

HEB

162

FISCAL NOTE

STATE OF ALASKA
1999 LEGISLATIVE SESSION

BILL NO. HB 162

Revision Date: _____ Dept. Affected: Health and Social Services
 Title: Mental Health Evaluation and Treatment and BRU: Community Mental Health Grants
confidential mental health records Component: Designated Evaluation and Treatment
 Sponsor: Representative Kemplen COMPONENT SERIAL NO. 1014
 Requestor: House (HESS) See also (SN#): _____

Expenditures/Revenues:

(Thousands of Dollars)

OPERATING	FY00	FY01	FY02	FY03	FY04	FY05
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL		150.0	150.0	150.0	150.0	150.0
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS		1,544.7	2,641.7	2,641.7	2,641.7	2,641.7
MISCELLANEOUS						
TOTAL OPERATING	0.0	1,694.7	2,791.7	2,791.7	2,791.7	2,791.7

CAPITAL EXPENDITURES						
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CHANGES IN REVENUES ()						
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FUND SOURCE

(Thousands of Dollars)

1002 Federal Receipts		1,544.7				
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health		150.0	2,791.7	2,791.7	2,791.7	2,791.7
Other (please specify)						
TOTAL	0.0	1,694.7	2,791.7	2,791.7	2,791.7	2,791.7

POSITIONS:

FULL-TIME						
PART-TIME						
TEMPORARY						

Estimate of any current year (FY99) cost: \$0.0

ANALYSIS: (Attach a separate page if necessary)

Fiscal Assumptions:

HB 162 serves two functions: It clarifies the client eligibility for Designated Evaluation and Treatment (DET) Services and establishes procedures for determining that eligibility, processing applications, and paying claims; it also creates an entitlement to those services for eligible clients.

These clarifications are necessary due to a current lawsuit related to these services and due to the downsizing of the Alaska Psychiatric Institute (API). The plaintiff in the current litigation requests that the court interpret current statutes to mean that the department must determine every patient's ability to pay; and, that if it is detrimental to the patient's rehabilitation, the department has to relieve the patient of their obligation to pay. If the court agreed with this interpretation, the department would pay for a far greater number of people than are currently eligible for this program. Additionally, the downsizing of API will require that these services be provided in Anchorage beyond those currently provided in other communities throughout Alaska. This necessary expansion will require explicit eligibility and payment procedures to maintain consistent administration of the program.

Janey
2/15/99

Prepared by: Leonard Abel, Ph.D./Gina Macdonald
 Division: Mental Health and DD

Phone: 907-465-3370
 Date: 03/31/99

Approved by Commissioner: Karen Perdue, Commissioner
 Agency: Department of Health & Social Services

Date: 4/6/99

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ANALYSIS (cont.):

As stated above, current plans to downsize API require that private hospitals in Anchorage provide some inpatient psychiatric services through the Designated Evaluation and Treatment program. This results in impending additional costs regardless of legislation. The lawsuit also has implications for undetermined costs as eligibility for the program could be determined (and possibly expanded) through the courts. This legislation will allow reasonable expansion of the program while establishing program controls through setting clear criteria and formalizing payment procedures. New costs to the program will be covered transitionally by federal grant funds in FY 2000. An increment will be required to enable this program to become an entitlement beginning FY 2001.

Existing Program

There is \$1046.3 GF/MH in the base for the DET program. These funds provide a limited amount of 72-hour psychiatric evaluations in eight hospitals in Alaska, up to 30 days of psychiatric treatment in two hospitals, physicians' services, and transportation to the hospitals. In addition, it pays for enhanced detoxification at two facilities for persons who are intoxicated and expressing suicidal ideation. Historically, client eligibility for this program has been budget driven. The definition of an eligible client was chosen so that all eligible clients could be served within the existing budget. The law suit has demanded that, among other things, the definition of eligibility be expanded to a larger population.

Eligibility Expansion

Payment for DET services will be expanded to all persons who are a danger to themselves or others or gravely disabled due to a mental illness, who are at or below 185% of the federal poverty guidelines, and who have no other source of payment.

The FY2000 Governor's Budget includes a request of \$1097.0 in federal receipt authority for a Substance Abuse and Mental Health Services Administration (SAMSHA) grant as a part of the Community Mental Health/API 2000 project. Prior experience with a larger population indicated that the expanded eligibility would result in increased cost of at least \$300.0. Part of the SAMSHA federal grant will cover these increased costs and another portion would allow limited expansion of the current program. The total cost of these changes is \$582.1. None of these costs are reflected in the fiscal note, but are critical to its understanding. Hospital costs are based on a rate of \$930 per day, and detox costs are based on a cost of \$275 per day.

Community Mental Health/API 2000 (related to downsizing API)

The Community Mental Health/API 2000 project depends upon a fully functional DET program. The current DET program operates outside of Anchorage. For the Community Mental Health/API 2000 project related to the downsizing of the Alaska Psychiatric Institute to work, the DET program must include Anchorage hospitals. The final portion of the \$1097.0 in the FY2000 Governor's Budget, \$514.9, expands DET services to Anchorage. Services in Anchorage will not begin until the last quarter of FY 2000 as they will coincide with the adjustment of the emergency service system to accommodate a smaller API. The annualized cost in Anchorage assumes the passage of HB 162 that establishes the entitlement and clarifies procedures by which the department pays for these services.

DET Payments

	<u>FY99</u>	<u>FY00</u>	<u>FY01</u>	<u>FY02</u>
GF/MH				
Base	1,046.3	1,046.3	1,046.3	1,046.3
SB97	0.0	0.0	0.0	2,641.7
Federal (SAMSHA)				
Governor's FY2000 Req	0.0	1,097.0	1,097.0	0.0
SB97	0.0	0.0	1,544.7	0.0
	<u>1,046.3</u>	<u>2,143.3</u>	<u>3,688.0</u>	<u>3,688.0</u>
DET Eligibility Determination	0.0	0.0	150.0	150.0
DET Program Total	1,046.3	2,143.3	3,838.0	3,838.0

ANALYSIS (cont.):**Costs of Expansion**

For FY2001, the costs in the Grants/Claims line reflect the cost of annualized DET services in Anchorage. These costs are directly related to the passage of HB 162. The costs assume full implementation of the new definition of eligibility, and serving all eligible clients as an entitlement. In addition, there is a related cost of \$150.0 in GF/MH funds for the purchase of eligibility determination. A more complex eligibility process will be necessary, based on the procedures used by the DHSS Division of Public Assistance to process welfare applications. The cost assumes a large volume of applications. The costs in the "Contractual" line will be necessary to process the applications and pay the cost of processing the bills. For FY2001, all new costs are funded through federal receipts.

The expansion of DET services to Anchorage will purchase an additional 2,984.8 bed days per year, or an average of 8.2 DET patients per day. The eligibility expansion is projected to require an additional 843.6 bed days per year or an average additional 2.3 patients per day.

The costs in FY2002 and beyond are all GF/MH due to the SAMSHA grant expiration.

If HB 162 does not pass, the FY2000 funds in the Governor's Budget would cover the anticipated service demands of the new eligibility definition outside of Anchorage, and permit limited services to remain in Anchorage indefinitely. However, there would not be sufficient funds to meet the demand to allow the Community Mental Health/API 2000 project to work. Services would be suspended at the point funds were exhausted, probably in mid-spring of FY2001. The department could anticipate additional litigation regarding the responsibility of the department to pay for these services. Court action could include further expansion of the definition of the population eligible to receive services under this program.

HOUSE COMMITTEE REPORT

(7)

Date Referred to Committee: March 26, 1999

FURTHER REFERRALS:

Judiciary
Finance

Date of Committee Action: 4/29/99

The HEALTH, EDUCATION AND SOCIAL SERVICES Committee considered:

HB 162

HOUSE BILL NO. 162

MENTAL HEALTH; RECORDS; TREATMENT

"An Act relating to confidential mental health records; relating to mental health services and programs; relating to liability for payment for mental health evaluation and treatment services; and providing for an effective date."

recommends it be replaced with the following committee substitute CSHB 162 (HES) the same title a new title

additional referral to _____ Committee
 attached amendment(s)

ADOPTS: _____ Letter of Intent

ATTACHES NEW FISCAL NOTE(S): (Dept)

APPROVES PREVIOUS: (Dept/Date)

fiscal note(s) HSS

fiscal note(s) _____

zero fiscal note(s) _____

zero fiscal note(s) _____

SIGNING WITH RECOMMENDATIONS	DP	DNP	NR	AM
<i>Paul Ryan</i>			<input checked="" type="checkbox"/>	
<i>Frank ...</i>			<input checked="" type="checkbox"/>	
<i>John ...</i>			<input checked="" type="checkbox"/>	
<i>John ...</i>	<input checked="" type="checkbox"/>			
<i>Ken ...</i>			<input checked="" type="checkbox"/>	

CHAIR'S SIGNATURE

Paul Ryan

John ...

ALASKA STATE LEGISLATURE



REPRESENTATIVE ALLEN KEMPLER

Sectional Analysis

CS HB 162()

"An Act relating to mental health services and programs; relating to liability for payment for mental health evaluation and treatment services; and providing for an effective date."

***Section 1.** Repeals the original language by replacing it with new language that follows:

(a) States that a patient that is admitted under statutes of admittance (AS 47.30.670 - 47.30.915) to a mental health facility shall make arrangements to pay for treatment or provide information to help determine financial eligibility for mental health benefits. The patient's spouse or legal guardian, the third-party responsible, would be expected also make arrangements to pay or provide financial information to determine eligibility for benefits. Charges accumulated during treatment may not exceed actual cost for care. The department may not bill itself or bill an individual for charges if the patient has received services and is eligible for benefits.

(b) The treatment facility or the department shall determine whether the patient or the third-party responsible can make financial contributions to pay for treatment of the patient; or, the department and/or facility shall determine whether the patient or the third-party responsible are eligible for benefits.

(c) If a patient or the third-party responsible has failed to provide the information to determine the benefit eligibility, the department shall ask the patient or the third-party responsible to pay for the costs of patient's treatment.

(d) If the patient is hospitalized at a mental health facility, the patient or the third-party responsible may apply for assistance to pay for the costs of the a patient's treatment.

(e) The department may charge for the patient's treatment and accept money or property for reimbursement of the patient's treatment.

(f) Money paid for treatment by the patient or on behalf of the patient shall be deposited into the General Fund.

***Section 2.** AS 47.30.915(4) This statute refers to the definition of designated treatment facility is amended by adding the words "treatment facilities" It is further amended defining mentally ill persons as those individuals entering treatment facilities under statutes of admittance for mental health.

***Section 3.** AS 47 is amended by adding a new chapter numbered 31 relating to the **Mental Health Treatment Assistance Program**. With the following sections:

Sec. 47.31.005. **Applicability.** Describes the applicability of a patient as one who has received services at a non state-operated facility.

Sec. 47.31.010. **Eligibility for Assistance.** Defines the eligibility for financial assistance of mental health treatment.

Sec. 47.31.015. **Application for Assistance.** Describes the process of application for financial assistance for mental health treatment.

Sec. 47.31.020. **Decision on Eligibility.** Describes the decision on eligibility and the department will issue a decision within 30 days.

Sec. 47.31.025. **Eligible Services; rates.** States that the department will determine the type and level of services for which assistance is available. A facility will be reimbursed by the department at a rate equivalent to the Medicaid rate.

Sec. 47.31.030. **Payment.** Determines the method of payment from the department to the facility for the treatment of the patient

Sec. 47.31.035. **Appeals.** Describes the process of appeal. Patient or patient's legal representative must submit an appeal within 30 days after notice of denial of eligibility and the commissioner or commissioner's designee shall offer a decision within 90 days or if additional information is needed the time frame will be 180 days for a given decision on appeals.

Sec. 47. 31.900. **Regulations.** The department shall, after consultation with the Alaska Mental Health Trust Authority, adopt regulation for this chapter.

Sec. 47.31.990. **Definitions.** Defines and lists the words used in this chapter that may used out of context.

***Section 4.** This legislation or act is applied to expenses incurred for mental health services after enactment only. Charges incurred by the department or a mental health facility prior to this action would not be applicable in relation to this act.

***Section 5.** The act takes effect immediately under AS 01.10.070(c).

ALASKA STATE LEGISLATURE



REPRESENTATIVE ALLEN KEMPLER

Sponsor Statement

CS HB 162()

"An Act relating to mental health services and program; relating to liability for payment for mental health evaluation and treatment services; and providing for an effective date."

Currently, the Department of Health and Social Services (DHSS) reimburses private community hospitals to provide emergency mental health inpatient evaluation and treatment services in Alaska. Hospitals designated as evaluation and treatment facilities provide services to individuals that are at risk of harming themselves or others; or those individuals are severely impaired by symptoms of mental health. Often, these individuals suffer from severe psychiatric disorders and need intensive inpatient mental health services.

DHSS through HB 162 is seeking to clarify the state's responsibility for payment for services and the responsibility of the state to determine the ability of patients to pay for those services.

HB 162 has three important features: (1.) HB 162 clarifies client eligibility for mental health services. (2.) Additionally, the legislation establishes procedures for determining eligibility, processing applications, and paying claims. (3.) HB 162 offers a conduit for mental health services to eligible clients through a community-based program.

While the Alaska Psychiatric Institute (API) looks to downsize by maximizing effective discharge planning and minimizing costly transportation to Anchorage, legislation was necessary to provide private community-based Mental Health Facilities with repayment for indigent care. This privatization of service delivery will allow us to decrease the size of our state psychiatric hospital while maintaining inpatient psychiatric services. API 2000 requires that DHSS increase the capacity of community-based services for designated evaluation and treatment, in order to accommodate this downsize.

A patient is determined to meet statutory criteria for mental health if that person is "suffering from a mental illness, and as a result is likely to cause serious harm to themselves or others, or is gravely disabled," whether admitted on a voluntary or involuntary status; and, the patient's gross monthly household income falls below 185 percent of federal poverty guideline.

The API 2000 downsizing depends upon a fully functional community-based mental health program throughout the state including an expansion to Anchorage. HB 162 provides adequate funding for evaluation and treatment services for a community-based program. Community-based hospitals are then more likely to develop and continue mental health services.

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CS FOR HOUSE BILL NO. 162()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

Offered:
Referred:

Sponsor(s): REPRESENTATIVE KEMPLEN

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to mental health services and programs; relating to liability for
2 payment for mental health evaluation and treatment services; and providing for
3 an effective date."

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

5 * Section 1. AS 47.30.910 is repealed and reenacted to read:

6 Sec. 47.30.910. Liability for expense of placement in a facility. (a) A
7 patient, the patient's spouse, or the patient's parent if the patient is under 18 years of
8 age shall pay the charges for the care, transportation, and treatment of the patient when
9 the patient is hospitalized under AS 47.30.670 - 47.30.915 at a state-operated facility,
10 an evaluation facility, or a designated treatment facility providing services under
11 AS 47.30.670 - 47.30.915. The patient, the patient's spouse, or the patient's parent if
12 the patient is under 18 years of age shall make arrangements with a state-operated
13 facility, an evaluation facility, or a designated treatment facility for payment of
14 charges, including providing income information necessary to determine eligibility for

1 benefits under AS 47.31. Charges assessed for services provided under AS 47.30.670 -
2 47.30.915 when a patient is hospitalized at a state-operated facility may not exceed the
3 actual cost of care and treatment. The department may, when assessing charges for
4 services provided at a state-operated facility, consider the ability to pay of a patient,
5 a patient's spouse, or a patient's parent if the patient is under 18 years of age. In order
6 to impose liability for a patient's cost of care at a state-operated facility, the department
7 shall issue an order for payment within six months after the date on which the charge
8 was incurred. The order remains in effect unless modified by subsequent court order
9 or department order. The department may not impose liability for a patient's cost of
10 care at a state-operated facility if the patient would otherwise meet the eligibility
11 criteria, other than location of service, in AS 47.31.010.

12 (b) The department, the evaluation facility, or a designated treatment facility
13 shall make reasonable efforts to determine whether the patient, the patient's spouse, or
14 the patient's parent if the patient is under 18 years of age has a third-party payor or has
15 the available means to substantially contribute to the payment of charges, or whether
16 the patient is eligible for assistance under AS 47.31.

17 (c) If a patient is hospitalized at a state-operated facility and the patient, the
18 patient's spouse, or the patient's parent if the patient is under 18 years of age fails to
19 provide to the department information necessary to determine whether there is a third-
20 party payor or available means to substantially contribute to the payment of charges,
21 or whether the patient would, if not hospitalized at a state-operated facility, be eligible
22 for assistance under AS 47.31, the department may issue an administrative order
23 imposing full liability for the patient's actual cost of care on the patient, the patient's
24 spouse, or the patient's parent if the patient is under 18 years of age. The order
25 remains in effect unless modified by subsequent court order or department order.

26 (d) If a person who is hospitalized under AS 47.30.670 - 47.30.915 at an
27 evaluation facility or a designated treatment facility cannot pay or substantially
28 contribute to the payment of charges described under this section, the patient may
29 apply for assistance under AS 47.31.

30 (e) The department may charge or accept money or property from a person for
31 the care or treatment of a patient at a state-operated facility.

1 (f) Money paid by the patient or on the patient's behalf to the department
2 under this section shall be deposited in the general fund.

3 * Sec. 2. AS 47.30.915(4) is amended to read:

4 (4) "designated treatment facility" or "treatment facility" means a
5 hospital, clinic, institution, center, or other health care facility that has been designated
6 by the department for the treatment or rehabilitation of mentally ill persons under
7 AS 47.30.670 - 47.30.915 [AND FOR THE RECEIPT OF THESE PERSONS BY
8 COURT-ORDERED COMMITMENT,] but does not include correctional institutions;

9 * Sec. 3. AS 47 is amended by adding a new chapter to read:

10 **Chapter 31. Mental Health Treatment Assistance Program.**

11 **Sec. 47.31.005. Applicability.** This chapter applies only to those patients who
12 have received evaluation or treatment at an evaluation facility or a designated treatment
13 facility that is not a state-operated hospital.

14 **Sec. 47.31.010. Eligibility for assistance.** (a) The department shall provide
15 financial assistance under this chapter to a patient who

16 (1) does not have the available means to pay or substantially contribute
17 to the payment of charges assessed by a facility;

18 (2) has no other third party to pay for the evaluation or treatment
19 provided under AS 47.30; and

20 (3) meets the criteria in this chapter.

21 (b) To be eligible for assistance under this chapter, a patient must have

22 (1) been admitted for inpatient evaluation or treatment at an evaluation
23 facility or a designated treatment facility other than a state-operated hospital after
24 either

25 (A) an involuntary commitment under AS 47.30.700 -
26 47.30.915; or

27 (B) a voluntary admission chosen by the patient after a
28 determination by the patient's treating physician that the patient meets the
29 involuntary commitment criteria in AS 47.30.700 - 47.30.915 and that
30 involuntary commitment proceedings would be initiated if the patient did not
31 choose to be admitted voluntarily; and

1 (2) a gross monthly household income that does not exceed 185 percent
 2 of the federal poverty guideline for this state for the calendar month in which service
 3 was provided.

4 **Sec. 47.31.015. Application for assistance.** (a) To receive assistance under
 5 this chapter, a patient or a patient's legal representative must apply in writing on a
 6 form provided by the department. A patient must apply for assistance within 180 days
 7 after the date of discharge from the facility.

8 (b) A patient is considered to have applied for assistance under (a) of this
 9 section if the evaluation facility or designated treatment facility notifies the department
 10 on a form provided by the department that there is good cause to believe that the
 11 patient would be eligible for assistance under this chapter and

12 (1) the patient, the patient's spouse, or the patient's parent if the patient
 13 is under 18 years of age failed within 150 days after the date of discharge from the
 14 facility to make arrangements to pay the evaluation facility or designated treatment
 15 facility; or

16 (2) the patient lacks the mental capacity to apply for benefits under this
 17 chapter.

18 (c) A patient who applies or is considered to have applied for assistance under
 19 this chapter, the patient's spouse, the patient's parent if the patient is under 18 years
 20 of age, or a person in the patient's household shall release records and information to
 21 the department necessary to verify eligibility for the assistance.

22 (d) If a patient, the patient's spouse, the patient's parent if the patient is under
 23 18 years of age, or a person in the patient's household fails to provide records and
 24 information to the department necessary to verify eligibility, the department may issue
 25 an administrative order imposing full liability for the patient's cost of care and
 26 treatment to the evaluation facility or designated treatment facility.

27 **Sec. 47.31.020. Decision on eligibility.** (a) Within 30 days after receiving
 28 a complete application, the department shall give notice in writing of an eligibility
 29 determination to the patient or the patient's legal representative. If the patient is found
 30 ineligible, the notice must contain the reason for the denial and an explanation of the
 31 patient's right to an administrative appeal of the denial.

1 (b) The department shall provide a copy of the notice of eligibility or
2 ineligibility to the facility at which the patient was treated.

3 **Sec. 47.31.025. Eligible services; rates.** The department shall identify the
4 type and level of services for which assistance is available under this chapter. An
5 evaluation facility or a designated treatment facility shall be reimbursed at a rate
6 established by the department that is equivalent to the Medicaid rate for that facility
7 at the time service was rendered as determined under AS 47.07.070.

8 **Sec. 47.31.030. Payment.** If the department determines that a patient is
9 eligible for assistance under this chapter, the department shall provide for payment of
10 assistance directly to the facility. By endorsing the check received from the
11 department or authorizing the endorsement by the facility's agent, the facility certifies
12 that the claim for which the check is payment is true and accurate unless written notice
13 of an error is sent to the department by the facility within 30 days after the date the
14 check is presented by the facility for payment.

15 **Sec. 47.31.035. Appeals.** (a) A patient or the patient's legal representative
16 may appeal a denial of assistance by sending written notice of objection to the
17 department within 30 days after the date of the notice of denial. The written notice
18 of objection must include an explanation of the reasons for the objection and may
19 include documentation supporting the objection. AS 44.62 (Administrative Procedure
20 Act) does not apply to the appeal.

21 (b) The commissioner or the commissioner's designee shall review the notice
22 of objection and issue a decision within 90 days after its receipt. The commissioner
23 or the commissioner's designee may request additional information on the appeal from
24 either the patient, the evaluation facility or designated treatment facility, or department
25 staff. A request for additional information suspends the time period for the appeal
26 until the department determines that the additional information has been received. If
27 more than 180 days have passed from the date of submission of a notice of appeal and
28 the additional information requested by the commissioner or the commissioner's
29 designee has not been received from a patient, the evaluation facility, the designated
30 treatment facility, or the department, the appeal shall be considered denied.

31 (c) The decision on the appeal under (b) of this section, including an appeal

1 denied for failure to submit additional information, is a final agency decision and may
2 be appealed to the superior court under the Alaska Rules of Appellate Procedure.

3 **Sec. 47.31.900. Regulations.** The department shall, after consultation with the
4 Alaska Mental Health Trust Authority, adopt regulations to interpret or implement this
5 chapter.

6 **Sec. 47.31.990. Definitions.** In this chapter, unless the context otherwise
7 requires,

8 (1) "commissioner" means the commissioner of health and social
9 services;

10 (2) "department" means the Department of Health and Social Services;

11 (3) "designated treatment facility" has the meaning given in
12 AS 47.30.915;

13 (4) "evaluation facility" means a health care facility that has been
14 designated by the department to perform the evaluations described in AS 47.30.670 -
15 47.30.915, including a facility licensed under AS 18.20.020 or operated by the federal
16 government;

17 (5) "gross monthly household income" means all earned or unearned
18 income from any source of a member of the patient's household;

19 (6) "household" means a patient and each person

20 (A) residing with the patient; and

21 (B) related to the patient by marriage or other legal relationship
22 giving rise to a duty of support and maintenance;

23 (7) "mental illness" has the meaning given in AS 47.30.915.

24 * **Sec. 4. APPLICABILITY.** This Act applies to expenses incurred for mental health
25 services received on or after the effective date of this Act.

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



April 29, 1999

By hand delivery

Rep. John Coghill, Jr.
Chair, HESS Committee
Alaska Legislature
Capitol Room 416
Juneau, Alaska

Rep. Fred Dyson
Vice Chair, HESS Committee
Alaska Legislature
Capitol Room 104
Juneau, Alaska

JUNEAU

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Re: **HB 162 / CSSB 97: Liability for involuntary / voluntary-in-lieu mental health admissions**

Dear Representatives Coghill and Dyson:

Attached please find my detailed testimony regarding HB 162 and its companion bill, CSSB 97 (HESS). These bills offer a potential to resolve continuing litigation between the Disability Law Center and the Department regarding the interpretation of AS 47.30.910. In so doing, these bills will:

- ◆ clarify that persons who are admitted on a voluntary-in-lieu basis are eligible for financial relief on the same footing as those who are involuntarily admitted,
- ◆ refine and more clearly state the criteria for financial relief, by establishing an eligibility cap of 185% of the household income of the patient
- ◆ provide a clear and efficient mechanism for funding the privatization of involuntary / voluntary-in-lieu mental health evaluations and treatment

Passage of a bill this legislative session is viewed by many as essential to help implement API 2000, a plan for decreasing the size of the Alaska Psychiatric Institute (API) by replacing the beds of that centralized, state-owned facility with local, privately-owned hospital beds for acute mental health evaluation and treatment. There are a number of reasons why the concepts in these bills should be implemented as a part of the API 2000 plan:

- 1) with the phase-out of federal disproportionate share ("DSH") funding, API faces a funding crisis in the very near term unless it is down-sized
- 2) privatizing the involuntary / voluntary-in-lieu admissions will allow billing for Medicaid dollars, which will result in ultimate savings to the state. The federal government pays 60 cents of every Medicaid dollar. API cannot bill Medicaid for its services, while private facilities can

MEMBER OF THE
NATIONAL
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SYSTEMS

Reps. John Coghill, Jr. and Fred Dyson

Re: HB 162 / CSSB 97: Liability for involuntary / voluntary-in-lieu mental health admissions

April 29, 1999

page 2

- 3) consumers and their families need and want decentralized, community-based evaluation and treatment
- 4) federal SAMSHA dollars are available to implement this privatization effort in the near-term

The current form of HB 162 and CSSB 97 (HESS) have not quite reached full consensus, but we are getting closer. I urge your favorable consideration of the concepts embraced in these bills, and I commit to work with the Committee, bill sponsors, the Administration, providers, and consumers to reach a bill that all can support.

Very truly yours,



Robert B. Briggs
Staff attorney

cc: (w/ encl.)

Rep. J. Allen Kemplen
Other members of the House HESS Committee
Sen. Pete Kelly
Elmer Lindstrom, DHSS
Gina MacDonald, DHSS, DMHDD
Shannon O'Fallon, Dept. of Law
Pat Clasby, for ASHNA
Walter Majoros, AMHB
Jeff Jessee, exec. dir., AMHTA
Robin Henry, AKAMI
Kate Gundunas, SAIL
Rick Tessandore, exec. dir., Steve Essley, DLC - Anchorage client C.D.



Statement of Robert B. Briggs
Staff Attorney, Disability Law Center of Alaska, Inc.

Testimony before the House HESS Committee
April 29, 1999

Hearing on H.B. 162:
Liability for Involuntary/Voluntary-in-Lieu Mental Health Treatment

Mr. Chairmen Coghill and Dyson, Representative Kemplen, and other members of the HESS Committee, thank you for this opportunity to testify regarding House Bill 162. It is a bill of importance to people who have serious mental disabilities, and their families.

I am the staff attorney for the Juneau office of the Disability Law Center of Alaska, Inc., which is a non-profit corporation with four offices statewide, in Anchorage, Fairbanks, and Bethel as well as Juneau. The Disability Law Center provides legal representation for persons with disabilities, in legal matters relating to their disability. We also work to effect systems change for persons with disabilities, in administrative and legislative matters.

Involuntary mental health admissions serve an important State public purpose. Persons are hospitalized who are gravely disabled, or who present a danger to themselves or others. Hospitalization provides the opportunity for stabilization, reduction in acuity, and linkage with outpatient services on discharge that will reduce further costs to society. Existing AS 47.30.910 recognizes this State purpose by stating that those who lack the ability to pay for a mental health hospitalization under AS 47.300.660 -- 47.30.910 shall be relieved of liability for costs of evaluation and treatment, if they lack the ability to pay the costs of hospitalization.

The Disability Law Center represents a client who has sued the Department (actually, a cross-suit in response to a bill collection action initiated by Bartlett Regional Hospital) for failure to adopt regulations to implement existing AS 47.30.910.¹ A settlement was reached in September 1998 by which the Department pledged to issue the sought-after regulations on March 1, 1999. Action on HB 162 or its companion SB 97 may serve to moot our litigation, depending upon the outcome of the final legislation.

¹ *Bartlett Reg. Hosp. v. C.D. v. State of Alaska*, No. 1JU 97-2717 CIV (Alaska Sup'r Ct., 1st Jud. Dist.).

MEMBER OF THE
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SYSTEMS

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A. H.B. 162 (or its companion, SB 97) will clarify eligibility for relief for "voluntary-in-lieu" admissions

A central issue of our litigation with the Department is whether the mandate for relief from liability for those lacking the ability to pay for mental health hospitalizations applies to those persons voluntarily admitted in lieu of an involuntary admission, or what I will refer to as "voluntary-in-lieu" admissions.² The Department has in the past provided financial relief for some voluntary admissions, while stating its interpretation that AS 47.30.910 does not provide a mandate to apply to all voluntary-in-lieu admissions. This position by the Department, to us, presents a problem of equal protection under the law. Generally speaking, it has been said by courts that if legislation "fails to include and affect alike all persons of the same class, and extends immunities or privileges to one portion and denies them to others of like kind, by unreasonable or arbitrary subclassification, it comes within the constitutional prohibition against class legislation [under the equal protection clause]."³

HB 162 (as well as its companion, SB 97) would make plain that a specified class of persons – those with household incomes under 185% of the poverty line – would be eligible to apply for relief from liability for the charges of both involuntary evaluation or treatment, and for voluntary-in-lieu evaluation or treatment.

From the perspective of the mental health disability community, HB 162 and its companion SB 97 present a trade-off: the current statute, the State argues, does not permit relief from liability for those voluntarily admitted. We disagree with the State's interpretation of the current text of AS 47.30.910, pointing to the text of the statute, the context of other related statutes, and to past practices of the Department in relieving persons from liability for voluntary admissions. We also think that distinction between those involuntarily admitted, and those admitted on a voluntary-in-lieu basis, cannot be constitutionally drawn and is arbitrary. Passage of HB 162 (or SB 97, in its current form) would resolve this legal dispute, and avoid uncertainty as to the outcome of litigation.

HB 162 (and its companion, SB 97) is a retraction from the current level of relief provided by AS 47.30.910. The existing statute requires relief from liability based on a

² As I use the term, a "voluntary-in-lieu" admission is one where the treating physician has expressed an intent to seek involuntary hospitalization if the patient does not agree to a voluntary admission, the patient otherwise meets the involuntary commitment criteria, and the patient (or for a minor, the patient's responsible parent) does agree to a voluntary admission.

³ *Miller v. State, Dep't of Revenue*, 18 Mich. App. 145, 171 N.W. 2d 3 at 6, quoting *People v. Chapman*, 301 Mich. 584, 4 N.W.2d 18, 24 (1942).

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determination of the liable person's ability to pay, *without any income cap*. Thus we believe under the existing statute persons of modest means should be able to obtain relief from mental health commitment bills that might otherwise exhaust their income and resources. HB 162/SB 97 would change this by placing an income cap of 185% of the poverty line.⁴

Thus a significant percentage of the so-called "working poor" – those with incomes under 200% of the poverty line – will lose the right to obtain relief even if they lack the ability to pay for an outstanding mental health commitment charge. The Center on Budget and Policy Priorities issued a study showing that in the mid-1990s, 34.5% of Alaskans with incomes under 200% of the federal poverty guidelines went without health insurance, altogether 12,000 out of an estimated 34,000 Alaskans described as among the working poor.⁵ As Alaska continues the trend toward growth in the visitor industry and other seasonal, temporary jobs, while losing valuable jobs in the oil and gas, timber, and government sectors, these numbers of uninsured working poor will likely increase.

In the current fiscal crisis, I don't expect that expansion of HB 162/SB 97 to those with household incomes under 200% of the poverty line will result in an acceptable fiscal note. However, I urge you to remember this issue, and will continue my advocacy on this issue as the fiscal climate improves.

By endorsing the concept of SB 97/HB 162, the community of mental health consumers are getting greater certainty about exactly who will be eligible for relief, and the amount of relief per person is likely to be greater, but the persons who will benefit is reduced. SB 97/HB 162 do not really eliminate the concept of "ability to pay," since language in the bills now limit eligibility to those who cannot "pay or contribute to the payment" of the expenses of hospitalization under AS 47.30.670 – 47.30.910. Regulations will still be required for the Department to refine how, as a practical matter, it will be determined whether someone lacks the ability to pay or contribute.

However, Alaskans need to assure a reliable revenue source for this state service. API 2000 is essentially privatizing the function of evaluation and treatment under AS 47.30.670 –

⁴ The current form of both SB 97 and HB 162 do not identify the specific poverty guideline to be used to determine eligibility. This ambiguity should be clarified in the bill. We suggest reference to the federal poverty guideline which is published annually in the Federal Register. *see, e.g.*, 64 Fed. Reg. 13,428-430 (Mar. 18, 1999), *reprinted at* <http://aspe.os.dhhs.gov/poverty/99poverty.htm>, or another poverty measure that is specifically identified by the Department.

⁵ J. Guyer and C. Mann, *Employed But Not Insured: a State-by-State Analysis of the Number of Low-Income Working Parents Who Lack Health Insurance*, CENTER FOR BUDGET AND POLICY PRIORITIES, at page 5, Table 1 (Feb. 9, 1999), *reprinted at* <http://www.cbpp.org/2-9-99mcaid.htm>.

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47.30.910. It is the understanding of all involved in the negotiations over SB 97 and its companion HB 162 that for those persons whose income is under 185% of the poverty level, the Department will be paying for the cost of evaluation and treatment in nearly all cases. Otherwise, without a reliable revenue stream, it is likely that hospitals will decline to perform the functions of evaluation and treatment under AS 47.30.670 – 47.30.910, and thereby jeopardize an essential component of API 2000, a system of locally-based evaluation and treatment facilities available to all Alaskans.

B. Removal of cap on charges by private facilities

In existing AS 47.30.910, there is language that is in effect a cap on charges that may be imposed under AS 47.30.660 – 47.30.910:

Charges assessed after an order for commitment for treatment is issued and charges assessed when a patient is hospitalized at a facility operated by the department, or under a contract for services with the department, may not exceed the actual cost of the care and treatment.⁶

This cap serves an important purpose, because unlike any other type of health care, the services delivered under AS 47.30.670 – 47.30.910 are involuntarily imposed, or imposed under a threat of compulsion.

It may be argued that it violates equal protection under the law to permit a private facility, as an agent of the State, to involuntarily hospitalize an individual, and at the same time charge the individual without limit for the cost of the hospitalization.⁷ No other Alaskan citizen is subject to such a compulsory, uncontrolled health care expense.

⁶ AS 47.30.910. The term "actual cost of care and treatment" is a term defined in AS 47.30.910(b) as either a rate agreed to in a contract with the department, or in the absence of a contract, a rate determined by the department.

⁷ Cases differ throughout the country on the constitutionality of imposing the costs of involuntary mental health commitment on the individual or the individual's family. We have found no U.S. Supreme Court or Alaska Supreme Court case dealing with the question. Individual state cases turn on the peculiarities of each state's constitution and body of judicial interpretations, and so a particular case may or may not be persuasive in the answer given by the United States Supreme Court or the Alaska Supreme Court. *See, e.g., Levine v. State Dep't of Inst. & Agencies*, 160 N.J. Super. 591, 390 A.2d 699, 701 (N.J. App. 1978)(liability for cost of commitment of developmental disabled person to state institution not unconstitutional where liability based on ability to pay); *Hospital Services, Inc. v. Brooks*, 229 N.W. 2d 69 (N.D. 1975)(liability of adult son for costs of commitment of his mother held to violate equal protection; costs of state function should be borne by the state), *citing and following Dep't of Mental Hygiene v. Kirchner*, 60 Cal.2d 716, 36 Cal.Rptr. 488, 490, 388 P.2d 720, 722 (1964)(same holding); *Miller v. State, Dep't of Revenue*, 18 Mich. App. 145, 171 N.W.2d 3, 6-7 (Mich. App. 1969)(liability

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I have been engaged in discussion and research on what other legal constraints exist that, as a practical matter, may prevent a private facility from charging exorbitant rates for evaluation and treatment under AS 47.30.670 – 47.30.910. If it can be demonstrated that other practical restraints, such as Medicaid or Medicare regulations, or the effect of such regulations, prevent differential rates being charged to persons hospitalized involuntarily or voluntarily-in-lieu, then I think it is justifiable for a revision of AS 47.30.910 to include removal of the cap on charges that private facilities may make.

However, if in practice it turns out that facilities do engage in differential billing practices and make exorbitant charges for services delivered under AS 47.30.670 – 47.30.910, then I would recommend a patient or patient's family adversely affected should consider a constitutional challenge to the statute, since I consider it an open legal question whether it is constitutional at all to impose upon an individual or an individual's family the cost of a state function such as involuntary or voluntary-in-lieu hospitalization.

My research is continuing and not yet complete on the issue of what other practical constraints prevent private facilities from charging differential and exorbitant rates for involuntary and voluntary-in-lieu mental health hospitalizations. However, I expect to be able to build consensus within the community of advocates for persons with mental disabilities for agreement to the removal of the cost cap in current AS 47.30.910, to the extent the cap poses an impediment to implementation of the vision of API 2000 of a decentralized, community-based system of emergency mental health evaluation and treatment. I certainly commit to you that I will work to build such a consensus.

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Conclusion

In summary, I believe the basic purposes of HB 162 / SB 97 are to:

- * clarify that persons who are admitted on a voluntary-in-lieu basis are eligible for financial relief on the same footing as those who are involuntarily admitted, and
- * refine and more clearly state the criteria for financial relief
- * provide a clear and efficient mechanism for state compensation to private facilities taking on the role of performing the state function of community-based evaluation and treatment, for that portion of the population that is most likely to lack the means to pay the cost of care

These are good public policy goals, and will ultimately benefit persons with serious mental disabilities, and their families. We know that to implement API 2000 will require consensus among the Legislature, consumers, providers, and the Administration. We are close to that. I remain committed to continue the effort to develop a bill that reaches such a consensus.

ALASKA STATE

HOSPITAL & NURSING HOME

ASSOCIATION

APR 27 1999

April 27, 1999

Representative J. Allen Kemplen
House Health, Education, and Social Services Committee
State Capitol Building, Room 112
Juneau, AK 99801-1182

Dear Representative Kemplen:

On April 29, 1999, the Health Education and Social Services Committee will be hearing HB162. The bill clarifies the reimbursement policy for psychiatric treatment of indigent individuals at local hospitals.

On behalf of the Alaska Association of Hospitals and Nursing Homes, I am writing in support of HB162. Alaska has moved forward during the last decade by providing care for the mentally ill in settings that are less restrictive and closer to the patients' homes. Alaska has initiated development of local hospitalization through the Designated Evaluation and Treatment Program (DET). Access to local hospitalization, for treatment of acute, short-term episodes, is required to provide care for the mentally ill individuals within our communities. The proposed downsizing of the state hospital also makes ensuring access to local hospitals critical.

HB162 clarifies the existing DET program and provides safeguards to both the mentally ill and local health facilities. A predictable and reliable funding source is necessary to provide a safety-net for those individuals who formerly would have been admitted to API.

Thank you for your consideration of our letter of support.

Sincerely Yours,

Laraine

Laraine Derr
President/CEO

426 Main Street

~~XXXXXXXXXXXX~~ JUNEAU, AK 99801 • (907) 586-1790 • FAX (907) 463-3573

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4/28/99

CS FOR HOUSE BILL NO. 162()

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIRST LEGISLATURE - FIRST SESSION

BY

Offered:

Referred:

Sponsor(s): REPRESENTATIVE KEMPLER

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to mental health services and programs; relating to liability for
2 payment for mental health evaluation and treatment services; and providing for
3 an effective date."

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

5 * **Section 1.** AS 47.30.910 is repealed and reenacted to read:

6 **Sec. 47.30.910. Liability for expense of placement in a facility.** (a) A
7 patient, the patient's spouse, or the patient's parent if the patient is under 18 years of
8 age shall pay or contribute to the payment of charges for the care, transportation, and
9 treatment of the patient when the patient is hospitalized under AS 47.30.670 -
10 47.30.915 at a state-operated facility, an evaluation facility, or a designated treatment
11 facility providing services under AS 47.30.670 - 47.30.915. The patient, the patient's
12 spouse, or the patient's parent if the patient is under 18 years of age shall make
13 arrangements with a state-operated facility, an evaluation facility, or a designated
14 treatment facility for payment of charges, including providing income information

1 necessary to determine eligibility for benefits under AS 47.31. Charges assessed for
2 services provided under AS 47.30.670 - 47.30.915 when a patient is hospitalized at a
3 state-operated facility may not exceed the actual cost of care and treatment. In order
4 to impose liability for a patient's cost of care at a state-operated facility, the department
5 shall issue an order for payment within six months after the date on which the charge
6 was incurred. The order remains in effect unless modified by subsequent court order
7 or department order. The department may not impose liability for a patient's cost of
8 care at a state-operated facility if the patient would otherwise meet the eligibility
9 criteria, other than location of service, in AS 47.31.010.

10 (b) The department, the evaluation facility, or a designated treatment facility
11 shall make reasonable efforts to determine whether the patient, the patient's spouse, or
12 the patient's parent if the patient is under 18 years of age has a third-party payor or has
13 the available means to substantially contribute to the payment of charges, or whether
14 the patient is eligible for assistance under AS 47.31.

15 (c) If a patient is hospitalized at a state-operated facility and the patient, the
16 patient's spouse, or the patient's parent if the patient is under 18 years of age fails to
17 provide to the department information necessary to determine whether there is a third-
18 party payor or available means to substantially contribute to the payment of charges,
19 or whether the patient would, if not hospitalized at a state-operated facility, be eligible
20 for assistance under AS 47.31, the department may issue an administrative order
21 imposing full liability for the patient's actual cost of care on the patient, the patient's
22 spouse, or the patient's parent if the patient is under 18 years of age. The order
23 remains in effect unless modified by subsequent court order or department order.

24 (d) If a person who is hospitalized under AS 47.30.670 - 47.30.915 at an
25 evaluation facility or a designated treatment facility cannot pay or substantially
26 contribute to the payment of charges described under this section, the patient may
27 apply for assistance under AS 47.31.

28 (e) The department may charge or accept money or property from a person for
29 the care or treatment of a patient at a state-operated facility.

30 (f) Money paid by the patient or on the patient's behalf to the department
31 under this section shall be deposited in the general fund.

1 * Sec. 2. AS 47.30.915(4) is amended to read:

2 (4) "designated treatment facility" or "treatment facility" means a
3 hospital, clinic, institution, center, or other health care facility that has been designated
4 by the department for the treatment or rehabilitation of mentally ill persons under
5 AS 47.30.670 - 47.30.915 [AND FOR THE RECEIPT OF THESE PERSONS BY
6 COURT-ORDERED COMMITMENT,] but does not include correctional institutions;

7 * Sec. 3. AS 47 is amended by adding a new chapter to read:

8 **Chapter 31. Mental Health Treatment Assistance Program.**

9 **Sec. 47.31.005. Applicability.** This chapter applies only to those patients who
10 have received evaluation or treatment at an evaluation facility or a designated treatment
11 facility that is not a state-operated hospital.

12 **Sec. 47.31.010. Eligibility for assistance.** (a) The department shall provide
13 financial assistance under this chapter to a patient who

14 (1) does not have the available means to pay or substantially contribute
15 to the payment of charges assessed by a facility;

16 (2) has no other third party to pay for the evaluation or treatment
17 provided under AS 47.30; and

18 (3) meets the criteria in this chapter.

19 (b) To be eligible for assistance under this chapter, a patient must have

20 (1) been admitted for inpatient evaluation or treatment at an evaluation
21 facility or a designated treatment facility other than a state-operated hospital after
22 either

23 (A) an involuntary commitment under AS 47.30.700 -
24 47.30.915; or

25 (B) a voluntary admission chosen by the patient after a
26 determination by the patient's treating physician that the patient meets the
27 involuntary commitment criteria in AS 47.30.700 - 47.30.915 and that
28 involuntary commitment proceedings would be initiated if the patient did not
29 choose to be admitted voluntarily; and

30 (2) a gross monthly household income that does not exceed 185 percent
31 of the federal poverty guideline for this state for the calendar month in which service

1 was provided.

2 **Sec. 47.31.015. Application for assistance.** (a) To receive assistance under
3 this chapter, a patient or a patient's legal representative must apply in writing on a
4 form provided by the department. A patient must apply for assistance within 180 days
5 after the date of discharge from the facility.

6 (b) A patient is considered to have applied for assistance under (a) of this
7 section if the evaluation facility or designated treatment facility notifies the department
8 on a form provided by the department that

9 (1) the patient, the patient's spouse, or the patient's parent if the patient
10 is under 18 years of age failed within 150 days after the date of discharge from the
11 facility to make arrangements to pay the evaluation facility or designated treatment
12 facility;

13 (2) the patient lacks the mental capacity to apply for benefits under this
14 chapter; or

15 (3) there is good cause to believe that the patient would be eligible for
16 assistance under this chapter.

17 (c) A patient who applies or is considered to have applied for assistance under
18 this chapter, the patient's spouse, the patient's parent if the patient is under 18 years
19 of age, or a person in the patient's household shall release records and information to
20 the department necessary to verify eligibility for the assistance.

21 (d) If a patient, the patient's spouse, the patient's parent if the patient is under
22 18 years of age, or a person in the patient's household fails to provide records and
23 information to the department necessary to verify eligibility, the department may issue
24 an administrative order imposing full liability for the patient's cost of care and
25 treatment to the evaluation facility or designated treatment facility.

26 **Sec. 47.31.020. Decision on eligibility.** (a) Within 30 days after receiving
27 a complete application, the department shall give notice in writing of an eligibility
28 determination to the patient or the patient's legal representative. If the patient is found
29 ineligible, the notice must contain the reason for the denial and an explanation of the
30 patient's right to an administrative appeal of the denial.

31 (b) The department shall provide a copy of the notice of eligibility or

1 ineligibility to the facility at which the patient was treated.

2 **Sec. 47.31.025. Eligible services; rates.** The department shall identify the
3 type and level of services for which assistance is available under this chapter. An
4 evaluation facility or a designated treatment facility shall be reimbursed at a rate
5 established by the department that is equivalent to the Medicaid rate for that facility
6 at the time service was rendered as determined under AS 47.07.070.

7 **Sec. 47.31.030. Payment.** If the department determines that a patient is
8 eligible for assistance under this chapter, the department shall provide for payment of
9 assistance directly to the facility. By endorsing the check received from the
10 department or authorizing the endorsement by the facility's agent, the facility certifies
11 that the claim for which the check is payment is true and accurate unless written notice
12 of an error is sent to the department by the facility within 30 days after the date the
13 check is presented by the facility for payment.

14 **Sec. 47.31.035. Appeals.** (a) A patient or the patient's legal representative
15 may appeal a denial of assistance by sending written notice of objection to the
16 department within 30 days after the date of the notice of denial. The written notice
17 of objection must include an explanation of the reasons for the objection and may
18 include documentation supporting the objection. AS 44.62 (Administrative Procedure
19 Act) does not apply to the appeal.

20 (b) The commissioner or the commissioner's designee shall review the notice
21 of objection and issue a decision within 90 days after its receipt. The commissioner
22 or the commissioner's designee may request additional information on the appeal from
23 either the patient, the evaluation facility or designated treatment facility, or department
24 staff. A request for additional information suspends the time period for the appeal
25 until the department determines that the additional information has been received. If
26 more than 180 days have passed from the date of submission of a notice of appeal and
27 the additional information requested by the commissioner or the commissioner's
28 designee has not been received from a patient, the evaluation facility, the designated
29 treatment facility, or the department, the appeal shall be considered denied.

30 (c) The decision on the appeal under (b) of this section, including an appeal
31 denied for failure to submit additional information, is a final agency decision and may

1 be appealed to the superior court under the Alaska Rules of Appellate Procedure.

2 **Sec. 47.31.900. Regulations.** The department shall, after consultation with the
3 Alaska Mental Health Trust Authority, adopt regulations to interpret or implement this
4 chapter.

5 **Sec. 47.31.990. Definitions.** In this chapter, unless the context otherwise
6 requires,

7 (1) "commissioner" means the commissioner of health and social
8 services;

9 (2) "department" means the Department of Health and Social Services;

10 (3) "designated treatment facility" has the meaning given in
11 AS 47.30.915;

12 (4) "evaluation facility" means a health care facility that has been
13 designated by the department to perform the evaluations described in AS 47.30.670 -
14 47.30.915, including a facility licensed under AS 18.20.020 or operated by the federal
15 government;

16 (5) "gross monthly household income" means all earned or unearned
17 income from any source of a member of the patient's household;

18 (6) "household" means a patient and each person

19 (A) residing with the patient; and

20 (B) related to the patient by marriage or other legal relationship
21 giving rise to a duty of support and maintenance;

22 (7) "mental illness" has the meaning given in AS 47.30.915.

23 * **Sec. 4. APPLICABILITY.** This Act applies to expenses incurred for mental health
24 services received on or after the effective date of this Act.

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