

HOUSE BILL NO. 92

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTY-FIRST LEGISLATURE - FIRST SESSION

BY REPRESENTATIVE JOHNSTON

Introduced: 3/13/19

Referred:

A BILL

FOR AN ACT ENTITLED

1 **"An Act exempting direct health care agreements from regulation as insurance;**
2 **establishing a direct care payment program for medical assistance recipients; and**
3 **providing for an effective date."**

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

5 * **Section 1.** AS 21.03.021 is amended by adding new subsections to read:

6 (l) This title does not apply to a written health care agreement for direct care
7 between a health care provider and an individual patient or the patient's representative
8 that

9 (1) describes the health care services to be provided by the health care
10 provider to the patient in exchange for payment of a periodic fee;

11 (2) allows the health care provider or the patient to terminate the
12 agreement in writing, without penalty or payment of a termination fee, at any time or
13 after notice of not more than 60 days, as specified in the agreement;

14 (3) specifies the periodic fee the patient must pay for the health care

1 services and any additional fee that the health care provider may charge; the
 2 agreement may allow an individual who is not the patient to pay the periodic fee or
 3 additional fees;

4 (4) conspicuously states that the agreement is not health insurance and
 5 does not meet an individual or other health insurance mandate that may be required by
 6 federal or state law; and

7 (5) prohibits the health care provider from charging or receiving
 8 compensation in addition to the fees described in this subsection for the health care
 9 services included in the agreement.

10 (m) In (l) of this section,

11 (1) "health care" means care, treatment, a service, or a procedure to
 12 maintain, diagnose, detect, manage, or promote an individual's physical or mental
 13 condition;

14 (2) "health care provider" means a person who is licensed, registered,
 15 or otherwise authorized under AS 08 to provide health care services or an individual
 16 who is an employee of the person and acting within the course and scope of
 17 employment.

18 * **Sec. 2.** AS 21.03.021(l), enacted by sec. 1 of this Act, is amended to read:

19 (l) This title does not apply to a written health care agreement for direct care
 20 between a health care provider and an individual patient or the patient's representative
 21 **if the**

22 **(1) health care provider**

23 **(A) accepts new patients who are medical assistance or**
 24 **Medicare recipients; or**

25 **(B) maintains a practice in which 20 percent or more of the**
 26 **patients are medical assistance or Medicare recipients; and**

27 **(2) written health care agreement for direct care**

28 **(A)** [THAT (1)] describes the health care services to be
 29 provided by the health care provider to the patient in exchange for payment of
 30 a periodic fee;

31 **(B)** [(2)] allows the health care provider or the patient to

1 terminate the agreement in writing, without penalty or payment of a
 2 termination fee, at any time or after notice of not more than 60 days, as
 3 specified in the agreement;

4 (C) [(3)] specifies the periodic fee the patient must pay for the
 5 health care services and any additional fee that the health care provider may
 6 charge; the agreement may allow an individual who is not the patient to pay
 7 the periodic fee or additional fees;

8 (D) [(4)] conspicuously states that the agreement is not health
 9 insurance and does not meet an individual or other health insurance mandate
 10 that may be required by federal or state law; and

11 (E) [(5)] prohibits the health care provider from charging or
 12 receiving compensation in addition to the fees described in this subsection for
 13 the health care services included in the agreement.

14 * **Sec. 3.** AS 47.07.036 is amended by adding a new subsection to read:

15 (h) The department shall establish and implement a direct care program for
 16 payment to health care providers for services to medical assistance recipients. Under
 17 the program, the department may contract directly with health care providers to
 18 provide specified health care services covered under AS 47.07.030 to recipients for a
 19 periodic fee paid by the department. The program must

20 (1) establish criteria for a health care provider's participation in the
 21 program;

22 (2) allow a recipient to

23 (A) enroll voluntarily in the direct care program; and

24 (B) select a participating health care provider as the recipient's
 25 primary source for health care services;

26 (3) describe the health care services to be provided to a recipient by the
 27 health care provider; and

28 (4) establish periodic fees that the department may pay to a health care
 29 provider under the program.

30 * **Sec. 4.** The uncodified law of the State of Alaska is amended by adding a new section to
 31 read:

1 MEDICAID STATE PLAN; FEDERAL APPROVAL; NOTICE TO REVISOR OF
2 STATUTES. The Department of Health and Social Services shall immediately amend and
3 submit for federal approval the state Medicaid plan to authorize direct care payments under
4 AS 47.07.036(h), enacted by sec. 3 of this Act. The Department of Health and Social Services
5 shall apply to the United States Department of Health and Human Services for any waivers
6 necessary to implement AS 47.07.036(h), enacted by sec. 3 of this Act. The commissioner of
7 health and social services shall notify the revisor of statutes in writing if the United States
8 Department of Health and Human Services approves a state Medicaid plan to authorize direct
9 care payments under AS 47.07.036(h), enacted by sec. 3 of this Act.

10 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to
11 read:

12 CONDITIONAL EFFECT. AS 21.03.021(*l*), as amended by sec. 2 of this Act, and
13 AS 47.07.036(h), enacted by sec. 3 of this Act, take effect only if the commissioner of health
14 and social services notifies the revisor of statutes in writing under sec. 4 of this Act, on or
15 before October 1, 2021, that the United States Department of Health and Human Services has
16 approved a state Medicaid plan to authorize direct care payments under AS 47.07.036(h).

17 * **Sec. 6.** If, under sec. 5 of this Act, sec. 3 of this Act takes effect, it takes effect on the day
18 after the date the commissioner of health and social services notifies the revisor of statutes
19 under sec. 4 of this Act.

20 * **Sec. 7.** If, under sec. 5 of this Act, sec. 2 of this Act takes effect, it takes effect 180 days
21 after the date the commissioner of health and social services notifies the revisor of statutes
22 under sec. 4 of this Act.