

**HB**

**459**

0-LS1504R  
Lauterbach  
5/11/98

**SENATE CS FOR CS FOR HOUSE BILL NO. 459(RLS)**

**IN THE LEGISLATURE OF THE STATE OF ALASKA**

**TWENTIETH LEGISLATURE - SECOND SESSION**

**BY THE SENATE RULES COMMITTEE**

**Offered:  
Referred:**

**Sponsor(s): HOUSE HEALTH, EDUCATION AND SOCIAL SERVICES COMMITTEE**

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act establishing new eligibility for medical assistance for certain disabled  
2 persons and giving their eligibility for services the highest priority among optional  
3 services and groups under the medical assistance program; amending the definition  
4 of 'personal care services in a recipient's home' as used in the medical  
5 assistance program; moving midwife services from being the first to being the  
6 seventh service eliminated under the medical assistance program when there is  
7 insufficient funding; adjusting the priority of optional services and optional  
8 eligible groups under the medical assistance program in order to reflect the new  
9 priorities given to the newly-eligible disabled persons and to midwife services but  
10 without otherwise changing the relative order of the other optional services and  
11 optional groups; relating to catastrophic illness assistance; establishing a medical  
12 assistance program for chronic and acute medical conditions; and providing for

1 an effective date."

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

3 \* Section 1. AS 47.07.020(b) is amended by adding a new paragraph to read:

4 (12) disabled persons, as described in 42 U.S.C.  
5 1396a(a)(10)(A)(ii)(XIII), who are in families whose income, as determined under  
6 applicable federal regulations or guidelines, is less than 250 percent of the official  
7 poverty line applicable to a family of that size according to the federal Office of  
8 Management and Budget, and who, but for earnings in excess of the limit established  
9 under 42 U.S.C. 1396d(q)(2)(B), would be considered to be individuals with respect  
10 to whom a supplemental security income is being paid under 42 U.S.C. 1381 - 1383c;  
11 a person eligible for assistance under this paragraph who is not eligible under another  
12 provision of this section shall pay a premium or other cost-sharing charges according  
13 to a sliding fee scale that is based on income as established by the department in  
14 regulations.

15 \* Sec. 2. AS 47.07.035 is amended to read:

16 Sec. 47.07.035. **Priority of medical assistance.** If the department finds that  
17 the cost of medical assistance for all persons eligible under this chapter will exceed  
18 the amount allocated in the state budget for that assistance for the fiscal year, the  
19 department shall eliminate coverage for optional medical services and optionally  
20 eligible groups of individuals in the following order:

- 21 (1) [MIDWIFE SERVICES;  
22 (2)] clinical social workers' services;  
23 (2) [(3)] psychologists' services;  
24 (3) [(4)] chiropractic services;  
25 (4) [(5)] advanced nurse practitioner services;  
26 (5) [(6)] adult dental services;  
27 (6) [(7)] emergency hospital services;  
28 (7) midwife services;  
29 (8) treatment of speech, hearing, and language disorders;  
30 (9) optometrists' services and eyeglasses;

- 1 (10) occupational therapy;
- 2 (11) mammography screening;
- 3 (12) prosthetic devices;
- 4 (13) medical supplies and equipment;
- 5 (14) targeted case management services;
- 6 (15) rehabilitative services for substance abusers and emotionally
- 7 disturbed or chronically mentally ill adults;
- 8 (16) clinic services;
- 9 (17) physical therapy;
- 10 (18) personal care services in a recipient's home;
- 11 (19) prescribed drugs;
- 12 (20) hospice care;
- 13 (21) long-term care noninstitutional services;
- 14 (22) inpatient psychiatric facility services;
- 15 (23) intermediate care facility services for the mentally retarded;
- 16 (24) intermediate care facility services;
- 17 (25) individuals described in AS 47.07.020(b)(11);
- 18 (26) individuals under age 21 who are not eligible for benefits under
- 19 the federal program designated as the successor to the aid to families with dependent
- 20 children program because they are not deprived of one or more of their natural or
- 21 adoptive parents;
- 22 (27) skilled nursing facility services for persons under age 21;
- 23 (28) aged, blind, and disabled individuals who, because they do not
- 24 meet the income requirements, do not receive supplemental security income under Title
- 25 XVI of the Social Security Act, but who are eligible, or would be eligible if they were
- 26 not in a skilled nursing facility or intermediate care facility, to receive an optional state
- 27 supplementary payment;
- 28 (29) individuals in a hospital, skilled nursing facility, or intermediate
- 29 care facility whose income while in the facility does not exceed 300 percent of the
- 30 supplemental security income benefit rate under Title XVI of the Social Security Act,
- 31 but who, because of income, are not eligible for the optional state supplementary

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payment;

(30) individuals under age 21 under supervision of the department for whom maintenance is being paid in whole or in part from public money and who are in foster homes or private child-care institutions;

(31) individuals under age 21 who the department has determined cannot be placed for adoption without medical assistance because of a special need for medical or rehabilitative care and who the department has determined are hard-to-place children eligible for subsidy under AS 25.23.190 - 25.23.220;

(32) individuals who are eligible under AS 47.07.020(b)(12).

\* Sec. 3. AS 47.07.900(15) is amended to read:

(15) "personal care services in a recipient's home" means services authorized under a service plan [PRESCRIBED BY A PHYSICIAN] in accordance with applicable federal and state law [THE RECIPIENT'S PLAN OF TREATMENT AND PROVIDED BY AN INDIVIDUAL WHO IS

(A) QUALIFIED TO PROVIDE THE SERVICES;

(B) SUPERVISED BY A REGISTERED NURSE; AND

(C) NOT A MEMBER OF THE RECIPIENT'S FAMILY];

\* Sec. 4. AS 47.08.010 is amended to read:

**Sec. 47.08.010. Reimbursement of providers.** (a) Subject to (b) of this section, under AS 47.08.010 - 47.08.140 [UNDER THE PROVISIONS OF THIS CHAPTER], the Department of Health and Social Services may [SHALL] reimburse providers of medical care for unpaid costs incurred in the treatment of a person suffering an illness or accident that results in financial catastrophe to the person or the person's family.

\* Sec. 5. AS 47.08.010 is repealed and reenacted to read:

**Sec. 47.08.010. Reimbursement of providers.** Under the provisions of this chapter, the Department of Health and Social Services shall reimburse providers of medical care for unpaid costs incurred in the treatment of a person suffering an illness or accident that results in financial catastrophe to the person or the person's family.

\* Sec. 6. AS 47.08.010 is amended by adding a new subsection to read:

(b) At the beginning of each fiscal year, the commissioner of health and social

1 services shall determine whether sufficient appropriations have been made for the  
2 anticipated costs of services to needy persons under AS 47.08.150 and the anticipated  
3 costs of reimbursements under (a) of this section. The Department of Health and  
4 Social Services may not accept applications for reimbursement under (a) of this section  
5 for a fiscal year if, at the beginning of the fiscal year the department determines that

6 (1) there are insufficient funds appropriated for the anticipated costs of  
7 services for needy persons under AS 47.08.150; or

8 (2) after subtracting anticipated costs under AS 47.08.150, there are  
9 insufficient funds appropriated for anticipated reimbursements under (a) of this section.

10 \* Sec. 7. AS 47.08 is amended by adding a new section to read:

11 **Article 2. Medical Assistance for Chronic**  
12 **or Acute Medical Conditions.**

13 **Sec. 47.08.150. Assistance for chronic or acute medical conditions. (a)**

14 Under the provisions of this section, the Department of Health and Social Services  
15 may pay providers of medical care for services described in (c) of this section that are  
16 provided to needy persons suffering from a chronic or acute medical condition who  
17 may apply for assistance under (b) of this section.

18 (b) A needy person suffering from a chronic or an acute medical condition  
19 who is eligible for general relief assistance under AS 47.25.120 and is not eligible for  
20 the medical assistance program under AS 47.07 may apply for assistance under this  
21 section. The department shall make a determination of eligibility based on a general  
22 relief assistance application. The requirements of AS 47.08.020 - 47.08.140 do not  
23 apply to assistance sought under this section, except that, notwithstanding (c) of this  
24 section, neither reimbursement nor assistance may be paid by the department for  
25 services that are listed in AS 47.08.050 as those services are defined in AS 47.08.140.

26 (c) The services eligible for payment under this section for a needy person  
27 with a chronic or acute medical condition are the following:

28 (1) prescription drugs and medical supplies prescribed to treat a person  
29 who has

30 (A) a terminal illness;

31 (B) cancer and requires chemotherapy; or

1 (C) a chronic condition that would normally, in its untreated  
2 course, result in the death or disability of the recipient, but that is amenable to  
3 outpatient medication; the chronic conditions for which the cost of prescription  
4 drugs may be paid include the following diagnoses:

5 (i) diabetes and diabetes insipidus;

6 (ii) seizure disorders;

7 (iii) chronic mental illness;

8 (iv) hypertension;

9 (2) physician services

10 (A) related to care under (3) of this subsection;

11 (B) provided in a hospital emergency room the same day on  
12 which the recipient is admitted for care under (3) of this subsection;

13 (C) provided to a recipient residing in a nursing home; or

14 (D) provided in either an outpatient or an inpatient setting to a  
15 recipient with a diagnosis described in (1) of this subsection;

16 (3) inpatient hospital services that cannot be performed on an outpatient  
17 basis and that are certified as necessary by a professional review organization  
18 consulted by the Department of Health and Social Services but not including inpatient  
19 psychiatric hospital services;

20 (4) outpatient laboratory and x-ray services;

21 (5) medical transportation related to care under (3) of this subsection  
22 or nursing facility care;

23 (6) outpatient surgical services;

24 (7) nursing facility care.

25 (d) The payment rate for facilities under this section shall be the same as that  
26 established by regulation for medical services under AS 47.25.195, and payment rates  
27 under this section for other providers may not exceed those established under  
28 AS 47.07.

29 (e) The Department of Health and Social Services may limit the amount,  
30 duration, and scope of services covered under this section by regulation. If the  
31 Department of Health and Social Services finds that the cost of assistance for all

1 persons eligible under this section will exceed the amount allocated for that assistance  
2 during the fiscal year, the Department of Health and Social Services may limit  
3 coverage for certain medical services by regulation in order to provide the most critical  
4 care within the available appropriations.

5 (f) The Department of Health and Social Services may adopt regulations to  
6 implement this section.

7 \* **Sec. 8.** AS 47.08.010(b) and 47.08.150 are repealed.

8 \* **Sec. 9.** TRANSITIONAL PROVISION. Notwithstanding AS 47.07.020(b)(12), added  
9 by sec. 1 of this Act, an individual described in that provision is eligible for medical  
10 assistance under AS 47.07 without the payment of a premium or other cost-sharing charges  
11 for the first two months of the individual's receipt of assistance under AS 47.07.020(b)(12).  
12 Beginning in the third month of the individual's receipt of assistance under  
13 AS 47.07.020(b)(12), the individual shall pay one-twelfth of an annual premium that is  
14 determined by applying a percentage to the annual net income of the individual's family. The  
15 applicable percentage, Y, shall be calculated according to the formula of  $Y = (X-100)/15 -$   
16  $0.75(N-1)$ , where X is the annual net income of the individual's family expressed as a  
17 percentage of the official federal poverty line for a family of the size involved and N is the  
18 number of persons in the individual's family; however, an individual is not required to pay  
19 a premium under this section if the individual's family has a net income that is less than the  
20 applicable federal poverty line for a family of the size involved or if the value of Y calculated  
21 under this section is a negative number. The premium required under this section is payable  
22 until the Department of Health and Social Services, by regulation, establishes another system  
23 for setting and collecting a premium or other cost-sharing charges for persons who receive  
24 medical assistance because they are eligible under AS 47.07.020(b)(12), as enacted by sec. 1  
25 of this Act. For purposes of this section, the annual net income of the individual's family  
26 shall be determined under applicable federal regulations and guidelines.

27 \* **Sec. 10.** REGULATIONS. The Department of Health and Social Services shall adopt  
28 regulations establishing the sliding fee scale for premiums or other cost-sharing charges  
29 described in sec. 1 of this Act by July 1, 1999.

30 \* **Sec. 11.** REVISOR INSTRUCTION. In the following statute sections, the revisor of  
31 statutes shall substitute the spanned reference "AS 47.08.010 - 47.08.140" for references to

1 "this chapter": AS 47.08.040, 47.08.050, 47.08.120, 47.08.130, and 47.08.140.

2 \* **Sec. 12.** Sections 4, 6, 7, and 11 of this Act take effect July 1, 1998.

3 \* **Sec. 13.** Sections 5 and 8 of this Act take effect on the day after the later of (1) the date  
4 on which time expires for appeal of a judgment declaring any part of AS 47.08.150, enacted  
5 by sec. 7 of this Act, unconstitutional, or (2) if an appeal is taken, the date of entry of the  
6 final order on appeal that any part of AS 47.08.150, enacted by sec. 7 of this Act, is  
7 unconstitutional. The attorney general shall notify the revisor of statutes of a judgment  
8 described in this section.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


130 Seward Street, Suite 409  
Juneau, Alaska 99801-2105

## MEMORANDUM

May 10, 1998

**SUBJECT:** SCS CSHB 459(RLS), draft version "P" (Medical care)

**TO:** Senator Tim Kelly  
Attn: Tim Benintendi

**FROM:** Terri Lauterbach  
Legislative Counsel 

Enclosed is the SCS requested. The cell phone number for Ms. Bomegen did not work. The message I received was "mobile unit not on or outside the listening area."

I have tried to put organizational sense into the draft you sent over. If I have inadvertently changed the substance, please let me know how to correct the draft.

The definition of "chronic or acute medical conditions" is troublesome. It seems to define the conditions by references to the services needed. Is subsection (f) intended to be a list of eligible services? If so, more rewriting is needed. If the services listed in subsection (f) are only intended to be available for the conditions described in (f)(1)(A) - (C), then more rewriting is needed. I offer this draft for discussion purposes; it probably needs additional clarification.

TML:jdr  
98-294.jdr

Enclosure

0-LS1504P  
Lauterbach  
5/10/98

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4 of 'personal care services in a recipient's home' as used in the medical  
5 assistance program; moving midwife services from being the first to being the  
6 7th service eliminated under the medical assistance program when there is  
7 insufficient funding; adjusting the priority of optional services and optional  
8 eligible groups under the medical assistance program in order to reflect the new  
9 priorities given to the newly-eligible disabled persons and to midwife services but  
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9 under 42 U.S.C. 1396d(q)(2)(B), would be considered to be individuals with respect  
10 to whom a supplemental security income is being paid under 42 U.S.C. 1381 - 1383c;  
11 a person eligible for assistance under this paragraph who is not eligible under another  
12 provision of this section shall pay a premium or other cost-sharing charges according  
13 to a sliding fee scale that is based on income as established by the department in  
14 regulations.

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16 Sec. 47.07.035. **Priority of medical assistance.** If the department finds that  
17 the cost of medical assistance for all persons eligible under this chapter will exceed  
18 the amount allocated in the state budget for that assistance for the fiscal year, the  
19 department shall eliminate coverage for optional medical services and optionally  
20 eligible groups of individuals in the following order:

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23 (2) [(3)] psychologists' services;  
24 (3) [(4)] chiropractic services;  
25 (4) [(5)] advanced nurse practitioner services;  
26 (5) [(6)] adult dental services;  
27 (6) [(7)] emergency hospital services;  
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- 1 (10) occupational therapy;
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- 18 (26) individuals under age 21 who are not eligible for benefits under
- 19 the federal program designated as the successor to the aid to families with dependent
- 20 children program because they are not deprived of one or more of their natural or
- 21 adoptive parents;
- 22 (27) skilled nursing facility services for persons under age 21;
- 23 (28) aged, blind, and disabled individuals who, because they do not
- 24 meet the income requirements, do not receive supplemental security income under Title
- 25 XVI of the Social Security Act, but who are eligible, or would be eligible if they were
- 26 not in a skilled nursing facility or intermediate care facility, to receive an optional state
- 27 supplementary payment;
- 28 (29) individuals in a hospital, skilled nursing facility, or intermediate
- 29 care facility whose income while in the facility does not exceed 300 percent of the
- 30 supplemental security income benefit rate under Title XVI of the Social Security Act,
- 31 but who, because of income, are not eligible for the optional state supplementary

1 payment;

2 (30) individuals under age 21 under supervision of the department for  
3 whom maintenance is being paid in whole or in part from public money and who are  
4 in foster homes or private child-care institutions;

5 (31) individuals under age 21 who the department has determined  
6 cannot be placed for adoption without medical assistance because of a special need for  
7 medical or rehabilitative care and who the department has determined are hard-to-place  
8 children eligible for subsidy under AS 25.23.190 - 25.23.220;

9 **(32) individuals who are eligible under AS 47.07.020(b)(12).**

10 \* Sec. 3. AS 47.07.900(15) is amended to read:

11 (15) "personal care services in a recipient's home" means services  
12 **authorized under a service plan** [PRESCRIBED BY A PHYSICIAN] in accordance  
13 with **applicable federal and state law** [THE RECIPIENT'S PLAN OF TREATMENT  
14 AND PROVIDED BY AN INDIVIDUAL WHO IS

- 15 (A) QUALIFIED TO PROVIDE THE SERVICES;  
16 (B) SUPERVISED BY A REGISTERED NURSE; AND  
17 (C) NOT A MEMBER OF THE RECIPIENT'S FAMILY];

18 \* Sec. 4. AS 47.08.010 is amended to read:

19 **Sec. 47.08.010. Reimbursement of providers. (a) Subject to (b) of this**  
20 **section, under AS 47.08.010 - 47.08.140** [UNDER THE PROVISIONS OF THIS  
21 CHAPTER], the Department of Health and Social Services ~~shall~~ reimburse providers  
22 of medical care for unpaid costs incurred in the treatment of a person suffering an  
23 illness or accident that results in financial catastrophe to the person or the person's  
24 family.

25 \* Sec. 5. AS 47.08.010 is amended by adding a new subsection to read:

26 (b) At the beginning of each fiscal year, the commissioner of health and social  
27 services shall determine whether sufficient appropriations have been made for the  
28 anticipated costs of services to needy persons under AS 47.08.150 and the anticipated  
29 costs of reimbursements under (a) of this section. The Department of Health and  
30 Social Services may not accept applications for reimbursement under (a) of this section  
31 for a fiscal year if, at the beginning of the fiscal year the department determines that

1 (1) there are insufficient funds appropriated for the anticipated costs of  
2 services for needy persons under AS 47.08.150; or

3 (2) after subtracting anticipated costs under AS 47.08.150, there are  
4 insufficient funds appropriated for anticipated reimbursements under (a) of this section.

5 \* Sec. 6. AS 47.08 is amended by adding a new section to read:

6 **Article 2. Medical Assistance for Chronic**  
7 **or Acute Medical Conditions.**

8 **Sec. 47.08.150. Assistance for chronic or acute medical conditions.** (a)  
9 Under the provisions of this section, the Department of Health and Social Services  
10 may pay providers of medical care for services provided to needy persons suffering  
11 from a chronic or acute medical condition who may apply for assistance under (b) of  
12 this section.

13 (b) A needy person suffering from a chronic or an acute medical condition  
14 who is eligible for general relief assistance under AS 47.25.120 and is not eligible for  
15 medical assistance under AS 47.07 may apply for assistance under this section. The  
16 department shall make a determination of eligibility based on a general relief assistance  
17 application. The requirements of AS 47.08.020 - 47.08.140 do not apply to assistance  
18 sought under this section, except that, notwithstanding (f) of this section, neither  
19 reimbursement nor assistance may be paid by the department for services that are listed  
20 in AS 47.08.050.

21 (c) The payment rate for facilities under this section shall be the same as that  
22 established by regulation for medical services under AS 47.25.195, and payment rates  
23 under this section for other providers may not exceed those established under  
24 AS 47.07.

25 (d) The Department of Health and Social Services may limit the amount,  
26 duration, and scope of services covered under this section by regulation. If the  
27 Department of Health and Social Services finds that the cost of assistance for all  
28 persons eligible under this section will exceed the amount allocated for that assistance  
29 during the fiscal year, the Department of Health and Social Services may limit  
30 coverage for certain medical services by regulation in order to provide the most critical  
31 care within the available appropriations.

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(e) The Department of Health and Social Services may adopt regulations to implement and interpret this section.

(f) <sup>Under the Department of Health and Social Services</sup> In this section, chronic or acute medical conditions ~~include conditions~~ requiring any of the following services:

(1) prescription drugs and medical supplies prescribed to treat a person who has

(A) a terminal illness;

(B) cancer and requires chemotherapy; or

(C) a chronic condition that would normally, in its untreated course, result in the death or disability of the recipient, but that is amenable to outpatient medication; the chronic conditions for which the cost of prescription drugs may be paid include the following diagnoses:

(i) diabetes and diabetes insipidus;

(ii) seizure disorders;

(iii) chronic mental illness;

(iv) hypertension;

(2) physician services

(A) related to care under (3) of this subsection;

(B) provided in a hospital emergency room the same day on which the recipient is admitted for care under (3) of this subsection;

(C) provided to a recipient residing in a nursing home; or

(D) provided in either an outpatient or an inpatient setting to a recipient with a diagnosis described in (1) of this subsection;

(3) inpatient hospital services that cannot be performed on an outpatient basis and that are certified as necessary by a professional review organization consulted by the Department of Health and Social Services but not including inpatient psychiatric hospital services;

(4) outpatient laboratory and x-ray services;

(5) medical transportation related to care under (3) of this subsection or nursing facility care;

(6) outpatient surgical services;

may pay for the following services when provided to needy persons with acute medical conditions

1 (7) nursing facility care.

2 \* **Sec. 7. TRANSITIONAL PROVISION.** Notwithstanding AS 47.07.020(b)(12), added  
3 by sec. 1 of this Act, an individual described in that provision is eligible for medical  
4 assistance under AS 47.07 without the payment of a premium or other cost-sharing charges  
5 for the first two months of the individual's receipt of assistance under AS 47.07.020(b)(12).  
6 Beginning in the third month of the individual's receipt of assistance under  
7 AS 47.07.020(b)(12), the individual shall pay one-twelfth of an annual premium that is  
8 determined by applying a percentage to the annual net income of the individual's family. The  
9 applicable percentage, Y, shall be calculated according to the formula of  $Y = (X-100)/15 -$   
10  $0.75(N-1)$ , where X is the annual net income of the individual's family expressed as a  
11 percentage of the official federal poverty line for a family of the size involved and N is the  
12 number of persons in the individual's family; however, an individual is not required to pay  
13 a premium under this section if the individual's family has a net income that is less than the  
14 applicable federal poverty line for a family of the size involved or if the value of Y calculated  
15 under this section is a negative number. The premium required under this section is payable  
16 until the Department of Health and Social Services, by regulation, establishes another system  
17 for setting and collecting a premium or other cost-sharing charges for persons who receive  
18 medical assistance because they are eligible under AS 47.07.020(b)(12), as enacted by sec. 1  
19 of this Act. For purposes of this section, the annual net income of the individual's family  
20 shall be determined under applicable federal regulations and guidelines.

21 \* **Sec. 8. REGULATIONS.** The Department of Health and Social Services shall adopt  
22 regulations establishing the sliding fee scale for premiums or other cost-sharing charges  
23 described in sec. 1 of this Act by July 1, 1999.

24 \* **Sec. 9. REVISOR INSTRUCTION.** In the following statute sections, the revisor of  
25 statutes shall substitute the spanned reference "AS 47.08.010 - 47.08.140" for references to  
26 "this chapter": AS 47.08.040, 47.08.050, 47.08.120, 47.08.130, and 47.08.140.

27 \* **Sec. 10.** Sections 4 - 6 and 9 of this Act take effect July 1, 1998.

AMENDMENT

5-10-98

OFFERED IN THE SENATE  
TO: SCR 31

BY S. RLS

1 Page 1, line 2:

2 Delete "the"

please amend  
your # LS 1796/E

3 Page 1, line 3:

4 Delete "progr"

5 Page 1, line 7:

6 Delete "the"

KRISTEN BOMENGEN  
DEPT. LAW

7 Page 1, line 8,

8 Delete "prog"

CEL-321-0366

Tim Bennett  
3770

AMENDMENT

5-10-93

OFFERED IN THE SENATE

BY S. R. S

TO: SCS CSHB 459(FIN)

*please amend yours  
# LS 1504 / L*

*- TIM BENINTENDI  
3770*

1 Page 1, line 7, following "funding;":

2 Delete "and"

3 Page 1, line 11:

4 Delete "groups."

5 Insert "groups; relating to catastrophic illness assistance; establishing a medical  
6 assistance program for chronic and acute medical conditions; and providing  
7 for an effective date."

8 Page 4, following line 14:

9 Insert new bill sections to read:

10 **\*\*Sec. 4.** AS 47.08.010 is repealed and reenacted to read:

11 **Sec. 47.08.010. Reimbursement of providers; acceptance of applications.**

12 (a) Under the provisions of this chapter, the Department of Health and Social Services  
13 may pay providers of medical care for

14 (1) services provided to needy persons suffering from a chronic or acute

1 medical condition who meet the eligibility criteria for general relief assistance under  
2 regulations adopted under AS 47.25.120 and who are not eligible for medical  
3 assistance under AS 47.07; and

4 (2) if a determination is made by the commissioner of the Department  
5 of Health and Social Services that the appropriations for a given fiscal year are  
6 sufficient to provide relief for catastrophic illness under this chapter, costs incurred  
7 by persons who have accrued unpaid medical costs due to a catastrophic illness that  
8 meets the requirements of this chapter and results in financial catastrophe to the  
9 person or the person's family.

10 (b) At the beginning of each fiscal year, the commissioner of health and social  
11 services shall make a determination of whether sufficient appropriations have been  
12 made to provide reimbursement for catastrophic medical expenses under  
13 AS 47.08.020-47.08.140 after the Department of Health and Social Services meets  
14 the anticipated costs for needy persons eligible under (a)(1) of this section. If  
15 appropriations are not anticipated to be available to serve the persons identified under  
16 (a)(2) of this section, the department may not accept applications for that fiscal year.

17 \* Sec. 5. AS 47.08 is amended by adding a new section to read:

18 **Sec. 47.08.015. Assistance for chronic and acute medical conditions.** (a)  
19 Notwithstanding any contrary provisions of this chapter, a needy person suffering  
20 from a chronic or an acute medical condition, who is eligible for general relief  
21 assistance under regulations adopted under AS 47.25.120 and is not eligible for

1 medical assistance under AS 47.07, may apply for assistance under the chronic or  
2 acute medical assistance (CAMA) program in accordance with this section. The  
3 department shall make a determination of eligibility based on a general relief  
4 assistance application. The requirements of AS 47.08.020-47.08.140 do not apply to  
5 assistance sought under this section, except that <sup>neither reimbursement nor</sup> ~~assistance may not include the~~ <sup>120</sup> ~~services~~ <sup>which are excluded under</sup> ~~listed in~~ AS 47.08.050. The payment rate for facilities is the same as that <sup>shall</sup> ~~be~~ <sup>permitted</sup> ~~for~~  
6 established by regulation for medical services under AS 47.25.195 and payment rates  
7 for other providers may not exceed those established under AS 47.07.

9 (b) The Department of Health and Social Services may limit the amount,  
10 duration, and scope of services under this section by regulation. If the Department  
11 of Health and Social Services finds that the cost of assistance for all persons eligible  
12 under this section will exceed the amount allocated for that assistance during the  
13 fiscal year, the Department of Health and Social Services may limit coverage for  
14 certain medical services by regulation in order to provide the most critical care within  
15 the available appropriations.

16 (c) The Department of Health and Social Services may adopt regulations to  
17 implement and interpret this section.

18 (d) For the purposes of this section, "chronic or acute medical conditions"  
19 include conditions requiring the following services:

20 (1) prescription drugs and medical supplies prescribed to treat a person

21 who

1 (A) has a terminal illness;

2 (B) has cancer and requires chemotherapy; or

3 (C) has a chronic condition that would normally in its untreated course  
4 result in the death or disability of the recipient, but which is amenable to  
5 outpatient medication; the chronic conditions for which drugs will be paid  
6 include the following diagnoses:

7 (i) diabetes and diabetes insipidus;

8 (ii) seizure disorders;

9 (iii) chronic mental illness;

10 (iv) hypertension;

11 (2) physician services

12 (A) related to major medical care provided in a hospital on an inpatient  
13 basis;

14 (B) provided in a hospital emergency room the same day on which the  
15 recipient is admitted for major medical care;

16 (C) provided to a recipient residing in a nursing home; or

17 (D) provided in either an outpatient or an inpatient setting to a recipient  
18 with a diagnosis described in (1) of this subsection;

19 (3) major medical care, which means inpatient hospital services that cannot be  
20 performed on an outpatient basis and that are certified as necessary by the  
21 professional review organization contracted by the Department of Health and Social

1 Services but does not mean inpatient psychiatric hospital services;  
2 (4) outpatient laboratory and x-ray services;  
3 (5) medical transportation related to major medical care or nursing facility  
4 care;  
5 (6) outpatient surgical services;  
6 (7) nursing facility care.”

7 Renumber the following b' sections accordingly

8 Page 5, line 6:

9 Insert a new bill section to read:

10 **\*\* Sec. 7. Sections 4 and 5 of this Act take effect July 1, 1998.**

## ANALYSIS OF SCS CSIB 459 (FIN)

### Introduction

Disabled persons seeking to re-enter the work force sometimes face a hurdle to re-employment. Those who have high monthly medical costs, or are medically fragile, need adequate medical insurance to pay their medical bills, and to provide a safety net if their medical condition worsens while they are employed. Many disabled persons are prevented by their disability from engaging in the same type of job as they did before becoming disabled. Typically, on re-entry to the work force, they may be compelled to choose low-skill, entry-level positions or part-time employment. Characteristic of these types of jobs is low pay and inadequate health insurance benefits, or no health insurance at all.

Federal law permits certain recipients of Supplemental Security Income (SSI) to continue to receive Medicaid after they have gone back to work, if they can demonstrate (1) that their earnings are insufficient to provide the reasonable equivalent of Medicaid, and (2) that termination of Medicaid benefits would seriously inhibit their ability to continue employment. This program is referred to as the Section 1619 program, in reference to the section of the Social Security Act that provides the benefit. The statute creating the program is codified at 42 United States Code § 1382h.

Section 4733 of the Balanced Budget Act of 1997 permits states to exercise the option to expand the class of disabled person who can work while continuing to receive Medicaid. This section permits a state to provide Medicaid to disabled individuals so long as their family income does not exceed 250% of the federal poverty thresholds, and so long as they contribute towards the Medicaid program by paying premiums or charges on a sliding scale according to their income. The federal act gives the State discretion to determine the sliding scale.

SCS CSIB 459 if adopted would exercise the option of Section 4733 of Public Law No. 105-33.

Midwife services are currently first in the list of optional medical services and optionally eligible groups for elimination of coverage during periods of shortage of Medicaid funding. Moving midwife services to a lower position on the eligibility list will increase competition among providers for birthing and related services, thereby lowering overall Medicaid costs. SCS CSIB 459 moves midwife services from first to seventh on the priority list, but does not otherwise change the relative order of other optional services and optional eligibility groups.

### Sectional Analysis

Section 1. Under state law, addition of further categories of persons eligible for Medicaid may occur only by legislative revision of AS 47.07.020. See AS 47.07.020(d). This section of the

bill amends AS 47.07.020(b) to add disabled workers, subject to the eligibility criteria, to the list of persons who may receive Medicaid.

Section 2: Because of limits in appropriations from year to year, the Legislature is not able to fund all services for all persons who may be eligible for medical assistance, including Medicaid. It is necessary to create a priority in allocation of appropriated funds to guide the Department of Health and Social Services (Department). AS 47.07.035 establishes a priority list for optional medical services and eligibility groups. This section of the bill amends AS 47.07.035 to place the category of disabled workers eligible for benefits under the bill thirty-second on the priority list, meaning that disabled workers would be the last to lose Medicaid benefits during periods of limited funding. This section also moves midwife services from first on the priority list, to seventh, while not changing the relative order of other optional services and optional groups.

Section 3: This section revises a definition regarding personal care services to give more flexibility in the way that these services may be delivered to a disabled person. This modification will help make personal care service delivery more efficient and expand the employment opportunities for disabled persons.

Section 4: This section contains a transitional provision that directs the Department to provide this benefit to disabled workers immediately upon the effective date that the bill becomes law, and prior to the adoption of regulations to implement the act. The section provides for a transitional premium on a sliding scale that is determined as a percentage of net family income and family size. The formula chosen is an effort to set a transitional premium that is fair regardless of family size. In application at the threshold of eligibility (250% of the poverty line), the transitional premium formula results in disabled persons living in families paying a slightly higher monthly premium, but a lower overall percentage of net family income, than a single person living alone. This avoids penalizing disabled persons who live in families, yet also recognizes that those with larger family incomes should contribute according to their greater ability to pay, as compared to a single individual living alone.

Section 5: This section directs the Department to adopt regulations to implement the option, with a deadline for adoption of regulations of July 1, 1999. Because the Department's regulations are to provide a sliding fee scale that is reflective of need, workers who receive health insurance benefits from a private insurance program might reasonably be required to demonstrate their need for additional coverage under the Medicaid program. For example, a new employee with a probationary period before private health insurance benefits begin, who also must satisfy a one-year period of non-coverage for a pre-existing medical condition, would benefit from receiving Medicaid coverage under the bill until his or her private medical insurance began to apply. The bill gives the Department discretion in establishing this program to adopt regulations that are reflective of need, subject however that the regulations should not be so restrictive as to frustrate the purpose for which the option is provided. Thus a worker should not be made ineligible for the benefit just because the worker has health insurance through employment, if the worker can demonstrate need because of limitations or exemptions in the private insurance policy, unusually high regular medical expenses or other inadequacy in the private health insurance benefits received.



May 8, 1998

By hand delivery

Hon. Tim Kelly  
Chair, Rules Committee  
Alaska State Senate  
State Capitol, Room 101  
Juneau, AK 99801

JUNEAU

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Re: **SCS CSIB 459: Medicaid Buy-in for Disabled Workers  
Re-listing of Midwife Services**

Dear Senator Kelly:

I enclose a summary of SCS CSIB 459 to help you and your staff get up to speed on it. The fiscal implications of this bill are very favorable to the General Fund. This bill provides the bridge in health insurance coverage that many disabled people need to resume work. At the same time, General Fund savings occur by reducing Adult Public Assistance expenditures. A summary of the fiscal notes on the bill is attached.

Another element of the bill is the change in order of midwife services on the Medicaid de-funding list (AS 47.25.205). **Please note that this is not a disability-related issue.** However, to assist in deliberation on the bill, I provide a summary of the issue.

Historically, midwife services have been first on the Medicaid de-funding list, which means that midwife services are the **first to be eliminated** when Medicaid funds are short. As a practical matter, I understand that midwife services have never been funded for Medicaid-eligible recipients because of this position on the Medicaid de-funding list. Yesterday afternoon, the DHHS, Division of Medical Assistance, provided a fiscal note which predicts that by moving midwife services to a better position on the list, the State will realize significant savings in reduced birthing costs.

The House-passed version of HB 459 moves midwife services from 1<sup>st</sup> to 14<sup>th</sup> on the Medicaid de-funding list. To avoid a free-for-all effort to re-order the Medicaid de-funding list, the House adopted a very specific title to describe the change to the Medicaid de-funding list.

The Senate HESS committee passed the bill leaving the order of the Medicaid de-funding list the same as the House version of the bill. Senate HESS did change to

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Hon. Tim Kelly, Alaska State Senate

Re: SCS CSIB 459: Medicaid Buy-in for Disabled Workers / Midwife Services Re-listing

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an unrelated section regarding transitional premiums for the disability-related aspect of the bill.

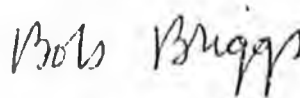
The Senate Finance committee passed the bill this morning, but changed the order of midwife services from 14<sup>th</sup> (as in the Senate HESS and House versions of the bill) to 7<sup>th</sup>. **Because of the very tight title provided by the House, this Senate Finance Committee amendment will necessitate a title change** in the Senate version of the bill. I've summarized the three bills regarding the Medicaid-defunding list in an attached sheet.

Our position on where midwife services exist on the Medicaid de-funding list is basically neutral. However, the fiscal note for the bill does project significant savings to the Medicaid program by improving the position of midwife services, which increases the Medicaid dollars for all recipients, including the disabled. I understand that these savings will be realized as long as midwives are placed in a position on the de-funding list that ensures funding of the service.

**We urge you to pass HB 459 out of Rules as quickly as possible, with an appropriate resolution to ratify the Senate Finance Committee's title-changing amendment to the bill, and get this bill to the Senate floor for debate and passage.** We stand ready to provide whatever assistance you and your staff need in order to move the bill.

This bill is very important to the disability community because it helps promote employment, one of the most valuable attributes of inclusion in our community.

Very truly yours,



Robert B. Briggs  
Staff attorney

Encls.

cc: (w/ encls.)

Hon. Loren Leman  
Hon. Robin Taylor  
Hon. John Torgerson  
Hon. Jim Duncan  
Hon. Con Bunde

cc: (w/o encls.)

Jim Parker, DLC - Anchorage  
Dawn Pederson



May 8, 1998

## MEDICAID BUY-IN TO HELP DISABLED WORKERS GET BACK TO WORK

### PROBLEM:

- *A significant hurdle to re-employment of the disabled: obtaining adequate health insurance coverage*
- *Forced into a cycle of dependency: Some disabled have high monthly medical expenses, such as organ transplant recipients who take immunosuppressant medications. Working, under current law, may cause a disabled person to lose Medicaid or Medicare. Without adequate private health insurance, these persons are better off receiving a disability check and *not* working rather than working with inadequate health insurance*
- *In 1997 Congress passed a law to help disabled persons get back to work: Section 4733 of the Balanced Budget Act of 1997 provides a state option to permit workers with disabilities to buy into Medicaid. Alaska can now choose an option for Medicaid on a sliding fee scale for disabled workers – its up to the Legislature to exercise the option*

### SOLUTION:

- *Alaska should exercise the Medicaid Buy-In Option: a disabled worker pays part of the Medicaid cost on a sliding fee scale with eligibility limited to 250% of the federal poverty thresholds*
- *SCS CSHB 459 implements the state's option: HB 459 will make Alaska one of the first states to exercise this option and send a strong signal of support for employment of disabled workers. Fiscal notes project net savings in four years based on reduced Adult Public Assistance payments for the disabled re-entering the work force<sup>1</sup>*
- *Midwife services are given a higher priority for Medicaid funding: A non-disability aspect of the bill is that midwife services, currently first to be cut when Medicaid dollars are short, will be given a higher funding priority. This will save Medicaid dollars, benefiting all Medicaid recipients including the disabled*

<sup>1</sup> Source: Fiscal Notes for Medicaid Facilities, Medicaid Non-Facilities, Adult Public Assistance, and Health Purchasing Group components, Medical Assistance BRU, Dept. of Health and Social Services (dated March 2, 1998 and May 7, 1998) for HB 459 and SCS HB 459 (HES).

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**Summary of Fiscal Impact of SCS CSHB 459**  
**Medicaid Buy-In Option / Midwife Services Re-listing**

(all figures in thousands)

**- Federal and State Funds Combined -**

	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>	<u>FY 04</u>
Medicaid Facilities	(\$ 43.7)	\$ (103.3)	\$ (142.1)	\$ (161.2)	\$ (170.9)	\$ (192.3)
Medicaid Non-Facilities	40.1	136.0	116.3	116.0	115.4	114.8
Health Purchasing Group	4.0	0	0	0	0	0
<u>Subtotal</u>	<u>\$ 0.4</u>	<u>\$ 32.7</u>	<u>(\$ 25.8)</u>	<u>(\$ 45.2)</u>	<u>(\$ 55.5)</u>	<u>(\$ 77.5)</u>
Adult Public Assistance	(33.0)	(190.5)	(311.0)	(427.7)	(540.4)	(649.3)
<b><u>Total</u></b>	<b><u>(\$ 32.6)</u></b>	<b><u>(\$ 157.8)</u></b>	<b><u>(\$ 336.8)</u></b>	<b><u>(\$ 472.9)</u></b>	<b><u>(\$ 595.9)</u></b>	<b><u>(\$ 571.8)</u></b>

**- State General Funds Only -**

	<u>FY 99</u>	<u>FY 00</u>	<u>FY 01</u>	<u>FY 02</u>	<u>FY 03</u>	<u>FY 04</u>
Medicaid Facilities	(\$ 17.6)	(\$ 41.5)	(\$ 57.1)	(\$ 64.8)	(\$ 68.7)	(\$ 77.3)
Medicaid Non-Facilities	16.1	54.7	46.8	46.6	46.4	46.1
Health Purchasing Group	2.0	0	0	0	0	0
<u>Subtotal</u>	<u>\$ 0.5</u>	<u>\$ 13.2</u>	<u>(\$ 10.3)</u>	<u>(\$ 18.2)</u>	<u>(\$ 22.3)</u>	<u>(\$ 31.2)</u>
Adult Public Assistance	(33.0)	(190.5)	(311.0)	(427.7)	(540.4)	(649.3)
<b><u>Total</u></b>	<b><u>(\$ 32.5)</u></b>	<b><u>(\$ 177.3)</u></b>	<b><u>(\$ 321.3)</u></b>	<b><u>(\$ 445.9)</u></b>	<b><u>(\$ 562.7)</u></b>	<b><u>(\$ 680.5)</u></b>

Source: Dept. of Health and Social Services, Divisions of Public Assistance and Medical Assistance, Fiscal Notes dated March 2, 1998 and May 7, 1998.

SCS CSHB 459 - Medicaid Buy-In for Disabled Workers / Midwife Services Re-listing

Summary of Priority in AS 47.25.205 (Medicaid de-funding priority list) \*

	<u>Current Law</u>	<u>CSHB 459</u>	<u>SCS CSHB 459 (HES)</u>	<u>SCS CSHB 459(FIN)**</u>
Midwife Services	1	14	14	7
Disabled Workers	no provision	32	32	32

\*A low number means the service or optional Medicaid group will be first to have services cut during periods of low funding. A higher priority number means a service will be less likely to lose funding during periods of funding shortage.

\*\* Requires title change resolution to ratify Senate Finance amendment.

May 8, 1998