUPPLIES	-0-	-0-	-0-	-0-	-0-	-0-
EQUIPMENT	-0-	-0-	-0-	-0-	-0-	-0-
LAND & STRUCTURES	-0-	-0-	-0-	-0-	-0-	-0-
GRANTS, CLAIMS	-0-	-0-	-0-	-0-	-0-	-0-
MISCELLANEOUS	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL OPERATING	-0-	-0-	-0-	-0-	-0-	-0-
CAPITAL	-0-	-0-	-0-	-0-	-0-	-0-
REVENUE	-0-	-0-	-0-	-0-	-0-	-0-

FUNDING: (Thousands of Dollars)

GENERAL FUND	-0-	-0-	-0-	-0-	-0-	-0-
FEDERAL FUNDS	-0-	-0-	-0-	-0-	-0-	-0-
OTHER	-0-	-0-	-0-	-0-	-0-	-0-
TOTAL	-0-	-0-	-0-	-0-	-0-	-0-

POSITIONS:

FULL-TIME	-0-	-0-	-0-	-0-	-0-	-0-
PART-TIME	-0-	-0-	-0-	-0-	-0-	-0-
TEMPORARY	-0-	-0-	-0-	-0-	-0-	-0-

ANALYSIS : (Attach a separate page if necessary)

The FY88 Governor's budget assumes the suspension of the AFDC and APA FY88 COLA and elimination of the Aid to the Disabled Interim Assistance program. It is important to note that the dollars saved by this proposed legislation have already been removed from the Governor's FY88 budget request. In other words, if this legislation does not pass, projected FY88 COLA savings of \$782.8 and projected interim assistance savings of \$1,008.0, for a total of \$1,736.8 must be restored to the Assistance Payments BRU FY88 budget request.

Prepared by: John R. Taber, Director Phone: 465-3347
Division: Division of Public Assistance Date: 2-23-87

Approved by Commissioner: Maria M. Munn Date: 2-23-87
Agency: Department of Health & Social Services

Distribution (by preparer):

Legislative Finance
Legislative Sponsor
Requestor
Office of Management and Budget
Impacted Agency(ies)
Senate Secretary

Suspension of AFDC (AS 47.25.320(d)) and APA (AS 47.25.430(b) January 1, 1987 COLA.

These state statutes require that AFDC and APA payments increase each January 1 by the same percentage increase as provided under federal law each January to Social Security and Supplemental Security Income recipients. The FY88 AFDC Governor's budget excluded a 2.0% COLA effective January 1, 1988. If legislation that suspended the automatic cost-of-living escalator clause were enacted, it would reduce FY88 AFDC formula need by 611.4 (305.7 general fund).

The FY88 APA Governor's budget excluded a 2.0% COLA effective January 1, 1988. Legislation that suspends the automatic cost-of-living escalator clause would reduce FY88 APA formula need by 171.4 general fund.

Suspension of the AFDC and APA COLA are considered as a temporary measure only in view of falling State revenue and the diminished availability of resources to fund COLA increments in the near term.

The FY88 Governor's budget reduced AFDC and APA by 611.4 and 171.4 respectively in anticipation of suspension of the FY88 COLA proposed by this legislation.

	<u>Total</u>	<u>Federal</u>	<u>GFM</u>
<u>Aid to Families with Dependent Children</u>			
<u>(AFDC) component:</u>			
8251 AFDC caseload (January - June 1987) x \$12.35 average payment increase with 2.0% COLA effective 1/1/88 x 6 months	611.4	305.7	305.7
<u>Adult Public Assistance (APA) component:</u>			
5289 APA caseload (January - June 1987) x \$5.40 average payment increase with 2.0% COLA effective 1/1/88 x 6 months	171.4		171.4
TOTAL FY88 AFDC and APA component savings with suspension of COLA.	782.8	305.7	477.1

Repeal of AS 47.25.455 that eliminates the "Interim Assistance" under the Adult Public Assistance Program.

Adult Public Assistance (APA) applicants who claim to be disabled and whose income is below the Social Security Administration's Supplemental Security Income (SSI) program income qualifying limits must apply for SSI and have their disability determined by Social Security. It takes Social Security an average of approximately 80 days to make a disability decision. If the decision is positive, SSI benefits are provided retroactive to the date of SSI application. Regular Adult Public Assistance benefits are also provided back to the date of APA application.

AS 47.25.455 provides that otherwise-eligible APA applicants awaiting an SSI disability decision will receive \$280 per month in state-funded "Interim Assistance."

A 1986 Alaska Supreme Court decision found that Interim Assistance had to be continued for applicants who received a negative initial SSI disability decision, provided that they were pursuing their appeal rights through the three-stage SSI appeals process. Almost 60 percent of all initial SSI disability decisions are denied; almost 60 percent of those denied applicants who appeal are found eligible at some point in the appeals process.

The FY88 Governor's budget reduced the Adult Public Assistance component by 1008.0 for the elimination of the Aid to the Disabled Interim Assistance coverage.

Assistance Payments BRU
Adult Public Assistance Component

Aid to the Disabled Interim Assistance

300 AD Interim Assistance clients x \$280 monthly payment x 12 months
for a FY88 APA component savings of 1008.0.

POSITION PAPER

House Bill No. 157

RECEIVED

APR 13 1987

LEGISLATIVE FINANCE

An "Act relating to public assistance; and providing for an effective date."

BACKGROUND:

I. Repeal of Interim Assistance

House Bill No. 157 would eliminate Interim Assistance payments. The Interim Assistance program was designed to provide temporary cash assistance to APA applicants pending SSI's final decision of eligibility. Caseload data clearly indicates that the Interim Assistance program is providing benefits to individuals about thirty percent (30%) of whom are ultimately found to be ineligible for Adult Public Assistance benefits. These benefits are never recovered by the state.

Discontinuance of Interim Assistance benefits would result in elimination of one source of immediately available funds for individuals pursuing SSI claims.

Adult Public Assistance (APA) applicants whose income is within the Social Security Administration's Supplemental Security Income (SSI) program income limits are required to concurrently apply for the SSI program. AS 47.25.455 provides for Interim Assistance payments of \$280 per month to those individuals who are waiting for an eligibility decision from the Social Security Administration.

Eligibility for APA benefits for persons with income within SSI limits is based on SSI's eligibility decision. A finding of no SSI eligibility results in denial of APA benefits and termination of Interim Assistance payments. Approval of the SSI application results in a finding of APA eligibility. When an individual goes through the Interim Assistance process and is finally found eligible for retroactive APA benefits, the amount of the client's retroactive benefits could be reduced by the amount of Interim Assistance the client received while awaiting the SSI determination. Interim Assistance payments to individuals who are found ineligible for SSI are simply terminated. The recipient incurs no liability to repay. A 1986 Alaska Supreme Court decision requires that Interim Assistance payments be continued to applicants who have received an initial finding of ineligibility from SSI if they are pursuing an appeal of the SSI finding. The three-stage SSI appeal process often lasts for one year or more.

SSI's 1986 Alaska caseload data show a 76 percent initial denial rate for applications based on disability and blindness, and a 56 percent denial rate for applications based on age. Average processing time

for disability/blindness claims was 111 days. Approximately 60 percent of initial findings of ineligibility on SSI disability/blindness claims are reversed on appeal. More than 90 percent of the Interim Assistance caseload consists of individuals applying for Aid to the Blind and Aid to the Disabled.

Thus, for every 100 people who receive Interim Assistance, about 31 are eventually determined to be not entitled to this aid.

Although eliminating the Interim Assistance program will reduce the number of options available to individuals to meet their short-term needs, the General Relief Assistance program and the General Relief Medical programs would continue to meet a portion of their emergent needs.

Passage of House Bill No. 157 would result in significant savings in APA program costs while assuring continued benefits at current levels to the population the program is intended to serve: the needy aged, blind, and disabled. This is a far more equitable way to effect necessary program expenditure reductions than the alternative, which is reducing APA payment standards.

II. Suspension of AFDC and APA COLA's for FY88

Existing state statutes provide that, when federal Social Security and Supplemental Security Income benefits are granted a percentage increase as a result of a national increase in the cost of living, Adult Public Assistance and Aid to Families with Dependent Children (AFDC) payments will increase by the same percentage.

Normally, these increases occur each January 1. In 1984 and 1985, the increases were 3.5 percent; in 1986, the increase was 3.1 percent; and in 1987 the increase was 1.3 percent. We are currently estimating that the January 1, 1988 increase will be 2.0 percent, but we will not receive the actual figure from federal sources until October, 1987.

House Bill No. 157 would eliminate the January 1, 1988 cost-of-living increase, with no retroactive entitlement to this cost increase in later years. However, this bill only suspends this adjustment for one year, allowing the existing statutes to apply automatically in subsequent years.

The Department views the suspension approach as an extremely important aspect of this measure. The automatic cost-of-living provisions in Alaska's law are an enlightened way to prevent benefits from being seriously eroded by inflation-caused decreases in real purchasing power. Without this protection, the State's needy dependent children and needy aged, blind, and disabled persons would have to depend upon periodic legislative action to provide the increases necessary to maintain the goal of providing assistance in amounts essential to preserving health and dignity.

Governor Cowper observed that proposing a one-year suspension of the annual cost-of-living increase was "another essential step in the state's effort to meet the current budget crisis." As a part of necessary expenditure reductions, House Bill No. 157 is the approach least harmful to our assistance recipients. It is preferable to forego a modest payment increase next January rather than impose an equal or greater decrease in their current payments throughout FY88.

RECOMMENDATION:

This legislation is required to remain within the Governor's budget for FY88. If House Bill No. 157 fails, the requested appropriation will be inadequate to fund the formula needs of the AFDC and APA programs in FY88.

Support passage of HB No. 157.

Recommended by: John R. Taber
John R. Taber, Director
Division of Public Assistance

Date: 4/1/87

Approved by: Myra M. Munson
Myra M. Munson, Commissioner
Department of Health and
Social Services

Date: 4/10/87

ADULT PUBLIC ASSISTANCE AND INTERIM ASSISTANCE

I. Adult Public Assistance

Alaska's Adult Public Assistance (APA) program provides monthly cash assistance (and related Medicaid) to needy elderly, blind, and disabled persons. APA is a state-funded program, a separate supplemental program to a similar nationwide program, "Supplemental Security Income" (SSI). SSI is funded and administered by the Social Security Administration. Approximately 50 percent of all APA recipients have countable income under the SSI qualifying standards; these people receive an SSI check and an APA check sufficient to bring their total monthly income up to the standards established under AS 47.25.430. The remaining APA recipients have other income (such as Social Security) which exceeds the lower SSI standard but is under the higher state standard. For example, a person with no income currently receives a \$340 SSI payment and a \$292 APA payment. A person with \$200 Social Security receives a \$160 SSI payment and a \$292 APA payment, and a person with \$500 retirement income receives no SSI benefits, but receives an APA payment in the amount of \$152.

In order to insure that all APA recipients qualify for Medicaid, all APA eligibility criteria, including disability and blindness, must be the same as the SSI criteria in all respects save for a different income qualifying standard. Determinations of disability and blindness are extremely complex, expensive, and time-consuming. For this reason, all APA blindness and disability determinations are done under contract by specialists in the Disability Determination Unit of the Division of Vocational Rehabilitation. For applicants otherwise eligible for SSI (and for Social Security retirement benefits), Social Security pays the costs of these determinations. Currently, it takes an average of 111 days to determine if an SSI applicant is disabled.

Over 70 percent of all applicants who undergo a disability determination are initially denied as not disabled. Between one-half and three-fourths of those denied enter the SSI appeal process. This process has several appeal levels and can take up to two years to pursue through all available administrative levels. Approximately 75 percent of those who access the first level of appeal are denied again. Approximately 40 percent of those denied at the first level appeal further, and of those approximately 60 percent are eventually approved.

II. Interim Assistance

In order to provide assistance to potentially disabled needy applicants as they make their way through an SSI disability determination, the Legislature mandated that an interim APA payment of \$280 per month be provided to anyone who was otherwise eligible for APA and SSI (AS 47.25.455). Approximately 300 Interim Assistance clients receive these \$280 payments for at least four months, provided

that they meet the APA/SSI financial need requirements and pass a cursory disability examination provided by a physician or psychiatrist (at Medicaid expense).

If and when SSI's contractor finds the applicant to be disabled, SSI provides retroactive benefits back to the date of SSI application. The Interim Assistance grant is discontinued, and regular APA payments (and Medicaid) are initiated. The recipient is free to receive and spend his or her retroactive SSI "windfall" payment without any adverse effects on regular APA or SSI benefits.

In 1985, the Alaska Supreme Court found that Interim Assistance payments must continue throughout the period during which denied applicants are pursuing their SSI appeal rights (Moore v. Beirne). This decision has had the effect of substantially increasing the amount of Interim Assistance received by those who appeal, and it most likely motivates more people to file appeals. Those who eventually win their appeals can receive retroactive SSI awards of thousands of dollars.

III. Interim Assistance Agreement

SSI federal regulations allow for states to enter into an "Interim Assistance Agreement" with Social Security. This Agreement, which over thirty states have implemented, establishes a simple mechanism that directs the SSI retroactive benefits check to the state, not to the newly-approved applicant. The state deducts from that benefit any monies it has expended on that person's behalf while the SSI application is pending, and, within 10 days, mails any remainder to the client.

With very little administrative effort, a state can obtain substantial new revenues without harm to those it serves. Additionally, the timely notice of individual SSI case decisions the State receives as a normal part of administering its portion of the Agreement improves the accuracy and timeliness within the Interim Assistance, Medicaid, and regular APA programs.

The option to enter into an Interim Assistance Agreement has existed since 1974. Despite the desire to enter into this Agreement, Alaska did not opt to do so, primarily because the antiquated payment mechanisms used by the Division of Public Assistance made it impossible for the State to meet the ten-day disbursement requirement. With the recent conversion of the Interim Assistance and APA programs to a modern on-line computer system, it is now possible to implement this Agreement without adding additional staff and without the slightest risk of violating the terms of the Agreement.

Despite the fact that the State will not recover any funds from SSI applicants who are denied and do not appeal successfully, we conservatively estimate that an Interim Assistance Agreement will produce the following revenues:

-	FY88	\$400,000
-	FY89	\$500,000
-	FY90	\$525,000

Given the current State revenue picture, and the fact that Interim Assistance currently serves over 300 recipients a month for an annual expenditure of over \$1,000,000, there is considerable appeal in implementing any change which will produce an immediate 40 percent "net reduction" in Interim Assistance expenditures.

Once the Department has implemented the Agreement, there are further changes which it can make to improve the rate of reimbursement under the Agreement. There are several innovative and cost-effective methods some "Agreement states" have recently implemented which can improve the percentage of Interim Assistance recipients who are ultimately found SSI-eligible. It may be possible for Alaska to reach a rate of return of 60 percent or better within several years.

IV. Implementing an Interim Assistance Agreement

It may be possible to implement an Interim Assistance Agreement by promulgating regulations based on existing Departmental and APA statutes. However, our authority to do so is, at best, marginal; informal contacts with one major client advocacy agency indicate it is likely we would be challenged in court if we were to attempt to implement an Agreement via regulations alone. Given the past pattern of legal actions brought about by changes in the APA eligibility determination process, we believe it is at least highly desirable that this change be mandated by a statutory change.

We recommend amending AS 47.25.455 by adding two new sections:

- (c) Payments made under AS 47.25.430 shall begin in the month following the month in which eligibility for benefits under USC 1381-1385 has been determined.
- (d) Receipt of benefits under AS 47.25.455 constitutes agreement on the part of the recipient to refund any assistance thus received upon receipt of benefits under U.S.C. 1381-1385 for the same month for which assistance under AS 47.25.455 was paid.

Were this addition to be made to AS 47.25.455, implementation of an Interim Assistance agreement could begin for new Interim Assistance cases almost immediately after the Department promulgated the regulations, if any, which would be necessary to support requiring applicants to sign individual repayment agreements as a condition of eligibility for Interim Assistance. (Such individual agreements are required by Social Security's federal regulations.)

LAW OFFICES OF
ALASKA LEGAL SERVICES CORPORATION

419 SIXTH STREET, SUITE 322
JUNEAU, ALASKA 99801

TELEPHONE (907) 586-6425

April 21, 1987

Representatives Johnny Ellis and Niilo Koponen
State of Alaska
House HESS Committee, Co-Chairs
State Capitol
Juneau, AK 99801

Re: House Bill 157

Dear Representatives Ellis and Koponen:

This letter is in response to your request for our assessment of the impact of the elimination of interim assistance on its recipients. I am an attorney for Alaska Legal Services Corporation in Juneau. During the past two and one-half years I have represented numerous claimants for Supplemental Security Income (SSI). Those claimants have invariably received interim assistance while awaiting a federal disability decision.

SSI is a federal disability program for low-income, disabled persons. The legal standards for federal disability are rigorous. Rarely have we represented a claimant who succeeded in his or her claim prior to a face-to-face hearing before a federal administrative law judge. In my experience, the time between initial application and a hearing decision is around two years. Meanwhile, the claimant receives nothing from the federal government. Interim assistance is, for many of our clients, the only source of monthly income during this process.

In order to receive interim assistance, a claimant must be low income and have few resources. He must also present a physician certification that he is disabled within the meaning of the Social Security Act, which means that his disability will last for twelve months or result in death. Thus, the recipients of interim assistance are in dire straits. They are low-income and in poor physical and/or mental health.

Some Committee members have explored ways to save money in the program while maintaining the monthly payments. Given those sentiments, certain cost-saving measures could be implemented. One such measure mentioned repeatedly is repayment of interim assistance paid from successful claimants' federal awards, which upon certification of disability, are retroactive to the date of initial disability.

We feel that SSI clients should be allowed to keep their federal monies. We realize that the decision regarding repayment from recoupment is a difficult one. If failure to change the program

Representatives Ellis and Koponen

April 16, 1987

Page 2

to require repayment means the elimination of the program, our clients would obviously be better off than with no interim assistance program at all.

Other cost-saving measures could be implemented. For example, the Department of Public Assistance estimates that sixty percent of applicants are eventually successful in their disability claims. See Position paper at 2. Our office statistics during the past three years indicate that our clients have won their SSI hearings about ninety percent of the time. Given the success rates of represented claimants, the State would be well served to employ a worker or workers who are familiar with the disability process to work with the agency which evaluates disability claims.

The evaluating agency is the Disability Determination Unit (D.D.U.) in the Department of Education. The D.D.U. conducts the initial determination and a reconsideration of the determination if a claimant is unsuccessful at the initial stage and appeals that decision. Our experience is that the disability process within the D.D.U. is extremely slow. Moreover, according to the Department of Public Assistance, only twenty-four percent of applicants are successful at the initial stage. Position Paper at 1. Placement of a D.P.A. employee in the D.D.U. could speed up the process and hopefully result in findings of disability earlier in the process. Earlier favorable decisions would mean that applicants would be covered sooner under Medicaid, which is fifty percent federally funded.

The above are some suggestions on ways to improve the disability process without eliminating interim assistance. On behalf of the neediest segment of Alaska's society -- low-income, disabled persons -- we request that H.B. 157 not be passed in its current form.

We appreciate this opportunity to express our views on this issue of immense importance to many of our clients.

Sincerely,

ALASKA LEGAL SERVICES CORPORATION

Vance A. Sanders

VANCE A. SANDERS

Attorney at Law

VAS/kem

cc: Robert Hickerson

Judy Bush

Myra Munson

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April 20, 1987

Niilo Koponen, Co-Chair
House HESS Committee
House of Representatives
Pouch V
Juneau, Alaska 99811

Re: Interim Assistance and HB 157

Dear Niilo:

Thank you for requesting information concerning the impact of suspending interim assistance payments or, alternatively, recapturing those payments from retroactive federal benefits once an applicant receives a favorable decision on a disability application.

Interim assistance benefits of \$280.00 per month are paid to individuals who have applied for both federal Social Security (or SSI) and state Adult Public Assistance disability benefits. The interim payments are paid during the interval between application and final administrative decision. Once a favorable decision is made by the federal government, the applicant then receives monthly Social Security or SSI benefits. The State of Alaska supplements these federal benefits in an amount that assures each applicant of at least \$623.00 per month. (The amount is less if the individual receives in-kind income in the form of both food and shelter in another person's home; and is less per person if both individuals in a couple are eligible.) The average state supplement is \$283 per month. (Current SSI payment is \$340 per month, and the state supplement is \$283, for a total of \$623 per month).

As you can see, the interim assistance payment of \$280 per month is very close to what the state will pay as a regular supplement once the individual is determined to be disabled. In reality, this means that disabled people must, during the federal disability application process, live on less than one-half of what they will ultimately receive as a minimum income compatible with decency and good health. And, unless the individual meets one of the qualifying criteria for the greatly reduced General Relief Medical program, that person will have no medical benefits coverage during

this application process. Eligibility for Medicaid begins only with approval to receive SSI or state of Alaska Adult Public Assistance benefits.

The single biggest problem that faces disability applicants is the length of time it takes for them to reach the hearing stage of the federal appeal process. In our experience, it is not unusual for an applicant to eventually have a hearing some 12 to 18 months after the date of initial application. There is usually a delay of another 3 to six months following the hearing, waiting for the written decision and then waiting for the federal bureaucracy to begin making the monthly disability payments. One to two years is a long time for a disabled individual to survive, without medical benefits, on just \$280.00 per month. Many fall behind in rent or mortgage payments, property taxes and insurance, car payments, child support payments and the like. They just barely subsist economically, and usually suffer additional psychological problems such as anxiety and depression from the lengthy ordeal and the feeling that they are viewed as able to work if they really wanted to. Except for the most dedicated non-worker, only a really desperate and disabled individual would be willing to go through a process so humiliating, so poverty-stricken, and so filled with anxiety.

Once the applicant reaches the hearing stage, however, his or her chances of finally proving that they are in fact disabled increase dramatically. In a review of some 50 disability cases handled by the Fairbanks ALSC office in the past four years, 80% were successful finally as a result of the administrative law judge's decision. Among the 20% that we did not count as a successful outcome, however, were 3 or 4 individuals who simply moved out of the state and who may have been successful in another location.

The types of individuals most commonly using the interim assistance program are the chronically mentally ill (from 18 to 65), or 40-65 year-old individuals who once worked but can, for one reason or another, no longer work at their former occupations and are not retrainable because of disabling pain, or a combination of age and lack of relevant educational and vocational abilities.

Of the 50 Fairbanks ALSC cases reviewed, 17 of the applicants had chronic mental illness; 14 were

ultimately successful at the hearing stage of the appeal process based on the chronic mental illness. The Fairbanks office currently has 15 open disability cases. Seven of these involve individuals with chronic mental illnesses. Among the remaining cases, one has a heart condition and had by-pass surgery in San Francisco; one speaks virtually no English, is 63 years old, and suffers chronic arthritic pain; another has chronic infections which don't heal due to diabetes and suffers from a distended stomach caused by a hernia that cannot be surgically repaired without even greater risk to the patient than non-intervention; one shattered her vertebrae in a fall two years ago and is in intensive therapy to relieve pain and strengthen the back; one has lupus and fibromyalgia and is in constant pain, anxiety and depression. It is impossible to conceive of any work environment where these individuals would be able to perform adequately and support themselves.

Interim assistance recipients are just barely surviving. I suspect most of them would become even more expensive public charges if their monthly stipend were discontinued.

The question of whether the state should reduce its expenditure for this program by seeking to recoup the interim benefits paid by the state from the federal retroactive benefits is more difficult to answer. If the choice is no recoupment - no interim assistance, then the answer must be that these applicants need the money now and I am certain the majority would opt to receive these monthly benefits, understanding that the total amount would be recouped upon successful completion of the disability application process. When you are between a rock and a hard place, however, you do not have the liberty to make the optimally best decision.

The proposal that the state recoup the interim benefits, however, unwittingly puts the state in the position of benefitting from a long and drawn-out appeal process. Once the applicant is found to be disabled, the state must begin to pay the Adult Public Assistance supplement, which, for some, will be equal to the interim assistance payment. For some, of course, whose Social Security benefits are more than the SSI amount of \$340 per month, the state supplement would be less. The longer the appeal process, the more interim benefits the state can recoup. The shorter the appeal process, the sooner the state must start to pay the non-recoupable

supplement.

If the state in fact paid the Adult Public Assistance supplement retroactively, just as the federal government does, there wouldn't be much for the state to recoup. The rationale for why the state does not pay retroactive benefits is that they provide the interim payments instead. Now the state is proposing to have it both ways.

While we acknowledge that the state has difficult financial choices to make, we feel the disabled poor are among the most disadvantaged and vulnerable people in this state. It hardly seems fair that they should be made to pay such a heavy price for the state's budget woes. Indeed, once a disabled person is successful and does receive a retroactive sum, they are usually in a position to pay back rent, mortgage payments, medical bills, and other critical and overdue bills. More than one client has told me that the money arrived just in the nick of time to prevent foreclosure, repossession of the family automobile, or the like. If the entire retroactive sum goes to the state, and even when receiving the full \$623 a month, the disabled will never have enough money to climb back out of the hole into which they have slipped during the one or two years of living at the \$280.00 per month level.

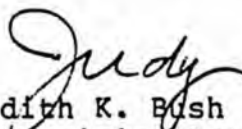
I must also point out that recoupment affects only the most deserving individuals, because, in order to have anything to recoup, the person must prove that he or she is disabled. The smaller number who lose their cases or simply do not pursue them, never have to pay the interim assistance back to the state. There is something fundamentally unfair about a system that works this way.

It seems more productive and much less harmful to work on a system to recoup all medical benefits paid by the state-funded GRM program by establishing Medicaid eligibility retroactive to the date of eligibility for the disability benefits programs. In fact, if the state were successful in recouping the Medicaid 50% federal share for the many individuals who are eventually successful in their disability claims, there is good reason to continue providing GRM benefits throughout the entire appeal process, instead of terminating them after the first denial notice from Social Security, as is the practice now.

In conclusion, I wish to address the idea of speeding up the disability appeal process. We are in full support of any quality effort to accomplish that goal. However, an emphasis on speed, without more attention to the high initial denial rate and subsequent successful appeal rate, will result in more speedy denials, not better initial decisions. If the focus were on better initial decisions, then the lengthy appeal process issue would resolve itself. If fewer applicants were bound up in the appeal process, it would logically operate more efficiently. The emphasis needs to be placed on helping the Disability Determination Unit in the Department of Education in Anchorage make better initial decisions. Once the initial and reconsideration decisions are made there, however, it is difficult to perceive how the state can influence the timing of the federal agency hearings, how fast the ALJ's write their decisions, and how fast the Social Security Administration is able to process the paper work to begin making monthly payments. A quick fix and emphasis on speed will not solve the problems which we have described herein.

Thank you for this opportunity to explain the importance of the interim assistance program to our clients and other low-income disabled people of Alaska.

Sincerely yours,


Judith K. Bush
Supervising Attorney

JKB:amg

cc: Johnny Ellis
Mark Boyer
Myra Munson

STEVE COWPER
GOVERNOR



STATE OF ALASKA
OFFICE OF THE GOVERNOR
JUNEAU

February 27, 1987

The Honorable Ben Grussendorf
Speaker of the House
Alaska State Legislature
P.O. Box V
Juneau, AK 99811

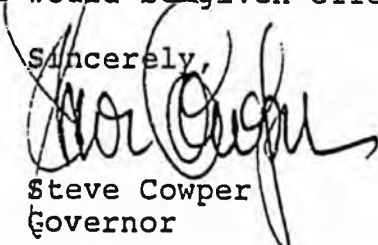
Dear Representative Grussendorf:

Under the authority of art. III, sec. 18, of the Alaska Constitution, I am transmitting a bill to make three modifications of the public assistance statutes. This bill is another essential step in the state's effort to meet the current budget crisis.

Section 1. The repeal of AS 47.25.455 eliminates the "interim assistance" under the adult public assistance program. Essentially, that statute provides for state assistance of at least \$280 a month to a person who is eligible for assistance under the state statutes while his or her eligibility under the federal supplemental security income program is being determined.

Section 2. Under current state law (AS 47.25.320(d) and 47.35.430(b)), if federal benefits under the aid to families with dependent children program and the adult public assistance program are increased because of an increase in the cost of living, a corresponding increase in state benefits is required. However, the state will not be out of compliance with federal requirements if the operation of these state statutes is suspended. Section 2 of the bill suspends the state's cost-of-living adjustment requirements for these two programs for one year. It is the intent that, when these statutes again become applicable, they will not be given retroactive effect. In other words, if there is a three percent cost-of-living increase in FY 88, while these requirements are suspended, and another one in FY 89, only that second three percent increase would be given effect.

Sincerely,


Steve Cowper
Governor

Original sponsor: Rules/Governor

1 IN THE HOUSE
2
3 CS FOR HOUSE BILL NO. 157 (HESS)
4 IN THE LEGISLATURE OF THE STATE OF ALASKA
5 FIFTEENTH LEGISLATURE - FIRST SESSION
6 A BILL
7 For an Act entitled: "An Act providing for the commencement of adult
8 public assistance payments and for the refund of
9 certain interim assistance payments; and providing
10 for an effective date."
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:
12 * Section 1. AS 47.25.430 is amended by adding a new subsection to
13 read:
14 (e) Except as provided in AS 47.25.455, payment under AS 47.25.-
15 430 - 47.25.615 shall begin in the month following the month in which
16 it is determined that the person is eligible for benefits under 42
17 U.S.C. 1381 - 1385.
18 * Sec. 2. AS 47.25.455 is amended by adding a new subsection to read:
19 (c) As a condition of receiving payments under this section, a
20 person shall sign an agreement to refund to the department any payment
21 received under this section for a month for which the person receives
22 payment under 42 U.S.C. 1381 - 1385.
* Sec. 3. This Act takes effect immediately under AS 01.10.070(c).

Introduced: 3/2/87
Referred: Health, Education &
Social Services and Finance

woll67ha

1 IN THE HOUSE

BY THE RULES COMMITTEE BY
REQUEST OF THE GOVERNOR

2

HOUSE BILL NO. 157

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

FIFTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

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

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

9 * Section 1. AS 47.25.455 is repealed.

10 * Sec. 2. AS 47.25.320(d), providing for a cost-of-living adjustment
11 for the aid to families with dependent children program, and AS 47.25.-
12 430(b), insofar as it provides for a cost-of-living adjustment for the
13 adult public assistance program, do not apply during state fiscal year
14 1988.

15 * Sec. 3. This Act takes effect immediately under AS 01.10.070(c).