



# LAWS OF ALASKA

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**Chapter No.**  
87

## 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.

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

THE ACT FOLLOWS ON PAGE 1

**Approved by the Governor:** June 30, 1999

**Actual Effective Date:** Sections 2, 4, and 6 take effect July 1, 2001; remainder of Act takes effect July 1, 1999

AN ACT

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

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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 AS 47.30.910 is repealed and reenacted to read: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

## Chapter 87

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 47.30.910 is repealed and reenacted to read:

4 **Sec. 47.30.910. Liability for expense of placement in a treatment facility.**

5 (a) A patient, or the patient's legal representative acting in a representative capacity,  
6 or the patient's spouse, or the patient's parents if the patient is under 18 years of age,  
7 shall pay or contribute to the payment of the charges for the care, transportation, and  
8 treatment of the patient when hospitalized under AS 47.30.660 - 47.30.915. Charges  
9 assessed after an order for commitment for treatment is issued and charges assessed  
10 when a patient is hospitalized at a facility operated by the department, or under a  
11 contract for services with the department, may not exceed the actual cost of the care  
12 and treatment. The department may order payment by the patient or by the person  
13 responsible for payment for the patient's care and treatment under this subsection  
14 according to ability to provide for payment. The department may make necessary  
15 investigations to determine the ability to pay and may require sworn statements of  
16 income by the patient, the patient's legal representative acting in a representative  
17 capacity, or the patient's spouse or parent. In the exercise of the commissioner's  
18 discretion, the commissioner may impose full liability for the patient's actual cost of  
19 care and treatment on the patient, the patient's legal representative, the patient's spouse,  
20 or parent for refusal to supply a sworn statement of income. An order for payment  
21 must be issued by the department within six months after the date on which the charge  
22 was incurred. The order must remain in full force and effect unless modified by  
23 subsequent court or department order. Liability under this subsection shall be  
24 determined as follows: a patient hospitalized under AS 47.30.660 - 47.30.915, or the  
25 person responsible for payment of charges for the patient, may be required to pay  
26 according to ability to provide for payment, and in the manner and proportion that the  
27 department finds is not detrimental to the patient's rehabilitation. The department  
28 shall, at any time that it determines the action will serve the best interests of the state  
29 and the patient or the person responsible for payment, relieve the patient or the person  
30 responsible for payment from liability for charges for the care, transportation, and  
31 treatment of the patient.

Chapter 87

1 (b) As used in (a) of this section, the term "actual cost of the care and  
2 treatment" means either the rate provided for by a contract entered into under  
3 AS 47.30.660 - 47.30.915, or, in the absence of a contract, a daily rate approved by  
4 the department.

5 (c) The department may charge, or accept from a person money or property,  
6 for the care or treatment of an inpatient or outpatient or for other purposes, even if the  
7 payment is not required by an order of the department, so long as the total payments  
8 received do not exceed the actual cost of care or treatment.

9 (d) All money paid by the patient or on the patient's behalf to the department  
10 under this section must be deposited in the general fund.

11 (e) If an order for payment is entered by the department under this section, and  
12 delinquency in the payment of any amount due the state under the order continues for  
13 a period of more than 30 days after the notification to the patient or the legal  
14 representative, spouse, or parent of the patient by the department, the state may  
15 proceed to collect the amounts due by appropriate proceedings. An action to enforce  
16 the collection of payments may only be brought within three years after the date of  
17 notification of a delinquent payment.

18 (f) The orders of the department issued under this section may relate only to  
19 charges incurred after July 1, 2001.

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

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

26 \* Sec. 4. AS 47.30.915(4) is repealed and reenacted to read:

27 (4) "designated treatment facility" means a hospital, clinic, institution,  
28 center, or other health care facility that has been designated by the department for the  
29 treatment or rehabilitation of mentally ill persons and for the receipt of these persons  
30 by court-ordered commitment, but does not include correctional institutions;

31 \* Sec. 5. AS 47 is amended by adding a new chapter to read:

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

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

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

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

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

11                                (3) meets the criteria in this chapter.

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

13                                (1) been admitted for inpatient evaluation or treatment at an evaluation  
14 facility or a designated treatment facility other than a state-operated hospital after  
15 either

16   (A) an involuntary commitment under AS 47.30.700 -  
17 47.30.915; or

18   (B) a voluntary admission chosen by the patient after a  
19 determination by the patient's treating physician that the patient meets the  
20 involuntary commitment criteria in AS 47.30.700 - 47.30.915 and that  
21 involuntary commitment proceedings would be initiated if the patient did not  
22 choose to be admitted voluntarily; and

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

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

30                                (b) A patient is considered to have applied for assistance under (a) of this  
31 section if the evaluation facility or designated treatment facility notifies the department

## Chapter 87

1 on a form provided by the department that there is good cause to believe that the  
2 patient would be eligible for assistance under this chapter and

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

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

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

13 (d) If a patient, the patient's spouse, the patient's parent if the patient is under  
14 18 years of age, or a person in the patient's household fails to provide records and  
15 information to the department necessary to verify eligibility, the department may issue  
16 an administrative order imposing full liability for the patient's cost of care and  
17 treatment to the evaluation facility or designated treatment facility.

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

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

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

30 **Sec. 47.31.030. Payment.** If the department determines that a patient is  
31 eligible for assistance under this chapter, the department shall provide for payment of

1 assistance directly to the facility. By endorsing the check received from the  
2 department or authorizing the endorsement by the facility's agent, the facility certifies  
3 that the claim for which the check is payment is true and accurate unless written notice  
4 of an error is sent to the department by the facility within 30 days after the date the  
5 check is presented by the facility for payment.

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

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

22 (c) The decision on the appeal under (b) of this section, including an appeal  
23 denied for failure to submit additional information, is a final agency decision and may  
24 be appealed to the superior court under the Alaska Rules of Appellate Procedure.

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

28 **Sec. 47.31.990. Definitions.** In this chapter, unless the context otherwise  
29 requires,

30 (1) "commissioner" means the commissioner of health and social  
31 services;

Chapter 87

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

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

4 (4) "evaluation facility" means a health care facility that has been  
5 designated by the department to perform the evaluations described in AS 47.30.670 -  
6 47.30.915, including a facility licensed under AS 18.20.020 or operated by the federal  
7 government;

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

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

11 (A) residing with the patient; and

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

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

15 \* Sec. 6. AS 47.31.005, 47.31.010, 47.31.015, 47.31.020, 47.31.025, 47.31.030, 47.31.035,  
16 47.31.900, and 47.31.990 are repealed.

17 \* Sec. 7. APPLICABILITY. Sections 1, 3, and 5 of this Act apply to expenses incurred  
18 for mental health services received on or after the effective date of secs. 1, 3, and 5 of this  
19 Act.

20 \* Sec. 8. Except as provided in sec. 9 of this Act, this Act takes effect immediately under  
21 AS 01.10.070(c).

22 \* Sec. 9. Sections 2, 4, and 6 of this Act take effect July 1, 2001.