

HOUSE BILL NO. 332

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-NINTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE VAZQUEZ

Introduced: 2/22/16

Referred: Health and Social Services, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the procedure for medical assistance fraud investigation and the**
2 **suspension of provider payment."**

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

4 *** Section 1.** AS 47.05 is amended by adding a new section to read:

5 **Sec. 47.05.235. Suspension of medical assistance payment for evidence of**
6 **fraud.** (a) Except as provided in (k) and (l) of this section, the department shall
7 temporarily suspend all medical assistance payments to a provider after the
8 commissioner determines there is a credible allegation of fraud for which an
9 investigation is pending or the commissioner receives notice of charges against a
10 provider under AS 47.05.220.

11 (b) The department may suspend payments under this section without first
12 notifying the provider of its intention to suspend the payments. However, a provider
13 that is the subject of a suspension under this section may request a review by the
14 commissioner of the reasons for the suspension. The department shall adopt a

1 procedure for reviewing a suspension under this section. The procedure must include
2 notice of a suspension of payments within the following time frames:

3 (1) five days after suspending the payments, unless the attorney
4 general or another law enforcement agency requests in writing a temporary hold of
5 less than 30 days on the notice; or

6 (2) 30 days if requested in writing by the attorney general or another
7 law enforcement agency; a request under this paragraph may be renewed in writing,
8 but a delay in the notice may not exceed 90 days after the suspension.

9 (c) The notice under (b) of this section must include

10 (1) a statement that payments are being suspended under this section;

11 (2) a description of the general allegations, except that the department
12 may withhold specific information concerning an ongoing investigation;

13 (3) a statement that the suspension is temporary and a description of
14 the circumstances under which the suspension will be discontinued;

15 (4) when applicable, a description of the type or types of medical
16 assistance claims or business units of a provider that are affected by the suspension;

17 (5) information about the procedure for submitting written evidence
18 for consideration by the department and the administrative appeals process under
19 AS 44.64.

20 (d) The department shall discontinue a suspension after either

21 (1) the attorney general or another authorized law enforcement agency
22 determines that there is insufficient evidence of fraud by the provider; or

23 (2) legal proceedings related to the provider's alleged fraud are
24 completed.

25 (e) The department shall notify a provider in writing of discontinuation of a
26 suspension.

27 (f) Whenever an investigation by the department leads to the initiation of a
28 suspension of payments, in whole or part, the department shall make a fraud referral to
29 the attorney general or to another authorized law enforcement agency. A fraud referral
30 made under this subsection must

31 (1) be made in writing;

1 (2) be provided to the attorney general or another law enforcement
2 agency, if applicable, not later than the next business day after the suspension is
3 enacted; and

4 (3) conform to current fraud referral performance standards adopted by
5 the United States Secretary of Health and Human Services.

6 (g) If the attorney general or another law enforcement agency accepts for
7 investigation a fraud referral made under (f) of this section, the department may
8 continue the suspension of payments until the investigation and any associated
9 enforcement proceedings are completed.

10 (h) The department shall, on a quarterly basis, review current suspensions for
11 the purpose of monitoring the provider's and the department's compliance with the
12 procedures for suspension of payments under this section and determining the effect of
13 suspensions on recipient access to services. The review must include a request by the
14 department of written verification by the attorney general or another law enforcement
15 agency that a referral made under (f) of this section continues to be under an
16 investigation that warrants continuation of the suspension.

17 (i) If the attorney general or another law enforcement agency declines to
18 accept for investigation a fraud referral made under (f) of this section, the department
19 shall immediately discontinue a suspension imposed under this section unless the
20 department is authorized under another state or federal law to continue or impose a
21 suspension or make a fraud referral to another law enforcement agency.

22 (j) The department's decision not to suspend payments, or to suspend
23 payments only in part, under (k) or (l) of this section as a good cause exception does
24 not relieve the department of the obligation to refer a credible allegation of fraud as
25 provided in (f) of this section.

26 (k) If the department finds good cause not to suspend payments to, or not to
27 continue a suspension of payments previously imposed on, a provider under this
28 section, the department may decline to impose or continue a suspension. In this
29 section, good cause exists if

30 (1) the attorney general or another authorized law enforcement agency
31 has specifically requested that a suspension of payments not be imposed because a

1 suspension of payments may compromise or jeopardize an investigation;

2 (2) other available remedies implemented by the department more
3 effectively or quickly protect medical assistance funds;

4 (3) the department determines, based on the submission of written
5 evidence by the provider that is the subject of the suspension of payments, that the
6 suspension should be removed;

7 (4) recipient access to items or services would be jeopardized by a
8 payment suspension because either

9 (A) the provider is the sole community physician or the sole
10 source of essential specialized services in a community; or

11 (B) the provider serves a large number of beneficiaries within a
12 medically underserved area designated by the commissioner;

13 (5) the attorney general or another law enforcement agency declines to
14 verify that a matter continues to be under investigation under (h) of this section;

15 (6) the commissioner determines that the suspension of payments is
16 not in the best interests of the medical assistance program.

17 (l) The commissioner may find that good cause exists to suspend payments in
18 part, or to convert a payment suspension previously imposed in whole to apply only in
19 part, to a provider that is under investigation for a credible allegation of fraud if

20 (1) recipient access to items or services would be jeopardized as
21 provided in (k)(4) of this section;

22 (2) the commissioner determines, based on the submission of written
23 evidence by the provider that is the subject of a whole payment suspension, that the
24 suspension should apply only in part;

25 (3) the credible allegation focuses solely and definitively on only a
26 specific type of claim or arises from only a specific business unit of a provider and the
27 commissioner makes a finding in writing that a payment suspension in part would
28 effectively ensure that potentially fraudulent claims will not continue to be paid;

29 (4) the attorney general or another authorized law enforcement agency
30 declines to verify that a matter continues to be under investigation under (h) of this
31 section; or

1 (5) the commissioner determines that the suspension of payments only
2 in part is in the best interests of the medical assistance program.

3 (m) The department shall provide information to recipients who are patients of
4 a provider that is subject to a suspension under this section about the availability of
5 alternate providers or services.

6 (n) In this section, "provider" means a health care professional or a health care
7 facility authorized to provide services under the medical assistance program.