



LAWS OF ALASKA

1982

Source

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Chapter No.

138

AN ACT

Relating to vision and hearing screening examinations, public assistance, and other assistance provided by the state; and providing for an effective date.

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

THE ACT FOLLOWS ON PAGE 1, LINE 10

UNDERLINED MATERIAL INDICATES TEXT THAT IS BEING ADDED TO THE LAW AND BRACKETED MATERIAL IN CAPITAL LETTERS INDICATES DELETIONS FROM THE LAW; COMPLETELY NEW TEXT OR MATERIAL REPEALED AND RE-ENACTED IS IDENTIFIED IN THE INTRODUCTORY LINE OF EACH BILL SECTION.

Approved by the Governor: June 24, 1982
Actual Effective Date: July 1, 1982

AN ACT

Relating to vision and hearing screening examinations,
public assistance, and other assistance provided by the
state; and providing for an effective date.

* Section 1. FINDINGS. The legislature finds that the present method for establishing payment rates under AS 47.40 for residential child care services is inadequate. The Department of Health and Social Services shall conduct a study of alternatives to the method of establishing payment rates under AS 47.40. The study shall be conducted by a committee of five members appointed by the commissioner of the Department of Health and Social Services. Three members of the committee shall be employees of the Department of Health and Social Services and two members shall be providers of residential child care services. The study shall contain, among other matters determined by the department, a suggested redefinition of the manner in which rates for residential child care services are calculated, a consideration of the method and amount of reimbursement for capital costs of residential child care facilities, and the availability and use of other sources of money to finance residential child care services and to finance the construction of residential child care facilities. The committee shall report its findings to the legislature on or before the 30th day of the Second Session of the Thirteenth Legislature. The legislature further finds that the rates established under AS 47.40 should be suspended from June 30, 1982 to July 1, 1984.

* Sec. 2. The operation of AS 47.05.010(14), AS 47.40.010, 47.40.040, and 47.40.050 is suspended from July 1, 1982 through June 30, 1984. During the

Chapter 138

1 period of suspension, payment for services provided by residential child care
2 facilities shall be made solely in accordance with the provisions of secs. 3
3 and 4 of this Act.

4 * Sec. 3. For fiscal year 1983, the payment authorized per day for each
5 child placed by the Department of Health and Social Services in an existing
6 residential care facility is:

| | | |
|----|--|----------|
| 7 | Alaska Children's Services Receiving Home (Anchorage) | \$149.85 |
| 8 | Alaska Children's Services Jesse Lee Home (Anchorage) | 165.46 |
| 9 | Alaska Children's Services Rabbit Creek Group Home (Anchorage) | 166.40 |
| 10 | Alaska Children's Services North Star Home (Anchorage) | 103.55 |
| 11 | Alaska Children's Services Aquarius House (Anchorage) | 107.60 |
| 12 | Alaska Children's Services Colletti House (Anchorage) | 117.51 |
| 13 | Alaska Baptist Family Service Center (Anchorage) | 117.02 |
| 14 | Booth Memorial Home (Anchorage) | 146.90 |
| 15 | Hilltop Home, Inc. (Anchorage) | 85.53 |
| 16 | Kenai Peninsula Community Care Center (Kenai) | 91.74 |
| 17 | Kodiak Baptist Mission (Kodiak) | 61.61 |
| 18 | Turning Point Boys Ranch (Willow) | 105.37 |
| 19 | North Star Children's Home (Dot Lake) | 62.25 |
| 20 | Presbyterian Hospitality House (Fairbanks) | 111.98 |
| 21 | Juneau Receiving Home (Juneau) | 106.17 |
| 22 | St. Jude Center, Inc. Receiving Home (Juneau) | 72.33 |
| 23 | Nome Receiving Home (Nome) | 116.97 |
| 24 | Manilaq Group Home (Kotzebue) | 167.00 |
| 25 | North Slope Borough Children's Receiving Home (Barrow) | 168.35 |
| 26 | Ketchikan Teen Home I (Ketchikan) | 74.26 |
| 27 | Ketchikan Teen Home II (Ketchikan) | 81.61 |
| 28 | Ketchikan Children's Home Intensive Treatment Unit (Ketchikan) | 152.56 |
| 29 | Sitka Receiving Home (Sitka) | 40.66 |

| | | |
|---|-----------------------------------|-------|
| 1 | Bethel Receiving Home (Bethel) | 75.52 |
| 2 | Bethel Group Home (Bethel) | 59.06 |
| 3 | Covenant High School (Unalakleet) | 51.16 |

4 * Sec. 4. For fiscal year 1984 the payment rates for residential child
5 care services shall be the amounts set out in sec. 3 of this Act increased by
6 five percent.

7 * Sec. 5. For fiscal years 1983 and 1984 the Department of Health and
8 Social Services may contract for residential child care services with a
9 facility not listed in sec. 3 of this Act at a rate to be determined by the
0 department.

1 * Sec. 6. AS 14.30 is amended by adding a new section to read:

2 Sec. 14.30.075. VISION AND HEARING SCREENING EXAMINATIONS. (a) A
3 vision and hearing screening examination shall be given to each child
4 attending school in the state. The examination shall be made when the
5 child enters school or as soon thereafter as is practicable, and at
6 regular intervals specified by regulation by the governing body of the
7 district.

8 (b) The Department of Health and Social Services shall

- 9 (1) set standards for the performance of vision and hearing
10 screening;
- 11 (2) train and certify public health nurses and school district
12 employees to conduct hearing and vision screening tests;
- 13 (3) assist with referral and follow-up of children needing
14 professional examination or treatment; and
- 15 (4) assist with maintenance and repair of screening equipment.

16 * Sec. 7. AS 44.29.020 is amended to read:

17 Sec. 44.29.020. DUTIES OF DEPARTMENT. The Department of Health
18 and Social Services shall administer the state programs of public health
19 and social services, including: (1) maternal and child health services;

Chapter 138

1 (2) preventive medical services; (3) public health nursing services; (4)
2 (repealed) (5) nutrition services; (6) health education; (7) labora-
3 tories; (8) mental health treatment and diagnosis; (9) management of
4 state institutions; (10) medical facilities; (11) adult public [OLD AGE]
5 assistance; (12) aid to families with dependent children; (13) [AID TO
6 THE BLIND]; (14) child welfare services; (15) general relief; (16)
7 licensing and supervision of child care facilities; and (17) probation
8 and parole supervision.

9 * Sec. 8. AS 47.05.010(1) is amended to read:

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

13 * Sec. 9. AS 47.05.010(2) is amended to read:

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

18 * Sec. 10. AS 47.05.010(5) is amended to read:

19 (5) cooperate with the federal government in matters of
20 mutual concern pertaining to adult public [OLD AGE] assistance, aid to
21 families with dependent children, [AID TO BLIND PERSONS] and other forms
22 of public assistance;

23 * Sec. 11. AS 47.05 is amended by adding a new section to read:

24 Sec. 47.05.015. CONTRACTS. (a) The department may contract with
25 a person or local government for the delivery of services to be provided
26 by the department under AS 47.05.010 if the commissioner determines the
27 service will be provided at less cost to the state or will be provided
28 in a more effective manner.

29 (b) Services that may be provided by contract under this section

1 include accepting applications for assistance, conducting interviews,
2 making eligibility determinations, and issuing benefits, but do not
3 include adoption of program standards or other matters involving the
4 exercise of agency discretion.

5 (c) A contract authorized under this section is exempt from the
6 competitive bid requirements of AS 37.05.230. In awarding a contract
7 under this section the department shall publish a request for proposals
8 in accordance with regulations of the department.

9 (d) This section does not limit the authority provided by law for
10 the department to contract for the delivery of services other than those
11 provided under AS 47.05.010.

12 * Sec. 12. AS 47.05.050 is amended to read:

13 Sec. 47.05.050. POLICY. It is the public policy of the state to
14 cooperate and coordinate with the United States government and its
15 agencies in providing for and administering federal and state laws for
16 adult public [OLD AGE] assistance and the other assistance which is
17 provided for or extended to the people of the state.

18 * Sec. 13. AS 47.07.020 is amended by adding a new subsection to read:

19 (e) Notwithstanding (b)(4) of this section, a person is not elig-
20 ible for medicaid benefits until a final determination is made on the
21 eligibility of that person for benefits under Title XVI of the Social
22 Security Act.

23 * Sec. 14. AS 47.25 is amended by adding a new section to read:

24 Sec. 47.25.252. DISCRETIONARY ASSISTANCE. When a needy person is
25 not entitled to assistance under AS 47.25.120 - 47.25.300, the needy
26 person may receive assistance in the form and amount that the department
27 considers necessary.

28 * Sec. 15. AS 47.25.430 is repealed and reenacted to read:

29 ARTICLE 4. ADULT PUBLIC ASSISTANCE.

Chapter 138

1 Sec. 47.25.430. ADULT PUBLIC ASSISTANCE. (a) Financial assis-
2 tance shall be given under AS 47.25.430 - 47.25.615, so far as practic-
3 able under appropriations made by law, to every aged, blind, or disabled
4 needy resident who has not made a voluntary assignment or transfer of
5 property to qualify for assistance. As used in this subsection, "resi-
6 dent" means a person who is living in the state voluntarily with the
7 intention of making the state the person's home and who is not living in
8 the state for a temporary purpose.

9 (b) The department shall determine the amount of assistance with
10 regard to the resources and needs of the person and the conditions
11 existing in each case. Assistance shall be in an amount that will
12 provide the applicant with reasonable subsistence compatible with
13 decency and health in accordance with standards established by the
14 department and with the standards established under Title XVI of the
15 Social Security Act. When benefit amounts under Title XVI of the Social
16 Security Act are increased as a result of an increase in the cost of
17 living, the state shall pass along the increase to recipients, and shall
18 increase the amount of the state contribution to recipients by a per-
19 centage of the state contribution equal to the percentage increase in
20 the benefit amounts under Title XVI. Direct payments for medical
21 services and remedial care may not be considered in determining the
22 maximum amount payable.

23 (c) No payment under AS 47.25.430 - 47.25.615 may be made to a
24 person who is a resident of a public institution (except as a patient in
25 a public medical institution) or a person who is a patient in a public
26 or private institution for treatment of a mental disease.

27 (d) A resident of an institution may, upon or in anticipation of
28 leaving the institution, apply for assistance under AS 47.25.430 -
29 47.25.615 instead of the support and maintenance provided in the insti-

1 tution.

2 * Sec. 16. AS 47.25.435 is amended to read:

3 Sec. 47.25.435. EXCLUSION OF INCOME. Notwithstanding the provi-
4 sions of AS 47.25.430 - 47.25.615 [47.25.610], if the applicable provi-
5 sions of the federal Social Security Act, as amended, permit, in deter-
6 mining the need of an applicant for, or a recipient of, an [OLD AGE]
7 assistance grant under AS 47.25.430 - 47.25.615 [47.25.610], the de-
8 partment shall exclude from the computation of the applicant's or
9 recipient's income the amounts specified in 42 U.S.C. sec. 1382a(b), as
10 amended, amounts specified in regulations adopted to implement the
11 supplemental security income provisions of federal law, and any amounts
12 specified by the department by regulation so long as exclusion of those
13 amounts is not in conflict with federal law [A SUM NOT TO EXCEED \$65 A
14 MONTH PLUS ONE-HALF OF THE BALANCE OF THE INCOME THAT IS EARNED IN ANY
15 MANNER, UNTIL FINANCIAL INELIGIBILITY IS REACHED. THE DEPARTMENT MAY
16 PROMULGATE REGULATIONS IT CONSIDERS APPROPRIATE TO CARRY OUT THE PROVI-
17 SIONS OF THIS SECTION].

18 * Sec. 17. AS 47.25.450 is amended to read:

19 Sec. 47.25.450. INVESTIGATION OF APPLICANT. Upon application, the
20 [THE] department shall investigate promptly and record the circumstances
21 of each applicant [PERSON APPLYING FOR OLD AGE ASSISTANCE] to determine
22 the facts supporting the application and other information required by
23 the department.

24 * Sec. 18. AS 47.25 is amended by adding a new section to read:

25 Sec. 47.25.455. INTERIM ASSISTANCE. (a) The department shall pay
26 at least \$280 a month to a person eligible for assistance under this
27 chapter while the eligibility of the person for benefits under Title XVI
28 of the Social Security Act is being determined. Payments in excess of
29 \$280 a month may be made under this section if the department determines

Chapter 138

1 that money is available for excess payments.

2 (b) Notwithstanding (a) of this section, the department may not
3 make monthly payments in excess of the total amount of state and federal
4 monthly payments to which the person would be entitled if the person is
5 determined to be eligible for benefits under Title XVI of the Social
6 Security Act.

7 * Sec. 19. AS 47.25.460 is repealed and reenacted to read:

8 Sec. 47.25.460. AWARD, REDUCTION, TERMINATION, AND APPEAL. (a)
9 Upon completion of the investigation, the department shall promptly
10 decide whether the applicant is eligible for and should receive adult
11 public assistance, the amount of it, the manner of paying it, and the
12 date on which it starts. The department may make additional investiga-
13 tion which it considers necessary, and shall make its decision as to the
14 granting of assistance and the amount and nature of assistance as is
15 justified and in conformity with AS 47.25.430 - 47.25.615. The depart-
16 ment shall notify the applicant of its decision in writing.

17 (b) Assistance under AS 47.25.430 - 47.25.615 is subject to review.
18 If a recipient of adult public assistance or the spouse of a recipient
19 with whom the recipient is living acquires nonexempt property exceeding
20 resource limitations, or income sufficient to maintain the recipient
21 properly, then the assistance granted to the recipient must either be
22 terminated or reduced to an amount reflecting the reduced need as deter-
23 mined by the department in accordance with applicable regulations. Upon
24 review, the department may, after having provided opportunity for a
25 hearing under (c) of this section, change the assistance granted or
26 terminate it entirely if it finds that the circumstances are changed
27 sufficiently to warrant this action.

28 (c) A recipient whose award is proposed to be modified or termi-
29 nated, or an applicant whose application is denied by the department

1 shall be granted an opportunity for a hearing before a representative of
2 the department, appointed for that purpose. The hearing shall be held
3 promptly after a request for hearing is made. The hearing shall be
4 conducted in accordance with regulations prescribed by the department.

5 (d) Each award shall be paid on a monthly basis. In case it is
6 impracticable by reason of slow or interrupted means of communication
7 for a warrant covering a month's assistance to reach the recipient in
8 due course, the department may transmit warrants covering assistance for
9 future months and may deliver all of them to the recipient at one time.

10 * Sec. 20. AS 47.25.470 is amended to read:

11 Sec. 47.25.470. PAYMENT WHEN RECIPIENT INCAPACITATED. If a person
12 receiving assistance is incapable of taking care of himself or of the
13 funds granted under AS 47.25.430 - 47.25.615 [47.25.610], the department
14 may direct the payment of the funds to his legally appointed guardian or
15 to another person as designated by the department for his benefit.

16 * Sec. 21. AS 47.25.500 is amended to read:

17 Sec. 47.25.500. RECOVERY OF ASSISTANCE [ALLOWANCES] IMPROPERLY
18 GRANTED. (a) If the department has reasonable grounds for believing
19 that assistance [FINDS THAT AN OLD AGE ALLOWANCE] was improperly granted,
20 it shall investigate and document the grounds in the case file, and, if
21 it appears as a result of the investigation that assistance was improperly
22 granted, it may, after providing an opportunity for a hearing, termi-
23 nate or reduce assistance [CANCEL THE ALLOWANCE] and notify the recipient
24 to that effect. The department shall continue the payment of benefits
25 pending the hearing. The [, AND THE] state [THEN] has a claim against a
26 [THE] person who received an [THE] improper amount of assistance [ALLOW-
27 ANCE]. The claim may [SHALL] be enforced by an action instituted in the
28 name of the state by the attorney general to recover the amount paid to
29 the person, with interest, together with the necessary costs of the

Chapter 138

1 action.

2 (b) If the department finds that recovery would work a financial
3 hardship on the recipient to the extent that the health and well-being
4 of the recipient would be threatened or that the costs of recovery would
5 exceed the amount of assistance improperly granted, it shall waive re-
6 covery or reduce the amount to be recovered [THE UNITED STATES SHALL, IF
7 IT REQUIRES, BE REIMBURSED OUT OF THE MONEY ON A PRO RATA BASIS IN PRO-
8 PORTION TO THE AMOUNT IT EXPENDED IN THE CASE, AND THE REMAINING AMOUNT
9 SHALL BE PAID TO THE STATE FOR THE OLD AGE ASSISTANCE FUND].

10 * Sec. 22. AS 47.25.515 is amended to read:

11 Sec. 47.25.515. CANCELLATION OF WARRANTS. (a) Warrants issued to
12 a recipient of [AN OLD AGE] assistance under AS 47.25.430 - 47.25.615
13 [RECIPIENT] after the date of death of the recipient shall be returned
14 to the Department of Administration and canceled.

15 (b) Assistance [OLD AGE ASSISTANCE] warrants issued before the
16 death of the recipient but not negotiated at death shall be returned to
17 the Department of Administration, and shall be canceled, unless claimed
18 by the authorized representative of the estate of the recipient within
19 90 days of the date of death.

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

23 * Sec. 23. AS 47.25.520 is amended to read:

24 Sec. 47.25.520. LEAVING THE [REMOVAL FROM] STATE. (a) A person
25 receiving assistance who leaves [REMOVES FROM] the state may not [THERE-
26 AFTER] receive assistance during that person's absence [UNLESS THE
27 DEPARTMENT OTHERWISE DIRECTS].

28 (b) This section does not apply to a recipient who temporarily
29 leaves the state for

1 (1) medical treatment;

2 (2) a vacation, business trip, or other absence of less than
3 30 days unless the time is extended in specific cases by the department;

4 (3) vocational, professional, or other special education of
5 more than 90 days if a comparable program is not reasonably available
6 in the state; or

7 (4) postsecondary education.

8 * Sec. 24. AS 47.25.550 is amended to read:

9 Sec. 47.25.550. ALIENATION AND ATTACHMENT. Assistance granted
10 under AS 47.25.430 - 47.25.615 [47.25.610] is inalienable by an assign-
11 ment or transfer and is exempt from garnishment, levy, or execution
12 under the laws of this state.

13 * Sec. 25. AS 47.25.580 is amended to read:

14 Sec. 47.25.580. ACTION AGAINST PERSON LIABLE FOR CARE OF RECIP-
15 IENT. If during the continuance of assistance [AN ALLOWANCE] the depart-
16 ment finds that a person liable for the support of the recipient of
17 assistance is able to provide the necessary care and support of the
18 recipient and the person liable for the care and support of the reci-
19 pient fails or refuses to support and care for the recipient, then the
20 state has a cause of action for the assistance against the person liable
21 for it. The action may [SHALL] be brought in the name of the state by
22 the attorney general against the person liable for the recovery of the
23 amount of money, with interest, paid to the recipient, together with the
24 costs and disbursements of the action. The [UNITED STATES SHALL, IF IT
25 REQUIRES, BE REIMBURSED OUT OF THE MONEY COLLECTED ON A PRO RATA BASIS
26 IN PROPORTION TO THE AMOUNT IT EXPENDED IN THE CASE, AND THE REMAINING]
27 amount collected shall be paid to the Department of Revenue [FOR THE OLD
28 AGE ASSISTANCE FUND].

29 * Sec. 26. AS 47.25.590 is amended to read:

Chapter 138

1 Sec. 47.25.590. POLICY AND PURPOSE. (a) It is the policy of the
2 state and the purpose of AS 47.25.430 - 47.25.615 [47.25.610] to cooper-
3 ate and coordinate with the United States government and its agencies in
4 providing for and administering the laws of the federal and state govern-
5 ments having for their purpose adult public [OLD AGE] assistance for
6 residents of this state.

7 (b) The purpose of AS 47.25.430 - 47.25.615 [47.25.610] is to
8 furnish financial assistance as far as practicable to needy [,] aged,
9 blind, and disabled persons [INDIVIDUALS], and to help them attain
10 self-support or self-care.

11 (c) The department may enter into contracts or arrangements with
12 any federal agency, department, or official under which funds made
13 available to the federal agency, department, or official may be trans-
14 ferred to the department and spent in accordance with AS 47.25.430 -
15 47.25.615.

16 * Sec. 27. AS 47.25.600 is amended to read:

17 Sec. 47.25.600. OBTAINING ASSISTANCE BY FRAUD. A person is guilty
18 of a class B misdemeanor [, AND UPON CONVICTION IS PUNISHABLE BY A FINE
19 OF NOT MORE THAN \$500, OR BY IMPRISONMENT IN A JAIL FOR NOT MORE THAN
20 SIX MONTHS, OR BY BOTH,] if he (1) by a false statement, representation,
21 or impersonation, or other fraudulent device, obtains or attempts to
22 obtain or aids or abets another to obtain (A) assistance to which he is
23 not entitled, (B) greater assistance than he is entitled to, (C) payment
24 of a forfeited grant or allowance; or (2) aids and abets in buying or
25 otherwise disposing of the property of the recipient of assistance for
26 the purpose of avoiding liability for the assistance granted.

27 * Sec. 28. AS 47.25.610 is amended to read:

28 Sec. 47.25.610. VIOLATIONS. A person who violates a provision of
29 AS 47.25.430 - 47.25.615 [47.25.610] is guilty of a class B misdemeanor

[AND IF NO OTHER PENALTY IS PROVIDED, THE PERSON, UPON CONVICTION, IS PUNISHABLE BY A FINE OF NOT MORE THAN \$500, OR BY IMPRISONMENT IN A JAIL FOR NOT MORE THAN SIX MONTHS, OR BY BOTH].

* Sec. 29. AS 47.25 is amended by adding a new section to read:

Sec. 47.25.615. DEFINITIONS. In AS 47.25.430 - 47.25.615

(1) "aged" means 65 or more years of age;

(2) "assistance" means money payments to or medical care on behalf of, or any type of remedial care recognized by the department on behalf of, needy aged, blind, or disabled persons who are 18 or more years of age and residents of the state;

(3) "blind" means having no vision or having vision that is so defective as to prevent the performance of ordinary activities for which eyesight is essential;

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

(5) "disabled" means being unable to engage in substantial gainful activity by reason of a medically determinable physical or mental impairment that can be expected to result in death or that has lasted or can be expected to last for a continuous period of not less than 12 months;

(6) "public institution" means a governmentally owned establishment that furnishes food, shelter, and some additional treatment or services to 16 or more persons;

(7) "public medical institution" means a public hospital or a public institution providing medical care, except an institution for the treatment of mental disease.

* Sec. 30. AS 47.25.480, 47.25.510, 47.25.620 - 47.25.710, 47.25.730 - 47.25.880, and 47.25.905 - 47.25.970 are repealed.

* Sec. 31. This Act takes effect July 1, 1982.