

Nancy Dahlstrom  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
907.465.3520  
WWW.LTGOV.ALASKA.GOV




530 West 7<sup>th</sup> Ave, Suite 1700  
Anchorage, Alaska 99501  
907.269.7460  
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**M E M O R A N D U M**

**TO:** Chrissy Vogeley, Department of Family and Community Services

**FROM:** April Simpson, Office of the Lieutenant Governor   
465.4081

**DATE:** June 9, 2023

**RE:** Filed Permanent Regulations: Department of Family and Community Services

Department of Family & Community Services regulations re: Notification Requirements and Payment Assistance Eligibility of Alaska Pioneer Homes (7 AAC 74.035, .040, .045, .060, .990)

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Attorney General File:	2022200597
Regulation Filed:	6/9/2023
Effective Date:	7/9/2023
Print:	247, October 2023

cc with enclosures: Colleen Bailey, Department of Law  
Judy Herndon, LexisNexis



THE STATE  
of **ALASKA**  
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

P.O. Box 110300  
Juneau, Alaska 99811  
Main: 907.465.3600  
Fax: 907.465.2520

June 6, 2023

The Honorable Nancy Dahlstrom  
Lieutenant Governor  
State of Alaska  
P.O. Box 110015  
Juneau, AK 99811-0015

Re: 7 AAC 74.035, .040, .045, .060, .990: *DFCS - Notification Requirements  
and Payment Assistance Eligibility of Alaska Pioneer Homes*

Our file: 2022200597

Dear Lieutenant Governor Dahlstrom:

The Department of Law has reviewed the attached regulations of the Department of Family and Community Services against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This letter constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Department of Family and Community Services after the close of the public comment period.

The regulations concern the Alaska Pioneer Homes' asset exemption amounts, age-related eligibility for payment assistance requirements, and applicant travel notification requirements.

The December 21, 2022 public notice and the March 3, 2023 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.060. The corrections are incorporated into the attached copy of the regulations.

Sincerely,

TREG TAYLOR  
ATTORNEY GENERAL

By: **Rebecca C. Polizzotto**  
Rebecca C. Polizzotto  
Chief Assistant Attorney General  
Legislation, Regulations, and  
Legislative Research Section

Digitally signed by  
Rebecca C. Polizzotto  
Date: 2023.06.06  
15:29:08 -08'00'

RCP/AHR

CC w/enclosure: Chrissy Vogeley, Regulations Contact  
Department of Family and Community Services

Alexander J. Hildebrand, Assistant Attorney General  
Department of Law

Amy H. Robinson, Assistant Attorney General  
Department of Law

Steven C. Weaver, Assistant Attorney General  
Department of Law

APPENDIX I: Adoption Order

ORDER ADOPTING CHANGES TO REGULATIONS  
OF THE DEPARTMENT OF FAMILY AND COMMUNITY SERVICES

The attached six pages of regulations, dealing with the Alaska Pioneer Homes eligibility and notification requirements, are adopted and certified to be a correct copy of the regulation changes that the Department of Family and Community Services adopts under the authority of AS 47.55.010, AS 47.55.020, AS 47.55.030, AS 47.55.070, AS 47.55.095 and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

Although no public comments were received, the Department of Family and Community Services paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: 3/3/23




Kim Kovel  
Commissioner Designee  
Department of Family and Community Services

*April Simpson for*

FILING CERTIFICATION

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on

June 9, 2023, at 2:53 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

*for*   
Lieutenant Governor Nancy Dahlstrom

Effective: July 9, 2023.

Register: 247, October 2023

**FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY**

**I, NANCY DAHLSTROM, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:**

**April Simpson, Regulations and Initiatives Specialist**

**IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.**



A handwritten signature in blue ink, reading "Nancy Dahlstrom", is written over a horizontal dotted line.

**NANCY DAHLSTROM  
LIEUTENANT GOVERNOR**

**Title 7 Health and Social Services**

**Chapter 74. Alaska Pioneers' Homes.**

7 AAC 74.035(c)(1) is amended to read:

(1) notifies the department [IN WRITING,] at least 30 days before departure, of the period that the applicant intends to be absent;

7 AAC 74.035(c)(3) is amended to read:

(3) informs the department [IN WRITING,] of the applicant's return **not later than** [WITHIN] 30 days after the applicant returns to the state.

(Eff. 8/1/2004, Register 171; am 7 / 9 / 2023, Register 247)

**Authority:** AS 47.55.010 AS 47.55.030 AS 47.55.035

AS 47.55.020

7 AAC 74.040(a) is amended to read:

(a) Every resident and recipient shall pay the appropriate monthly or daily rate plus ancillary charges if financially able to do so. Every applicant and resident shall provide income and resource verification to the department **upon admission, if there is a change in resources or income** [BEFORE ADMISSION, ANNUALLY WHILE RESIDING IN A PIONEERS' HOME], and if there is a change in the level of service. The department will use the income and resource verification to determine the ability of the applicant and resident to pay and evaluate eligibility for other assistance.

7 AAC 74.040 is amended by adding a new subsection to read:

(f) If the department determines that a person is ineligible for a program specified in (d) of this section, the department may waive the application requirement and inform the person that the person is not required to apply to the program. (Eff. 8/1/2004, Register 171; am 12/31/2005, Register 176; am 8/30/2019, Register 231; am 4/14/2021, Register 238; am 7 / 9 / 2023, Register 247)

**Authority:**    AS 47.55.010                      AS 47.55.030                      AS 47.55.070  
                    AS 47.55.020

7 AAC 74.045(c)(1) is amended to read:

(1) any income or asset listed in AS 47.55.020(d)(1) - (10) [AS 47.55.020(d)(1) - (9)], subject to the following:

(A) for purposes of AS 47.55.020(d)(1), the amount to be exempted is  
\$300 a month;

(B) for purposes of AS 47.55.020(d)(2)(A), the amount to be exempted is  
\$2,500 [\$2,000];

(C) for purposes of AS 47.55.020(d)(7), sufficient burial provisions for the resident or recipient and the resident's or recipient's spouse or dependent include burial insurance, a specific account designed for burial expenses with a value up to \$4,500 for each person, or a combination of insurance and a specific account;

(D) for purposes of AS 47.55.020(d)(8), and (9), for a resident or recipient with a spouse or dependent,

(i) the resident's or recipient's home or real property used as the primary residence of the resident's or recipient's spouse or dependent is exempt;

(ii) the exemption for other real property not used as the primary residence of the resident's or recipient's spouse or dependent, and personal property, both tangible and intangible, is a total value of not more than the community spouse resource allowance; property necessitated by the resident's or recipient's physical condition, such as a prosthetic device, is not subject to this value limitation; in this sub-subparagraph, "community spouse resource allowance" has the meaning given in 7 AAC 100.519;

(iii) the income of the resident's or recipient's spouse is exempt;  
and

(iv) notwithstanding (ii) of this subparagraph, the department will consider the following to be disregarded personal property: the portion of the resident's or recipient's income that will bring the income of the resident's or recipient's spouse up to the maximum community spouse monthly maintenance allowance authorized under 7 AAC 100.560(a), without exceeding that allowance, if that portion is accumulated as personal property in an account to pay for expenses related to the home or real property described in (i) of this subparagraph and if the spouse's income would otherwise be less than the maximum community spouse monthly maintenance allowance a month; and

(E) for purposes of AS 47.55.020(d)(8) and (9), for a resident or recipient without a spouse or dependent,

[(i) REPEALED 3/8/2012;

(ii)] the exemption for other real and personal property, both tangible and intangible, is a total value of not more than \$10,000; property



necessitated by the resident's or recipient's physical condition, such as a prosthetic device, is not subject to this value limitation;

(Eff. 8/1/2004, Register 171; am 10/15/2004, Register 172; am 12/31/2005, Register 176; am 3/8/2012, Register 201; am 8/30/2019, Register 231; am 4/14/2021, Register 238; am 7/9/2023, Register 247)

**Authority:** AS 47.55.010 AS 47.55.020 AS 47.55.030

7 AAC 74.060(f) is amended to read:

(f) For applicants for admission as a pioneers' home resident, the department will

(1) receive all new applications, verify eligibility, and list all eligible applicants in chronological order by date that the application was received;

(2) maintain a waiting list, known as the active waiting list, comprised of all applicants who desire to enter the pioneers' home of their choice within 30 days after an admission invitation is received;

(3) maintain a waiting list, known as the inactive waiting list, comprised of all applicants who desire to enter the pioneers' home of their choice at some future undetermined time, but not within the time period specified in (2) of this subsection;

(4) verify [REQUIRE ANNUAL VERIFICATION OF] continued eligibility for admission under 7 AAC 74.015 annually for [FROM] all applicants on the active and the inactive waiting lists using available data;

(5) transfer an applicant's name from the inactive waiting list to the active waiting list upon written request from the applicant or the applicant's representative; the applicant's name will be listed on the active waiting list in the chronological order in which the original application was received;

(6) transfer an applicant's name from the active waiting list to the inactive waiting list if the applicant is offered placement in a pioneers' home in which the applicant has expressed interest, but refuses the offer or fails to enter the home within 30 days after the date of the offer; [AND]

(7) require an applicant who is transferred to the inactive waiting list under (6) of this subsection to remain on that list for at least 180 days before applying for a transfer to the active waiting list under (5) of this subsection; and

**(8) require an applicant to verify continued eligibility for admission under 7 AAC 74.015 if the department is unable to verify continued eligibility under (4) of this subsection.**

7 AAC 74.060(g) is amended to read:

(g) Admission to or continued residency in a pioneers' home will not be approved unless the person provides proof, from the United States Social Security Administration, that the person is currently enrolled, if eligible, in Medicare Part A 42 U.S.C. 1395c - 1395i-6 [(42 U.S.C. 1395c - 1395i-5)], Medicare Part B 42 U.S.C. 1395j - 1395w-6 [(42 U.S.C. 1395j - 1395w-5)] coverage under the Social Security Act, and Medicare Part D (42 U.S.C. 1395w-101 - 1395w-154) under the Medicare Modernization Act of 2003 or has private medical insurance providing coverage at least as extensive as that provided by Medicare Parts A, B, and D. If the person is not currently enrolled in Medicare Parts A, B, and D and the general enrollment period open for Medicare Parts A, B, and D for a calendar year has passed, the person may satisfy the requirements of this subsection by providing evidence from the United State Social Security Administration that the person has applied for Medicare Parts A, B, and D during the last open

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enrollment. [IF A PERSON IS NOT ELIGIBLE FOR MEDICARE PARTS A, B, AND D, THE PERSON MUST PROVIDE EVIDENCE OF INELIGIBILITY FROM THE UNITED STATES SOCIAL SECURITY ADMINISTRATION.] (Eff. 8/1/2004, Register 171; am 3/8/2012, Register 201; am 8/30/2019, Register 231; am 7 / 9 / 2023, Register 247)

**Authority:**    AS 47.55.010                      AS 47.55.020

7 AAC 74.990(a)(22) is amended to read:

(22) "complex behaviors" means those behaviors exhibited by a resident of **this state** [ALASKA] that is **60** [SIXTY-FIVE] years **of age** [OLD] or older with a primary diagnosis of dementia and related disorders, with the level of severity described in this paragraph; the dementia must significantly affect the person's orientation to time and place, and the person's ability to start or finish activities of daily living; the person must have difficulty articulating their basic needs and must display behavior that includes neglect of self or harm to self or others that is not purposeful or planned, but is reactive to the environment and caused by the dementia disease process;

(Eff. 8/1/2004, Register 171; am 3/8/2012, Register 201; am 8/30/2019, Register 231; am 4/14/2021; Register 238; am 7 / 9 / 2023, Register 247)

**Authority:**    AS 47.55.010                      AS 47.55.030                      AS 47.55.095  
                    AS 47.55.020                      AS 47.55.070