

**HB**

**207**

<target><bill>HB 207</bill><subject>HB  
207</subject><comm>HFSH26</comm></target>

# Alaska State Legislature

*Interim: (June-Dec)*  
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*Session: (Jan-May)*  
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## REPRESENTATIVE JOHN HARRIS

### Sponsor Statement

#### HB207

#### *An Act increasing the allowances for injury, disability, or heart attack payable from the fisherman's fund*

The Alaska Fisherman's Fund was established 1951 to provide for the treatment and care of Alaska licensed commercial fishermen and crew who have been injured while fishing on shore or off shore in Alaska. The upper limit on claims in the fund has been \$2,500 since 1959. If \$2,500 in 1959 dollars was adjusted for the Consumer Price Index, it would be worth approximately \$18,229.64 today. While the limitation in state law has remained unchanged, health care costs have steadily risen.

Access to health insurance and health care is a concern among fishermen and especially presents an obstacle to younger fishermen who are seeking to continue as the next generation in Alaska's sustainable fisheries.

HB207 updates the Alaska Fishermen's Fund limit to \$10,000. This is intended to help ensure that Alaska's fishermen have better access to health care when injured while fishing. Updating the claim limit to \$10,000 will bring this very worthwhile program back to providing a meaningful level of assistance as the payer of last resort for commercial fishermen and crew that sustain injuries or illness while fishing.

The Fund is financed from revenue received from each resident and nonresident commercial fisherman's license and permit fee. Commercial fishermen and crew members pay 39% - or up to \$50 each - of their annual license fees into this account. In 2008, there were 13,706 commercial fishing permit holders who contributed to the fund.

The account has grown to \$11.5 million even as health care costs have risen, due in part to continuing improvements in fish industry safety.

This increase is not projected to jeopardize the sustainability of the Fund.

# FISCAL NOTE

**STATE OF ALASKA**  
**2009 LEGISLATIVE SESSION**

Fiscal Note Number: \_\_\_\_\_  
 Bill Version: HB 207  
 ( ) Publish Date: \_\_\_\_\_

Identifier (file name): HB207-DOLWD-FF-04-02-09 Dept. Affected: Labor and Workforce Development  
 Title: Maximum Benefit From Fishermen's Fund RDU: Workers' Compensation  
 Component: Fishermen's Fund  
 Sponsor: Representative Harris  
 Requester: House FSH Component Number: 343

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	Appropriation Required	Information						
		FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
<b>OPERATING EXPENDITURES</b>								
Personal Services								
Travel								
Contractual								
Supplies								
Equipment								
Land & Structures								
Grants & Claims		63.7	63.7	63.7	63.7	63.7	63.7	63.7
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>63.7</b>	<b>63.7</b>	<b>63.7</b>	<b>63.7</b>	<b>63.7</b>	<b>63.7</b>	<b>63.7</b>

<b>CAPITAL EXPENDITURES</b>								
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<b>CHANGE IN REVENUES ( )</b>								
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**FUND SOURCE** (Thousands of Dollars)

1002 Federal Receipts								
1003 GF Match								
1004 GF								
1005 GF/Program Receipts								
1037 GF/Mental Health								
1032 Fishermen's Fund		63.7	63.7	63.7	63.7	63.7	63.7	63.7
<b>TOTAL</b>	<b>0.0</b>	<b>63.7</b>	<b>63.7</b>	<b>63.7</b>	<b>63.7</b>	<b>63.7</b>	<b>63.7</b>	<b>63.7</b>

Estimate of any current year (FY2009) cost: None

**POSITIONS**

Full-time								
Part-time								
Temporary								

**ANALYSIS:** (Attach a separate page if necessary)

This legislation increases the total allowance for a claim that can be approved by the Fishermen's Fund Administrator before it must go before the Fishermen's Fund Council from \$2,500 to \$10,000. Currently there are claims that exceed the current approval level, that are approved for payment and paid up to the \$2,500 limit, but the claimant does not take the next step to go to the council for payment of the remainder of those claims. With the higher approval level some of those claims would be paid to a higher level and thus increase our expenditures. Based on past claims history the department estimates that expenditures could increase by approximately \$63,700. The program has sufficient budgeted expenditure authorization to absorb this cost increase.

Prepared by: Trena Heikes, Director Phone 465-6059  
 Division: Workers' Compensation Date/Time 4/2/09 3:19 PM  
 Approved by: Click Bishop, Commissioner Date 4/2/09  
 Agency: Department of Labor and Workforce Development

# FISCAL NOTE

STATE OF ALASKA  
2009 LEGISLATIVE SESSION

Fiscal Note Number: \_\_\_\_\_  
Bill Version: HB207A  
( ) Publish Date: \_\_\_\_\_

Identifier (file name): HB207-DFG-CFEC-04-06-09 Dept. Affected: Fish and Game  
Title An act increasing the allowances for injury, disability, or heart RDU Comm Fisheries Entry Commission  
Component Comm Fisheries Entry Commission  
Sponsor Representative(s) Harris, Austerman, Wilson  
Requester House Fisheries Committee Component Number 471

## Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	Appropriation Required	Information					
	FY 2010	FY 2010	FY 2011	FY 2012	FY 2013	FY 2014	FY 2015
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Contractual	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Supplies	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Equipment	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Land & Structures	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Grants & Claims	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Miscellaneous	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

<b>CAPITAL EXPENDITURES</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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<b>CHANGE IN REVENUES ( )</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>
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FUND SOURCE	(Thousands of Dollars)						
1002 Federal Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1003 GF Match	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1004 GF	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1005 GF/Program Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
1037 GF/Mental Health	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Other Interagency Receipts	0.0	0.0	0.0	0.0	0.0	0.0	0.0
<b>TOTAL</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

Estimate of any current year (FY2009) cost: 0.0

### POSITIONS

Full-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Part-time	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Temporary	0.0	0.0	0.0	0.0	0.0	0.0	0.0

**ANALYSIS:** (Attach a separate page if necessary)

There are no significant fiscal impacts for CFEC associated with this bill.

Prepared by: Shirley Penrose, Administrative Officer  
Division: Commercial Fisheries Entry Commission  
Approved by: Frank M. Homan, Chairman  
Commercial Fisheries Entry Commission

Phone 907-790-6960  
Date/Time 4/6/09 1:25 PM  
Date 4/6/2009



# UNITED FISHERMEN OF ALASKA

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April 1, 2009

Representative Bryce Edgmon, Chair  
House Special Committee on Fisheries  
Alaska State Legislature  
State Capitol (Mail Stop 3100)  
Juneau AK 99801

RE: Support for HB 207 to increase Fishermen's Fund claim limit.

Dear Chairman Edgmon and Committee members,

United Fishermen of Alaska supports HB 207 to raise the limit of payment from the Alaska Fishermen's Fund from \$2500 to \$10,000 for injury and heart attack incidents that commercial fishermen may suffer while fishing.

The Fishermen's fund is self-funded by commercial fishermen and crew through fees that are included in the license price. The fund is self sustaining and this measure is not expected to change that. The \$2,500 benefit in AS 23.35.140 has not been increased since 1959, and is worth just \$345 today, adjusted for inflation.

This legislation will help the fund provide meaningful assistance to fishermen and crew members injured on the job, as was intended in recognition that fishermen are generally not covered by workman's compensation insurance. We do not support any other changes that might jeopardize the dedicated nature of the Fishermen's Fund.

Thank you for your consideration of our support of HB 207.

Sincerely,

Mark Vinsel  
Executive Director

#### MEMBER ORGANIZATIONS

Alaska Crab Coalition • Alaska Independent Fishermen's Marketing Association • Alaska Independent Tendermen's Association  
Alaska Longline Fishermen's Association • Alaska Scallop Association • Alaska Trollers Association • Alaska Whitefish Trawlers Association  
Armstrong Keta • At-sea Processors Association • Bristol Bay Reserve • Bristol Bay Regional Seafood Development Association • Cape Barnabas Inc.  
Concerned Area "M" Fishermen • Cook Inlet Aquaculture Association • Cordova District Fishermen United • Crab Group of Independent Harvesters  
Douglas Island Pink and Chum • Fishing Vessel Owners Association • Groundfish Forum • Kenai Peninsula Fishermen's Association  
Kodiak Regional Aquaculture Association • North Pacific Fisheries Association • Northern Southeast Regional Aquaculture Association  
Petersburg Vessel Owners Association • Prince William Sound Aquaculture Corporation • Purse Seine Vessel Owner Association  
Seafood Producers Cooperative • Sitka Herring Association • Southeast Alaska Fisherman's Alliance • Southeast Alaska Regional Dive Fisheries Association  
Southeast Alaska Seiners • Southern Southeast Regional Aquaculture Association • United Catcher Boats • United Cook Inlet Drift Association  
United Southeast Alaska Gillnetters • Valdez Fisheries Development Association • Western Gulf of Alaska Fishermen



# Division of Workers' Compensation

State of Alaska > DOLWD > Workers' Compensation > Fishermen's Fund

## Workers' Compensation Fishermen's Fund

Michael Monagle, Program Coordinator



### Quick Links...

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- › Annual Reports
- › Bulletins
- › Electronic Data - EDI
- › Employer Information
- › Forms
- › Legal Research
- › Medical Services
- › Online Employer Coverage Verification Service
- › Rate Tables
- › Self-Insurance
- › Workers' Comp and You - Info for Injured Workers
- › Workers' Comp Board

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- Requesting More Benefits/Time
- Compelling Reasons Questionnaire (PDF)
- Appendix A—Alaska Statutes – Title 23
- Appendix B—Administrative Code – Chapter 55
- Appendix C—Vessel Owner/Crewman Agreement (PDF)

#### PDF versions of forms:

- Claim Form (07-6125) (30K)
- Physician's Report (07-6126) (30K)
- Report of Vessel/Site Insurance (17K)
- Carpal Tunnel Syndrome Questionnaire (8K)
- Compelling Reasons Questionnaire (16K)

*You will need a copy of Acrobat Reader to view these forms. Download it free from Adobe.*



#### Contact Information:

P.O. Box 111149  
Juneau, AK 99811-1149  
Toll Free: (888) 520-2766  
Tel: (907) 465-2766  
Fax: (907) 465-5345

email: [FishFund@alaska.gov](mailto:FishFund@alaska.gov)

#### What is the Fishermen's Fund?

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Established in 1951, the Fishermen's Fund provides for the treatment and care of Alaska licensed commercial fishermen who have been injured while fishing on shore or off shore in Alaska.

Benefits from the Fund are financed from revenue received from each resident and nonresident commercial fisherman's license and permit fee.

The Commissioner of Labor and Workforce Development oversees administration of the program with the assistance of the Fishermen's Fund Advisory and Appeals Council.

The council is composed of the Commissioner or his designee, who serves as chairman, and five members appointed by the Governor.

#### Fishermen's Fund Advisory and Appeals Council

#### Qualifying for Benefits

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- Crewmembers with injury or illness directly connected to operations as a commercial fisherman **must hold valid commercial fishing licenses or limited entry permits before the time of injury or illness to qualify for benefits.** Note: Eligibility of a limited entry permit holder is based on the embossed date of the permit, not the date on which it was paid or when payment was received.
- Onset of injury or illness must be onshore in Alaska or on Alaska waters.
- Initial treatment must be received within 60 days after onset of injury or illness.
- An application must be submitted within one (1) year after initial treatment.
- Each treatment must be documented by a medical chart note and submitted.

#### How to File and Avoid Delays

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It is the fisherman's responsibility to see that a claim is filed. If the medical provider agrees to file a claim with your insurance company, the Fishermen's Fund, or a federal program such as Medicare, Veterans' Affairs, or the Indian Health Service, it remains the responsibility of the fisherman to see that the claim is

complete and filed appropriately.

**Immediately following an injury or illness:**

- Tell the appropriate medical facility personnel that two reports must be completed:

*Fisherman's Report of Injury or Illness  
Physician's Report of Injury or Illness*

- The fisherman and physician must each fully complete their respective report. These two reports need be completed only once, by the fisherman upon his initial treatment, and by the initial treating physician. All items must be answered and comments provided. (The reports are printed back to back and included in the center of this booklet. They are also available from most doctors, hospitals, clinics, and some harbormaster offices in Alaska, as well as from the Fishermen's Fund.)

**Fishermen's Fund Fisherman's Report**

Completing the Report:

- Attach copy of crewmember license or limited entry permit. A copy of the valid license or permit accompanying your application will expedite your claim as much as two to four months. (#10.)
- Note the vessel owner's Protection and Indemnity (P&I) deductible. (#12.)
- Note whether insured by health insurance or covered by a public program such as Medicare, Veterans Administration (VA), Indian Health Service (IHS). (#13.)
- Describe in detail injury or illness and how it was directly connected with commercial fishing. (#14.)
- Be specific as to the geographic location where injury or illness occurred, such as nearest landmark, miles or hours from a reference point. Give latitude and longitude if known. (#15.)
- Sign and date application. (#19.)
- Submit the reports immediately. The Fisherman's Report is considered the fisherman's application for Fund benefits.
- Include a permanent mailing address and advise of address changes. Benefits may be denied if you do not receive and respond to an inquiry.

*Please respond completely and promptly.* Failure to do any of the above can delay your claim.

**When do the Fund's benefits kick in?**

The Fund is an emergency fund payer of last resort, which means that benefits are awarded only after full consideration of other coverage from private health or vessel insurance, and public programs, including Veterans' Affairs or Medicare. (Medicaid is an exception.)

**Processor Activities and Processor/Tender Vessels**

A worker whose injury or illness is directly connected to a processing activity does not qualify for Fund benefits, but may be covered under Workers' Compensation.

A fisherman on a freezer or troller vessel who becomes injured or ill as a result of processing activities related to freezing the product would generally not be covered.

However, a fisherman injured or becoming ill on a tender vessel is usually covered unless the incident was directly connected to processing activities.

**Withdrawing an Application**

Withdrawing an application requires a written request from the applicant fisherman and must be reviewed by the Fishermen's Fund Advisory and Appeals Council.

**Primary Insurance Considerations**

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If you have medical insurance, the Fund must have a written statement—Explanation of Benefits (EOB)—verifying you have filed a claim for each of your medical expenses with your health insurance carrier.

**Vessel or Site P&I (Protection and Indemnity) Insurance**

If the fisherman applicant does not indicate the P&I deductible on the application, a Report of Vessel or Site Insurance will be requested to verify whether P&I coverage exists, and if so, the amount of the

deductible and the name of the vessel owner's insurance carrier or adjuster. If the deductible is unknown, benefits will be limited to \$2,500.

If expenses exceed, or will be expected to exceed, the deductible under a vessel owner's P&I policy, the fisherman applicant must file with the vessel owner's insurance carrier. These expenses are usually covered under the P&I policy. Expenses not covered should be submitted to the Fishermen's Fund. Otherwise, eligible expenses paid from the Fund which exceed the P&I deductible will be recovered under 8 Alaska Administrative Code (AAC) 055.010 (e) and by exercising subrogation rights under 8 AAC 055.035.

The vessel owner's deductible payment to the insurance company is considered a contribution to the insurance liability covered under the policy and is not recoverable from the Fishermen's Fund.

A vessel owner who pays for transportation or medical expenses for the injured or ill fisherman may be reimbursed if an agreement exists verifying that the employer advanced the money or paid any medical treatment on their behalf. A crewmember may be reimbursed if there is verification that the employer deducted the payments directly from wages due the injured or ill fisherman. Reimbursement cannot be made without the above supporting information.

Alternatively, the injured or ill fisherman and the vessel owner may complete the Vessel Owner-Crewmember Agreement, both signing to attest their understanding that the expenses paid by the owner were paid as a loan to the crewmembers. The wording of the form may be revised to fit the circumstances. There is no assurance this agreement in any way complies with marine law. (Agreement in Appendix C)

#### **Indian Health Service (IHS ) Beneficiaries**

- A fisherman who is eligible to receive direct care services from an IHS facility is expected to utilize these services when possible. In the event that an IHS recipient chooses not to use an IHS facility when it is available, the fisherman must justify to the Council his/her reason for not using the IHS facility.
- The Fund covers (pays for) services for IHS eligible individuals for items and services that are not covered by IHS; i.e., eyeglasses, chiropractic care, and dentures, if a legitimate claim is filed. However, direct care services that are covered by the IHS are not eligible for benefits from the Fund.
- If an IHS facility makes a referral to another facility that is not an IHS facility, the Fishermen's Fund is responsible for the first \$2,500. The Fund should be provided with a copy of the billing form to pay the claim.
- When a direct care provider is not available, the Fishermen's Fund will pay emergency or urgent care at a non-IHS facility. Limitations on a fisherman's time are taken into consideration when determining "not available."

#### **Fishermen's Fund Physician's Report**

Completing the Report:

Questions 1-4 may be answered by attaching medical records and noting, "See attached chart notes."

Questions 5-14 require very little time to complete, and a clerical assistant may answer most of them.

Questions 6 and 7 must be answered by the initial treating physician, to confirm that the injury is directly connected with the commercial fishing operations of the fisherman applicant.

Chart notes or medical records are required, as an attachment to the Physician's Report, but do not substitute for it. The physician may use the "see attached" notation for numbers 2 & 4 on the Physician's Report if the form is signed and the fishing-related questions are answered.

The Physician's Report serves many purposes, such as providing the necessary information in a logical order and concise manner to expedite processing and approvals for payment.

When bills are received for the treatment of an injury or illness for which an application has not been filed, the fisherman and all medical providers will be sent a letter informing them no action can be taken until an application has been filed.

#### **Council Review**

When the Fishermen's Fund administrator cannot immediately approve an application for benefits, it must go before the Fishermen's Fund Advisory and Appeals Council for review. The Council meets twice a year, usually in November and March.

Common reasons for delays that require the Council's review:

1. No response to an inquiry about items on an application.

2. Failure to seek treatment within 60 days of the onset of the injury or illness.
3. No evidence of a license at the time of injury or illness.
4. Injury or illness unrelated or not directly connected to operations of a commercial fisherman in Alaska.

#### **Just Cause**

The Council may approve benefits when just cause is demonstrated for the delay in the following circumstances:

- Initial treatment is received more than 60 days after the onset of injury or illness.
- Complete responses to inquiries are not received within 90 days.
- An application was received more than 1 year after the initial treatment.

Just cause for the delay should be explained in writing.

#### **Establishing Just Cause for:**

Not Seeking Treatment within 60 Days of Injury or illness

Not Filing within One (1) Year of Initial Treatment

Not Responding to an Inquiry within 90 Days.

Not Responding to an Inquiry for, or Receiving an Explanation of Benefits (EOB) within 180 Days

When a fisherman does not meet the timelines established above, and the Council has determined just cause for the delay exists, the Council may allow the administrator to approve benefits if:

- A written statement is received from a physician or fisherman which: states the late treatment or surgery was necessary to correct injuries or illnesses such as a hernia, carpal tunnel, or musculoskeletal condition; and notes the injury was directly connected to the commercial fishing activity described in the fisherman's application; and states that any delay in treatment was for the purpose of allowing the physician or fisherman to observe whether remedial treatments or time would correct the condition.
- A letter from the provider (i.e., hospital, medical clinic, etc.) or from an insurance company or public program noting the delay in filing or responding timely was their fault; or,
- Verbal or written evidence from the fisherman applicant that the late filing or response was due to their medical condition, fishing responsibilities, or an emergency requiring the fisherman's attention.

**Approvals, Denials, Appeals**

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Applications must be sent to the administrator.

When a decision indicates, "Your claim cannot be approved by the administrator," it does not mean the fisherman is denied benefits. Often further information is required to enable approval by the administrator, or by law the application requires approval by the Council.

#### **Reconsideration or Appeal**

In the event the administrator cannot approve an application, all parties will be notified in writing of the reason. The application will be reviewed and a final determination made at the next meeting of the Fishermen's Fund Advisory and Appeals Council. Parties will be notified of the time and place of the meeting and may submit written information supporting the application or may appear before the Council. A Notice of the Council's decision will be mailed to all parties, usually within four weeks. A decision may be reconsidered or appealed as noted below.

In some cases the Council will deny benefits unless certain conditions are satisfied by a certain time. The fisherman, therefore, must read the Council decision carefully and fulfill all the conditions to assure the best opportunity for approval.

- Under Alaska Statute 44.62.540(a), the fisherman has the right to file a Petition of Reconsideration to the Council within 15 days after the mailing of the decision.
- Under Alaska Administrative Code 8 AAC 055.030(d), the fisherman has the right to appeal the decision of the Council to the Commissioner of Labor within 45 days after receipt of the notice of the decision. The appeal must contain a complete statement of the justification including a description of the relief sought.

- A request for reconsideration or appeal must be in writing, signed by the claimant, and filed by mail or in person at the Office of the Commissioner, Department of Labor and Workforce Development, PO Box 111149 (1111 West 8th Street), Juneau, AK 99811. Otherwise, the Council decision is final.

#### What is Covered

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Related costs of transportation, medical care, hospitalization, prescriptions, therapy, and chiropractic care will be paid for an occupational injury or illness if it is "directly connected with operations as a commercial fisherman" in Alaska waters or on shore preparing or dismantling boats or gear used in commercial fishing.

Those costs noted above that are necessitated by a cardio-vascular disease may be paid if "attributable, directly or indirectly, to the fishing endeavor" (AS 23.35.080). A fisherman is also entitled to "such assistance after discharge from the hospital during period of convalescence as allowed in consideration of the condition of the Fund" (AS 23.35.090).

The total allowance for any one heart attack is \$2,500.

Covered Injuries or Illnesses. Occupational illnesses or diseases which may be covered include: hernias, varicose veins of the leg; rheumatism, arthritis, musculoskeletal ailments such as bursitis, traumatic sciatica and tenosynovitis; the respiratory diseases bronchitis, pneumonia, and pleurisy caused by or aggravated by the fishing endeavor.

With respect to a pre-existing injury, if subsequent aggravation is attributable strictly to that injury, and does not amount to a new injury, then, as with a recurring disability, benefits will not be awarded (AS 23.35.130, Opinion of Attorney General).

#### What is Not Covered? Conditions of Coverage

Noncovered Illnesses and Diseases and Other Conditions. Illnesses or diseases and other conditions not covered include strep throat, tonsillitis, the common cold, influenza, ulcers, cancer, appendicitis, insect bites, salmonella, giardia, smoking related conditions, cracked teeth or loose fillings from eating. Sexually transmitted diseases or drug or alcohol related injuries, and those caused by not following good hygiene and health practices, or improper care are not covered. Ear infections caused from diving in a commercial fishery are covered but not when due to a cold.

Chronic Conditions. Chronic injuries, although aggravated by the fishing endeavor, may not be covered since they are usually pre-existing and not directly connected to the operations of a fisherman.

Three-Month Gap in Treatment. The Council must reassess the treatment of an injury or illness when there is a three-month gap in the treatment. A doctor's statement is required noting how the treatment was directly connected to the prior commercial fishing injury.

Fifth Injury Within Eight Years to the Same Area of the Spine. A doctor's statement is required when an application for benefits is received to cover expenses related to the fisherman's fifth injury or illness for the same area of the spine within eight years. The statement is necessary to determine whether it is a new acute injury or illness or if it is a chronic condition, which is not covered.

Dental and Eye. Dentures, glasses or contact lenses lost or broken may be replaced or repaired only when lost or broken in activities directly connected to operations as a fisherman. A claim for dental injury without other bodily damage must be supported by a doctor's report that substantiates the injury's direct connection to operations as a fisherman, or an affidavit may be required.

Carpal Tunnel. No benefits will be allowed for surgery until all other alternative treatment has been explored. If surgery is required after exploring these alternatives, the Council must review the application to see if the need for surgery is caused by the fishing endeavor. If surgery is required, the fisherman must provide in writing, or present to the Council in person, the following:

1. The extent of alternative treatment pursued;
2. A ten-year history of work experience including the number of years commercially fishing and type of fishing;
3. How the injury or illness has affected the ability to fish; and
4. Any other information considered pertinent.

Away from the Boat. An injury or illness occurring away from the boat or fishing site will be covered as long as it is directly connected to operations as a fisherman, such as injuries incurred on a dock while hauling gear to the boat or at home repairing commercial fishing gear.

Transportation. Costs are covered to and from the vessel, fishing or gear repair or storage site to the nearest medical facility where appropriate emergency care can be provided. Additional transportation

costs to receive specialized or skilled care unavailable at the nearest approved medical facility must be supported by a written statement from the attending physician which clearly defines the specialized medical skill required and the nearest place where it is available. Approval of additional transportation costs may require consideration of the financial condition of the Fund.

Costs incurred for transportation after discharge from the hospital during period of convalescence may be approved to return the fisherman to the boat, home or another place that reasonably meets with the fisherman's convenience. (AS 23.35.090-100, 8 AAC 055.010 (d) and AS 23.35.080 & 100.)

#### To Whom are Benefits Paid?

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Benefits will be paid only to the medical provider or to the fisherman — to the provider if the bill is outstanding, or to the fisherman if his payment is verified by evidence such as cancelled checks, receipts, or bills or statements from medical providers.

A vessel owner who pays a bill can be reimbursed if the Fishermen's Fund administrator receives evidence in writing that there was a prior agreement that the vessel owner would pay any medical expenses, or would advance payment with an agreement to be reimbursed. The fisherman will be reimbursed instead of the vessel owner if the fisherman submits evidence that the vessel owner deducted these expenses from the fisherman's compensation. However, these reimbursements do not imply that such an agreement or understanding is in compliance with marine law.

See Appendix C for an example of agreement.

#### Requesting More Benefits or Time

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Except for compelling reasons, benefits for the care of any one person involving a single injury or disability will not be paid beyond one year from the date of initial allowance, and cannot exceed \$2,500.

Requests to exceed the benefit limit or the duration of care must be in writing. They must note the "amount of relief" or additional benefits needed, or the "extent of additional time" required. Compelling reasons justifying the request must be specified. The Council must approve all requests.

Compelling reasons to exceed \$2,500 are not defined in law but must be sufficient to justify the requested benefit or time extension and must include:

- The financial status of the fisherman.
- Impact of injury or illness on the fisherman's ability to earn a living while undergoing required treatment and to continue to earn a living commercial fishing.
- Any other compelling factors that affect the fisherman's ability to pay for related expenses in excess of \$2,500, or that result in conditions that require follow-up treatment beyond one year.

#### Please remember to note:

How much additional relief or money is needed in excess of what the fisherman can pay and/or the amount of extended time wanted beyond one year.

#### Appendix A

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#### Alaska Statutes Title 23 Labor and Workers' Compensation

##### AS 23.35.010. Creation of Fishermen's Fund Advisory and Appeals Council.

There is within the Department of Labor and Workforce Development a Fishermen's Fund Advisory and Appeals Council.

##### AS 23.35.020. Appointment and Composition of Council.

The council is composed of the commissioner of labor and workforce development or a person designated by the commissioner and five members appointed by the governor for overlapping five year terms. The governor shall appoint one member from each of the following districts:

District 1: Wrangell and areas south;

District 2: Areas north of Wrangell to include Yakutat;

District 3: Areas west of Yakutat to East Coast of Alaska Peninsula, including Prince William Sound, Cook Inlet, and Kodiak;

District 4: Areas west of Alaska Peninsula to Cape Newenham, including Bristol Bay;

District 5: Areas north of Cape Newenham, including Kuskokwim, Yukon, Kotzebue, and the Arctic.

**Sec. 23.35.030. Commissioner or designee as chair.**

The commissioner of labor and workforce development or the person designated by the commissioner serves as the chair of the council.

**AS 23.35.040. Duties of Commissioner and Council.**

The commissioner shall consult with the council before the commissioner makes a negative decision on an appeal filed with the commissioner in relation to the care of a sick and disabled fisherman.

**AS 23.35.050. Regulations.**

The department may adopt regulations to carry out the purposes of this chapter, including those that are necessary or advisable to protect the fund by limiting or suspending payments from the fund. The regulations must be uniform in application.

**AS 23.35.060. Creation and Administration of Fishermen's Fund.**

(a) There is created a fund, designated as the "fishermen's fund." The Department of Revenue is the custodian of the fund and the Department of Labor and Workforce Development shall administer it. The fund shall be composed of 39 percent of the money derived by the state from all commercial fishermen's licenses and money appropriated to carry out the purpose of this chapter.

(b) The legislature may appropriate up to 50 percent of the interest income earned by the state on the balance of the fishermen's fund for a grant for statewide marine safety training and education programs.

**AS 23.35.070. Benefits.**

A fisherman, upon becoming disabled, is entitled to receive benefits as follows: Immediately after the fisherman sustains an injury or disability arising out of an accident directly connected with operations as a fisherman, either ashore in the state or in Alaska water, or suffers an occupational disease, the fisherman is entitled to emergency treatment, transportation to the nearest place where approved medical facilities are available, medical care, and hospitalization. In this section, "Alaska water" means the inland and territorial water of the state and the fishery conservation zone adjacent to the state established by 16 U.S.C. 1811 (sec. 101, Fisheries Conservation and Management Act of 1976).

**AS 23.35.080. Emergency Treatment For Cardio-Vascular Diseases.**

The department may pay the costs, within the maximum limitations, of emergency treatment, transportation, medical care, and hospitalization, necessitated by a cardio-vascular disease, if the department determines that the disease is attributable, directly or indirectly, to the fishing endeavor.

**AS 23.35.090. Assistance After Discharge.**

A fisherman is also entitled to such assistance after discharge from the hospital during period of convalescence as the department allows in consideration of the condition of the fund.

**AS 23.35.100. Transportation, Hospital, Nursing, Medical, and Surgical Expenses.**

The department may pay out of the fund all reasonable transportation charges incurred under AS 23.35.080 and 23.35.090, including cost of returning the fisherman to the boat or home of the fisherman or to another place that reasonably meets with the fisherman's convenience, and the reasonable hospital, nursing, medical, and surgical expense incurred in the examination, treatment, and care of the fisherman.

**AS 23.35.110. Contracts For Care.**

In carrying out this chapter, the department may enter into contracts or other arrangements with hospitals and doctors in the state for furnishing care on an annual basis to persons entitled to benefits. Contracting under this section is governed by AS 36.30 (State Procurement Code)

**AS 23.35.120. Cooperation With Other Agencies.**

In providing care the department shall provide the type and quality of treatment that will restore the fisherman to health and productivity, if possible. The department may enter into cooperative arrangements with agencies of the federal government, other states and territories, and private clinics and rehabilitation centers for the care and treatment of fishermen.

**AS 23.35.130. Duration of Care.**

Except for compelling reasons, compensation may not be paid for the care of any one person involving a single injury or disability beyond a period of one year from the date of initial allowance.

**AS 23.35.140. Limitation On Benefits.**

(a) Except for compelling reasons,

(1) compensation may not be paid for medical care or hospitalization furnished before the ascertainable time of injury, or before authorization in the case of disability caused by an occupational disease;

(2) the total allowance for any one injury or disablement is \$2,500.

(b) The total allowance for any one heart attack is \$2,500.

**AS 23.35.150. Definitions. In this chapter**

(1) "approved medical facilities" and "medical care" include the facilities of, or the care and treatment prescribed or performed by, a practitioner of chiropractic licensed by the state under AS 08.20;

(3) "council" means the Fishermen's Fund Advisory and Appeals Council;

(5) "fisherman" means a person who is licensed by the state to engage in commercial fishing under AS 16.05.480 or who is the holder of a permit issued under AS 16.43 and who, at the time injury is sustained or illness is contracted, is actually so engaged or is occupied in Alaska in preparing or dismantling boats or gear used in commercial fishing;

(6) "fund" means the Fishermen's Fund;

(7) "occupational disease" means hernia; varicose veins of the leg; the respiratory diseases, bronchitis, pleurisy, and pneumonia caused by or aggravated by the fishing endeavor, but excluding the common cold and influenza; rheumatism, arthritis, and those musculoskeletal diseases (such as bursitis, traumatic sciatica, and tenosynovitis) directly caused by or aggravated by the fishing endeavor; and does not include a disease not common to both sexes, venereal disease, or a condition arising out of an attempt of a fisherman to injure self or another.

Appendix B

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**Alaska Administrative Code  
Chapter 55. Fishermen's Fund**

**8 AAC 055.010. Benefits.**

(a) To be eligible for benefits from the fund, a person must be a fisherman who, at the time an injury is sustained or illness is contracted, is licensed in his own name by the state to engage in commercial fishing under AS 16.05.480 or AS 16.43, and who is actually so engaged in Alaska water or is occupied in the state preparing or dismantling boats or gear used in commercial fishing.

(b) Benefits for respiratory diseases are limited to bronchitis, pleurisy and pneumonia caused by or aggravated by the fishing endeavor.

(c) Unless required as a result of accidental bodily injury caused by the fishing endeavor, benefits may not be awarded for the following items:

- (1) the services of a dentist;
- (2) dental prosthetic appliances or the fitting of them;
- (3) eye refractions and hearing examinations;
- (4) eye glasses and hearing aides or the fitting of them.

(d) Transportation to return a fisherman to his home may be allowed to the extent that the costs are in addition to those which the claimant would normally have encountered had he not been injured.

(e) Compensation from the fund is limited to medical expenses that are not otherwise covered by public or private insurance. The fund may require information regarding insurance coverage, including an insurance benefits statement, and may hold a claim in abeyance pending the receipt of required information. (Eff. 3/28/74, Register 49; am 4/11/81, Register 78; am

7/28/93, Register 127)

Authority: AS 23.35.050, AS 23.35.100, AS 23.35.070, AS 23.35.150(6)

**8 AAC 055.020. Pleadings.**

(a) Proceedings before the council are commenced by filing an application, with the administrator, in writing which consists of the following:

(1) a certificate of eligibility completed by the fisherman on a form prescribed by the administrator; and

(2) a physician's report of injury or illness completed by the attending physician on a form prescribed by the administrator.

(b) A separate application shall be filed for each separate and independent occupational injury or occupational illness for which benefits are claimed.

(c) Benefits may not be awarded unless the following conditions are either met or excused by the council for just cause:

(1) the applicant receives treatment within 60 days after the date of occupational injury or onset of occupational illness and the claim application is submitted within one (1) year after initial treatment;

(2) the applicant responds within 90 days after the date of inquiry to inquiries seeking clarification of any item on an application or of any item on a billing for services performed or goods supplied;

(3) price lists and fee determinations are submitted by the provider of care to the administrator within 30 days after the date requested; and

(4) costs are submitted by the provider of care or fisherman within one (1) year after the date they are incurred.

(d) A petition is a request for an extension of duration of care, waiver of benefit limitations, assistance after discharge from a hospital or additional transportation allowances. Petitions for extension of duration of care or waiver of benefit limitations must cite those reasons the petitioner believes justify granting the relief sought. The council may consider the condition of the reserve balance of the fund and the petitioner's insurance coverage relating to the claimed injury in determining whether to grant the petition. Petitions for assistance after discharge from the hospital must include the dates during which hospitalization occurred. Petitions for additional transportation allowances may be considered only for the purpose of providing specialized medical skills which are unavailable at the nearest approved medical facility. The petition must include a written statement from the attending physician which clearly defines the specialized medical skill required for the petitioner and the nearest place where it is available.

(e) Petitions under (d) of this section shall be submitted to the council for review and recommendations.

(f) The administrator shall notify, in writing, each petitioner or other party of the council's decision on the petition submitted under (d) of this section. The decision of the council is final.

(g) Each applicant and petitioner is required to promptly inform the administrator of any changes to the applicant's or petitioner's address. (Eff. 3/28/74, Register 49; am 4/11/81, Register 78; am 9/10/98, Register 147)

Authority: AS 23.35.050, AS 23.35.130, AS 23.35.100, AS 23.35.140

#### **8 AAC 055.030. Appeals.**

(a) The administrator shall submit a written notice to each fisherman whose application cannot be accepted based on criteria set out in the law and regulations stating the reason why the payment cannot be made.

(b) The council shall review each application which has not been approved for payment by the administrator. Each fisherman who has an application pending before the council shall be notified in writing by the administrator of the time and place of a council session at least 10 days before the session. Each fisherman may submit additional evidence to the council in support of his claim. The evidence may be presented in writing, by personal appearance, or by both methods.

(c) The administrator shall notify, in writing, each fisherman and party with an application before the council of the council's decision on the application.

(d) A fisherman may appeal the decision of the council. The council's decision is final unless appealed to the commissioner within 45 days after mailing of the notice of the council's decision. The appeal must be in writing and must include a description of the relief sought. The commissioner's decision will be based on a consideration of the whole record and will state the facts relied upon. The decision of the commissioner is final. (Eff. 3/28/74, Register 49; am 4/11/81, Register 78; am 9/10/98, Register 147)

Authority: AS 23.35.040, AS 23.35.050

**8 AAC 055.035. Right to Subrogation.**

If the department pays benefits from the fund, the department, to the extent of the value of the benefits, is subrogated to the rights of the fisherman for a claim against a third party arising from an injury, disability, occupational disease, or cardiovascular disease covered by AS 23.35.010 -23.35.150 and this chapter and to the proceeds of an insurance policy covering an injury, disability, occupational disease, or cardiovascular disease covered by AS 23.35.010 - 23.35.150 and this chapter. (Eff. 12/26/86, Register 100)

Authority: AS 23.35.050

**8 AAC 055.040. Definitions.**

In this chapter unless the context requires otherwise

(1) "administrator" means the individual responsible for the administration of the Fishermen's Fund program;

(2) "council" means the Fishermen's Fund Advisory and Appeals Council;

(3) "fund" means the Fishermen's Fund. (Eff. 3/28/74, Register 49)

Authority: AS 23.35.050

[Appendix C](#)

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Vessel Owner (Employer) – Crewman Agreement Regarding  
Medical and Related Transportation or Other Expenses  
(PDF Document) 6K

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## ALASKA FISHERMANS FUND



### The Alaska Fishermen's Fund

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- Has the owner of your vessel or your employer referred you to the Alaska Fishermen's Fund?

Learn about your rights to compensation under maritime law and the Jones Act. Contact the maritime injury lawyers at Beard Stacey Trueb & Jacobsen, LLP for a free initial consultation at 1-877-332-5529.

The Alaska Fishermen's Fund provides very limited benefits to commercial fishermen injured in Alaska. If you are an injured commercial fisherman in Alaska, the first thing to know is that you do not have to seek benefits from the Alaska Fishermen's Fund. Your employer and the owner of the vessel owe you a duty under federal maritime law to pay you maintenance and cure. This means your employer is responsible for paying all of your reasonable and necessary medical expenses related to injuries or illnesses arising while working aboard an Alaska commercial fishing vessel. Additionally, under the Jones Act, a commercial fisherman may be entitled to compensatory damages for injuries caused by the negligence of their employer.

Any time your employer refers you to the Alaska Fishermen's Fund for payment of your medical expenses or to compensate you for your injuries, you should have serious questions about why your employer is attempting to avoid their responsibility under federal maritime law. Obtaining maintenance and cure benefits should be a quick and easy way to get your medical bills paid. When an employer or vessel owner refers crewmen to the Alaska Fishermen's Fund, this is a danger signal to the crewmen that the employer and vessel owner are potentially trying to avoid their duties and obligations under federal maritime law, or that the employer and vessel owner may not have proper insurance coverage to cover you for your injuries.

The Alaska Fishermen's Fund provides very limited benefits. Except in compelling circumstances, benefits under the Alaska Fishermen's Fund are limited to \$2,500. It is designed to be an emergency fund, and benefits are paid only after consideration of other available insurance coverage. **If the vessel owner or your employer has insurance for crewmen personal injuries, in almost all cases your claim to the Alaska Fishermen's Fund will be denied.** A vessel owner's deductible is considered to be part of the vessel insurance coverage and is not collectable from the Alaska Fishermen's Fund. The Alaska Fishermen's Fund Act specifically states that benefits are limited to medical expenses not otherwise covered by insurance, such as the employer's and vessel owner's P&I policy.

To be eligible for benefits, a crewman must hold an Alaska commercial fishing license or limited entry permit. The injury or illness must be on shore in Alaska or on Alaskan waters. Initial treatment must be received within 60 days of the injury or illness. An application for benefits must be made within one year after the initial treatment. The Fishermen's Fund Council meets just twice a year to consider paying benefits under the Alaska Fishermen's Fund.

Fish processors are excluded from coverage under the Alaska Fishermen's Fund. Fish processors injured while working in Alaska must seek benefits under the federal maritime law and the Jones Act. Fish processors injured in Alaska state territorial waters may also seek benefits under the Alaska Workers Compensation Act. However, benefits under the Jones Act and federal maritime law are almost always more generous for fish processors than benefits under the Alaska Workers Compensation Act. Most fishermen are specifically prohibited from bringing claims under the Alaska Workers Compensation Act. Only fish processors injured in Alaska State territorial waters can claim workers compensation benefits. Deckhands, combis, and crewmen working on factory trawlers in the Bering Sea must claim benefits under the Jones Act and federal maritime law.

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