

DEPARTMENT OF HEALTH AND SOCIAL SERVICES



PROPOSED CHANGES TO REGULATIONS

7 AAC 41. Child Care Assistance Program



PUBLIC REVIEW DRAFT

April 5, 2016

COMMENT PERIOD ENDS: June 13, 2016.
Please see public notice for details about how to comment
on these proposed changes.

Notes to reader:

1. Except as discussed in note 2, new text that amends an existing regulation is **bolded and underlined**.
2. If the lead-in line above the text of each section of the regulations states that a new section, subsection, paragraph, or subparagraph is being added, or that an existing section, subsection, paragraph, or subparagraph is being repealed and readopted (replaced), *the new or replaced text is not bolded or underlined*.
3. [ALL-CAPS TEXT WITHIN BRACKETS] indicates text that is to be deleted.
4. When the word “including” is used, Alaska Statutes provide that it means “including, but not limited to.”
5. Only the text that is being changed within a section of the current regulations is included in this draft. Refer to the text of that whole section, published in the current Alaska Administrative Code, to determine how a

Title 7 Health and Social Services.**Chapter 41****Child Care Assistance Program****Article 1****Administrative Provisions**

7 AAC 41.010 is amended to read:

7 AAC 41.010. Applicability.

(a) This chapter applies to the administration of the child care assistance program under AS 47.25.001 - 47.25.095 by the department, or by a designee described in **7** AAC 41.015. This chapter does not apply to

(1) child care grant money administered under 7 AAC 39; or

(2) child care assistance paid under AS 47.27 and 7 AAC 45 as described in 7 AAC 41.012(1), except to the extent that provisions of this chapter are made applicable under 7 AAC 45.

(b) A child care assistance program

(1) means public financing and support for a wide range of child care services, including **the Alaska Inclusive Child Care Program and other** program benefits and support to parents and providers;

(2) includes day care assistance under AS 47.25.001 and child care assistance under this chapter; and

(3) does not include child care licensing under 7 AAC 57, or child care assistance under AS 47.27 and 7 AAC 45, except to the extent that one or more provisions of this chapter have been made applicable under 7 AAC 45.

(Eff. 6/23/2006, Register 178; am____/____/2016, Register ____)

Authority: AS 47.25.001

7 AAC 41.012 is amended to read:

7 AAC 41.012. Parents achieving self-sufficiency (PASS). The department has designated its child care assistance program as the Parents Achieving Self-Sufficiency (PASS) program, and has created three categories of assistance:

(1) PASS I provides child care assistance as a self-sufficiency service under AS 47.27, [AND] 7 AAC 45, **and 7 AAC 41** to low income eligible families applying for or receiving **Alaska Temporary Assistance Program (ATAP)** benefits;

(2) PASS II provides child care assistance under AS 47.25 and this chapter to low to moderate income eligible families for the first year after ATAP benefits cease, for purposes of transitioning from ATAP;

(3) PASS III provides child care assistance under AS 47.25 and this chapter to low to moderate income eligible families, regardless of whether the family has received assistance under PASS I or PASS II.

(Eff. 6/23/2006, Register 178; am ____/____/2016, Register ____)

Authority: AS 47.25.001

7 AAC 41.013 is amended to read:

7 AAC 41.013. Family. For purposes of this chapter, a family is

(1) one parent, and that parent's children under 18 years of age, living together in a household;

(2) two parents who are married to each other, and the children under 18 years of age of either **parent** or both parents, living together in a household; or

(3) [THE] two biological **or legally adoptive** parents of a child who are not married to each other, **their children in common** [THAT CHILD], and any other children under 18 years of age of either of those parents, living together in a household.

(Eff. 6/23/2006, Register 178; am ____/____/2016, Register____)

Authority: AS 47.25.001

7 AAC 41.015(a) is amended to read:

7 AAC 41.015. Responsibilities of designees.

(a) The department may designate an entity or a municipal government to administer child care assistance program services within a specified geographic area for [PASS II AND PASS III] families and child care providers under this chapter. A municipality will be given preference over other organizations, as required by AS 47.25.001(b)(2).

7 AAC 41.015(b)(1) is repealed and readopted to read:

(b) If the department designates an entity or municipal government to perform certain functions on the department's behalf, those functions may include one or more of the following:

(1) for providers and for families:

(A) provide program information;

(B) obtain completed applications or renewals;

(C) verify and evaluate information supplied by providers and families for participation in the child care assistance program and payment of benefits related to that participation;

(D) verify that the provider's current child care license or approval is in good standing;

(E) request additional information if necessary to evaluate eligibility;

(F) approve or deny participation in the program;

(G) determine the amount of child care to authorize, including determination of the family contribution toward the eligible cost of care, and authorize care;

(H) evaluate and discuss with a parent the parent's schedule of eligible activity and child care needs;

(I) submit applications, evaluations, decisions, or recommendations, and related reports, to the department upon request;

(J) provide ongoing review for compliance with the applicable provisions of this chapter and refer suspected noncompliance to the department;

(K) determine whether a provider or family becomes ineligible for participation in the program, and, if so, discontinue authorization and payment and issue notice in accordance with 7 AAC 41.405;

(L) except as provided in (e) of this section, receive and process complaints; and

(M) ensure all actions for family and provider participation is maintained in a state-provided data system, as applicable.

7 AAC 41.015(b)(2) is repealed.

(2) repealed ____/____/2016;

(Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181; am ____/____/2016, Register ____)

Authority: AS 47.05.300 AS 47.05.340 AS 47.25.001

AS 47.05.310

7 AAC 41.015(d) is amended to read:

(d) A designee shall deny or discontinue a family's or a provider's participation in the program if the family or provider is ineligible under AS 47.25.001 - 47.25.095 or this chapter. Subject to **7 AAC 41.400 - 7 AAC 41.450**, [7 AAC 41.405] the designee shall mail to the provider or **the** family, as applicable, a written determination of denial or discontinuance of participation in the program and a [NOTICE OF] request for **appeal** [ADMINISTRATIVE REVIEW] form. Under **7 AAC 41.400 - 7 AAC 41.450** [7 AAC 41.415 AND 7 AAC 41.430], a designee may submit to the department a recommendation regarding any change in program participation based on noncompliance with AS 47.25.001 - 47.25.095 or this chapter.

7 AAC 41.015(e) is amended to read:

(e) A designee shall immediately report to the department any noncompliance [WITH AN APPLICABLE HEALTH AND SAFETY REQUIREMENT] of this chapter. The department will evaluate the report and, if the department determines that an **on-site** investigation is warranted, **will coordinate for the child care licensing agency to conduct the**

on-site investigation. The child care licensing agency will send a report with findings of the on-site investigation to the department.

[(1) CONDUCT THE INVESTIGATION;

(2) DEVELOP A PLAN WITH THE DESIGNEE FOR A COORDINATED INVESTIGATION; OR

(3) AUTHORIZE THE DESIGNEE TO CONDUCT THE INVESTIGATION AND SUBMIT A REPORT AND RECOMMENDATION TO THE DEPARTMENT]

7 AAC 41.015(h) is amended to read:

(h) A designee shall **only** use forms prescribed by the department to administer the child care assistance program **and may not require additional designee forms as part of a family's or provider's eligibility for program participation.** [UNLESS THE DEPARTMENT AUTHORIZES, IN WRITING, THE USE OF ANOTHER FORM THAT PROVIDES THE SAME INFORMATION AS THE PRESCRIBED FORM.]

(Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181; am __/__/2016, Register __)

Authority: AS 47.05.300 AS 47.05.340 AS 47.25.001
AS 47.05.310

7 AAC 41.025(a) is amended to read:

7 AAC 41.025. Program rates.

(a) For purposes of calculating a family's program benefits under 7 AAC 41.345, the program rate for each category of care authorized for a child is established in the department's *Child Care Assistance Program Rate Schedule*, revised as of **March 1, 2010**, [NOVEMBER 23, 2009,] and adopted by reference. The rates in the schedule are set out by type of facility licensed

under 7 AAC 57 or approved under this chapter, category of care, and [POLITICAL SUBDIVISION OR] geographic area.

7 AAC 41.025(b) is repealed and readopted to read:

(b) The category of care includes the age group of the child and the unit(s) of care authorized.

(1) Age groups include:

- (A) infant: birth through 12 months;
- (B) toddler: 13 months through 35 months;
- (C) preschool age child: 36 months through 59 months; and
- (D) school age child: 5 years through 12 years

(2) Units of care authorized include:

- (A) part month enrollment; 17 to 23 part days of care in a month;
- (B) full month enrollment: 17 to 23 full days of care in a month;
- (C) part day attendance: A part day consists of care needed for up to and including 5 hours of care in a day; and
- (D) full day attendance: A full day consists of care needed for up to 5 hours and 1 minute up to and including 10 hours of care in a day.

7 AAC 41.025(c) is amended to read:

(c) The program **payment** rates in the schedule are based on the following standards:

(1) to ensure that eligible families have equal access to child care services comparable to child care provided to families that are not eligible to participate in the program. [;] **If** [IF] the full range of providers is available in a community, a choice of the full range of

providers is available to eligible families. [;] **In** [IN] this paragraph, "full range of providers" includes **licensed** [A] child care **providers, approved relative providers exempt from licensure and, in certain situations, approved care in the child's own home;** [CENTER, CHILD CARE HOME, CHILD CARE GROUP HOME AND IN-HOME CHILD CARE;] and

(2) to ensure that program **payment** rates are adequate, as follows:

(A) rates are based on availability of appropriations and on market conditions, using information obtained by the department through a market **price study** [RATE SURVEY] of child care providers in the state **or alternative methodology, such as a cost estimation model;**

(B) for a [POLITICAL SUBDIVISION OR] geographic area, rates are a percentile, up to the 75th percentile, of the rates of a representative sample of child care providers in that [POLITICAL SUBDIVISION OR] geographic area or in a similar one; and

(C) for a [POLITICAL SUBDIVISION OR] geographic area, rates may be adjusted by the department to

(i) expand capacity for child care;

(ii) address factors indicating a shortage of available care, such as care for infants, children [WITH DISABILITIES OR] with special needs as described in **7 AAC 41.990(a)(56)**, [7 AAC 57.940] or children of parents who work during nontraditional hours; and

(iii) address market imperfections, including situations in which the market **price** [RATE] is below the actual cost of care.

7 AAC 41.025(d) is repealed and readopted to read:

(d) The state maximum child care assistance payment for a child during a month is equal to the full month rate plus the part month rate for the category of care, the type of facility and geographic area where care is provided. If the child uses two types of facilities, payment is based on each facility type, not to exceed the rate for the licensed facility type.

7 AAC 41.025(e) is amended to read:

(e) A **provider caring for a** child with special needs as described in **7 AAC 41.990(a)(56)** [7 AAC 57.940] who is under 13 years of age may qualify for a supplemental program rate as **referenced in 7 AAC 41.060** [DETERMINED BY THE DEPARTMENT. IN A CHILD CARE AUTHORIZATION THE DEPARTMENT WILL OR A DESIGNEE MAY AUTHORIZE A SUPPLEMENT TO PROGRAM RATES AS DETERMINED BY THE DEPARTMENT. IN A CHILD CARE AUTHORIZATION, THE DEPARTMENT WILL OR A DESIGNEE MAY AUTHORIZE A SUPPLEMENT TO THE PROGRAM RATES UNDER THIS SUBSECTION ONLY IF]

[(1) THE CHILD'S SPECIAL NEEDS ARE DOCUMENTED BY A HEALTH PROFESSIONAL; AND

(2) THE PROVIDER ESTABLISHES, IN CONSULTATION WITH-THE CHILD CARE RESOURCE AND REFERRAL AGENCY ASSISTING THE FAMILY; ON A FORM PRESCRIBED BY THE DEPARTMENT, THAT THE CHILD REQUIRES ADDITIONAL SERVICES DUE TO THE CHILD'S SPECIAL NEEDS, AND THAT THOSE SERVICES HAVE AN ADDITIONAL COST; IN THIS PARAGRAPH, "CHILD CARE RESOURCE AND REFERRAL AGENCY" MEANS AN ENTITY THAT

(A) ASSISTS FAMILIES IN FINDING CHILD CARE;

(B) WORKS TO

(I) IMPROVE THE QUALITY OF CHILD CARE; AND

(II) INCREASE THE AVAILABILITY OF CHILD CARE; AND

(C) ASSISTS IN CHILD CARE PLANNING FOR THE AGENCY'S
SERVICE AREA.]

7 AAC 41.025(f) is amended to read:

(f) If child care is provided in the child's own home, the program rate for an approved in-home child care provider is the rate for an approved **relative** provider shown on the department's schedule set under this section.

7 AAC 41.025(g) is amended to read:

(g) The total eligible cost of care for a family choosing **an approved** in-home child care **caregiver** is limited to a monthly maximum that is equal to two times the minimum hourly wage established under AS 23.10.065, multiplied by **170** [210].

(Eff. 6/23/2006, Register 178; am 2/31/2010, Register 193; am ___/___/2016, Register ___)

Authority: AS 47.25.001 AS 47.25.041

Editor's note: A copy of the *Child Care Assistance Program Rate Schedule*, adopted by reference in 7 AAC 41.025, is available from the Child Care Program Office, Department of Health and Social Services, **P.O. Box 241809**, [619 E. SHIP CREEK AVENUE, SUITE 230,] Anchorage, Alaska **99524-1809**. [99501-1677.]

7 AAC 41.030(a) is amended to read:

7 AAC 41.030. Enhanced program rate for qualified providers.

(a) To promote access by families participating in the child care assistance program to the highest quality of child care, and subject to the availability of appropriations, the department

may [WILL] increase the program payment rate paid to a licensed facility described in 7 AAC 41.200(a) (1) - (3), if the department determines the facility is qualified under this section.

Unless available appropriations require a smaller increase, the department may [WILL] increase the program rate up to [BY] 10 percent above the program rate established in the schedule under 7 AAC 41.025. [IF THE FACILITY'S CURRENT RATE CHARGED FOR CHILD CARE IS EQUAL TO OR EXCEEDS THE ENHANCED RATE.]

7 AAC 41.030(b)(1) is repealed and readopted to read:

(b) If appropriations are available a facility may apply to be eligible for the enhanced program payment rate under this section using a form prescribed by the department. For a facility to be eligible under this section, it must be enrolled and participating in any applicable Quality Recognition and Improvement System (QRIS). If a QRIS is not available:

(1) the facility must be licensed and

(A) be currently accredited by one of the following and maintaining the applicable standards:

(i) National Association for the Education of Young Children (NAEYC); [,]

(ii) National Accreditation Commission for Early Care and Education Programs (NAC);

(iii) National Early Childhood Program Accreditation (NECPA);

(iv) National After School Association (NAA);

(v) [THE] National Association of Family Child Care (NAFCC);

or

(vi) Head Start, provided that a Head Start facility must also have achieved “Gold” designation in its most recent triennial review; or

(B) provide documentation showing that at least 30 percent of the staff who work with children in the facility have been employed in the facility for at least one year; those staff members must also

(i) meet or exceed level three requirements of the System for Early Education Development (SEED) program administered through the department; and

(ii) complete at least 30 annual training hours, or one college credit in early childhood or child development each subsequent year;

7 AAC 41.030(b)(2) is repealed.

(2) repealed ____/____/2016;

(Eff. 6/23/2006, Register 178; am ____/____/2016, Register ____)

Authority: AS 47.25.001 AS 47.25.041

7 AAC 41.030(b)(3) is amended to read:

(3) the facility may not have **repeated** [THREE OR MORE] violations of a single requirement, [WITHIN 12 MONTHS OF THE FIRST VIOLATION,] **any violations of 7 AAC 57.500 – 7 AAC 57.510, or more than two violations of 7 AAC 10, within their current licensure period;** [OR CONTINUED VIOLATIONS OF TWO OR MORE REQUIREMENTS IN THE PREVIOUS 12 MONTHS;]

7 AAC 41.030(c) is amended to read:

(c) If the department determines that a facility is not qualified under (b) of this section, the facility may reapply **when the eligibility criteria is met.** [EVERY SIX MONTHS.]

7 AAC 41.030(d) is amended to read:

(d) The department will annually evaluate each facility receiving an enhanced program payment rate under this section to determine whether the facility continues to be qualified under (b) of this section.

7 AAC 41.030(e) is amended to read:

(e) Within 30 days after issuing a written notice to the facility, the department will discontinue an enhanced program payment rate under this section

(1) when [IF] appropriations are no longer available; or

(2) [IF] the facility ceases to meet the standards of (b) of this section. If the discontinuance is for failure to meet the standards of (b) of this section, the notice will advise the facility of the right to request a hearing under 7 AAC 49. [AN ADMINISTRATIVE REVIEW UNDER 7 AAC 41.435.]

7 AAC 41.030(f) is repealed.

(f) repealed __/__/___. (Eff. 6/23/2006, Register 178; am __/__/2016, Register __)

Authority: AS 47.25.001 AS 47.25.041

7 AAC 41.030 is amended by adding a new subsection to read:

(g) If a notice is issued to a facility under (e) of this section, the department will or a designee may verify payment at the enhanced program payment rate for care provided through the month following the 30 day notice, unless the facility closes or their license is suspended or revoked, at which time the enhanced program rate would be paid for care provided through the date of closure, suspension or revocation.

(Eff. 6/23/2006, Register 178; am __/__/2016, Register __)

Authority: AS 47.25.001 AS 47.25.041

Editor's note: Information regarding requirements of the System for Early Education Development (SEED) program referred to in 7 AAC 41.030 is available from Alaska's statewide Child Care Resource and Referral Network, thread, 3350 Commercial Dr., Suite 203, Anchorage, AK 99501. Additional information is available at the following website: <http://threadalaska.org/index.cfm> . [THE UNIVERSITY OF ALASKA SOUTHEAST, BILL RAY CENTER, PROFESSIONAL EDUCATION CENTER, 1108 F STREET, JUNEAU, AK 99801. ADDITIONAL INFORMATION IS AVAILABLE AT THE FOLLOWING WEBSITE: <HTTP://SEED.ALASKA.EDU/ABOUTSEED.HTML>.]

7 AAC 41.035 is repealed and readopted to read:

7 AAC 41.035. Enrollment authorization.

(a) For a child whose authorized unit of care is for part or full month enrollment, child care costs are paid based on the program payment enrollment rate established in the department's *Child Care Assistance Program Rate Schedule*, adopted by reference in 7 AAC 41.025, except that the department or a designee may pay at the part month enrollment, or part or full day attendance rate under that schedule if during the month:

- (1) the child is in attendance five or fewer days;
- (2) the child is in attendance 5 or fewer days, care is ending and the required written 10 business day notice is mutually waived;
- (3) the child is in attendance at least 6 days and fewer than 17 days and care is ending with the current provider; or
- (4) the family or provider becomes ineligible for program participation.

(b) For a child whose care is authorized as part or full month enrollment, the department will not make payment to the provider for a month during which the child was not [in the provider's care, except for any days included in the required written 10 business day notice.

(c) Care may not be authorized for a child in excess of a full month enrollment plus a part month enrollment.

(Eff. 6/23/2006, Register 178; am____/____/2016, Register _____)

Authority: AS 47.25.001

7 AAC 41.040 is repealed and readopted to read:

7 AAC 41.040. Attendance authorization.

(a) For a child whose authorized unit of care is part day or full day attendance, child care costs are paid based on the program payment attendance rate established in the department's *Child Care Assistance Program Rate Schedule*, adopted by reference in 7 AAC 41.025 and the child's actual attendance at the facility.

(b) The department will pay an attendance authorization up to the equivalent of the full month enrollment rate when a child's actual attendance at the facility is 17 or more days during a month.

(c) An attendance authorization may be used to authorize care in addition to an enrollment authorization as specified in the authorization issued under 7 AAC 41.340, not to exceed the equivalent of a full month enrollment plus a part month enrollment.

(Eff. 6/23/2006, Register 178; am.____/____/2016, Register _____)

Authority: AS 47.25.001

7 AAC 41.050(a) is amended to read:

7 AAC 41.050. Insufficient appropriations.

(a) If the department determines that available appropriations are insufficient to provide full program benefits for participating families or to add new eligible families, the department may take one or more of the following actions:

(1) terminate, or require a designee to terminate, program benefits for one or more participating families;

(2) limit the activities eligible for a program benefit under **7 AAC 41.310(a)(2)-(5)**; [7 AAC 41.310(2)-(6);]

(3) establish a wait list under (d) of this section;

(4) reduce, or require a designee to reduce, program benefits for all participating families, by a percentage that is based on any shortfall in available appropriations.

7 AAC 41.050(d) is amended to read:

(d) Subject to (f) of this section, if the department establishes a wait list under (a)(3) of this section, the wait list must prioritize eligible families for participation in the program, as follows:

(1) the highest priority is given to **participating or applying** families in which a single parent is, or both parents are

(A) working; or

(B) attending school, if the department has paid child care assistance for full-time student status for less than five years;

(2) the next priority is given to families in which **both parents are or a single** [A] parent is

(A) **searching for** [SEEKING]work **and is in a participating family**; or

(B) attending school, if the department has paid child care assistance for full-time student status for five years or more, **and is in a participating or applying family.**

7 AAC 41.050(e) is amended to read:

(e) A parent is attending school if the parent is participating in an educational or training program. An educational program is a structured learning environment in which an instructor or teacher leads students through a course of study that includes specific learning objectives, goals, and standards, and leads to a certificate of mastery or completion, a state license, a diploma, or a degree. A training program is a structured learning environment, for participants **to gain or enhance job skills,** that has specific learning objectives, identified skills to be mastered, a beginning date, and an ending date.

7 AAC 41.050(g) is amended to read:

(g) A family that includes one or more of the following individuals will not be placed on a wait list, but will immediately receive benefits upon a determination of eligibility:

(1) a new child of a participating family;

(2) a child with special needs who is determined to be eligible under

7 AAC 41.025(e); benefits will be limited to the **specific** child with special needs;

(3) a child with parents who are less than 20 years of age and who are enrolled in a high school completion program;

(4) a child of a family that has left a temporary assistance program within the last 12 months because of employment; [.]

(5) a child in protective services; or

(6) a child of a family who is homeless as defined in 7 AAC 41.990(a)(30).

(Eff. 6/23/2006, Register 178; am ____/____/2016, Register ____)

Authority: AS 47.25.001 AS 47.25.031

7 AAC 41.055 is amended to read:

7 AAC 41.055. Program participation prohibitions. A provider or family that is otherwise eligible for child care assistance payments or benefits under this chapter is prohibited from participating **as a family or a provider** in the program if

(1) the **owner of a child care facility** [PROVIDER] or a parent has been debarred or suspended in accordance with 45 C.F.R Part 76;

(2) if **the owner of a child care facility or** one or more of the parents in a family is determined to be ineligible **as** [FOR A REASON] set out in **7 AAC 41.400 - 7 AAC 41.450**.
(Eff. 6/23/2006, Register 178; am ____/____/2016, Register ____)

Authority: AS 47.25.001 AS 47.25.021 AS 47.25.031

Editor's note: A list of persons referred to in 7 AAC 41.055 who are precluded from participation because of debarment or suspension in accordance with 45 C.F.R. Part 76 is available at **<http://www.sam.gov>** [HTTP://WWW.EPLS.GOV/].

7 AAC 41 is amended to add a new section to read:

7 AAC 41.060. Alaska Inclusive Child Care Program.

(a) A child care provider caring for an eligible child with special needs, as described in 7 AAC 41.990(a)(56), who is under 13 years of age may qualify for a supplemental program rate as determined by the department in accordance with the Alaska Inclusive Child Care Program, as applicable. The family determined eligible for participation in the child care assistance program must submit an application for participation in the Alaska Inclusive Child Care Program. A complete Alaska Inclusive Child Care Program application must contain the following information on a form prescribed by the department:

- (1) the name, mailing address, and telephone number of the family;
 - (2) the child's name and date of birth;
 - (3) the name of the child care provider;
 - (4) documentation of the child's special need(s) completed by a health care or mental health care professional and confirmation by the health care or mental health care professional that additional services are needed for the child's care in a child care setting;
 - (5) a copy of the plan for care developed by the child care provider, or the special need is identified; and family at the time the child was enrolled with the child care provider; and
 - (6) the child care provider inclusion plan the child care provider develops, in consultation with the department or designee, on a form prescribed by the department which includes the child care provider's additional cost(s) associated with providing the additional services required due to the child's special need(s) and how those services will be provided.
- (b) The department will or a designee may authorize a supplement to program payment rates to the child care provider under this subsection only if the information listed in (a) of this section is provided and determined by the department to meet the criteria necessary for the Alaska Inclusive Child Care Program. The supplemental payment amount is based on the actual cost to the provider for providing additional services divided by the months remaining in the family's current child care assistance eligibility period. The supplemental payment may or may not fully reimburse the child care provider for the costs they incur. Items identified on the child care provider's inclusion plan, purchased to meet a specific child's need and approved for qualification in the Alaska Inclusive Child Care Program may not also be submitted to the child care grant program, established under 7 AAC 39, for reimbursement.

(c) The family must reapply for participation in the Alaska Inclusive Child Care Program with each application or renewal in the child care assistance program.

(Eff. ____/____/2016, Register ____)

Authority: AS 47.25.001 AS 47.25.041

Article 2

Provisions for Providers

7 AAC 41.200 is repealed and readopted to read:

7 AAC 41.200. Provider eligibility and qualifications.

(a) Unless a provider is precluded from participation under 7 AAC 41.055, the department will or designee shall authorize a provider to participate in the child care assistance program under this chapter if the provider, meets the applicable requirements of this chapter and has

(1) a current child care license issued by the department or designee delegated under AS 47.32 and 7 AAC 57 to operate a child care facility; for purposes of this paragraph, "current license" includes a child care facility license extended under AS 47.32.060(c);

(2) a current accreditation or certification from a national accreditation group for a day camp or similar facility or program, as described in 7 AAC 57.015(11);

(3) a current certificate or other approval granted by the United States Department of Defense or the United States Coast Guard;

(4) a current approval granted by a tribal entity in accordance with the Child Care and Development Fund requirements of the U.S. Department of Health and Human Services, Administration for Children and Families, with provider standards that meet or exceed the standards of this chapter;

(5) approval of the department or a designee under 7 AAC 41.201(d) ; or

(6) approval of the department or a designee under 7 AAC 41.370.

(b) A licensed provider must meet the applicable qualification requirements of 7 AAC

57. A provider described in 7 AAC 41.200(a)(2), (3), or (4) must meet the applicable qualifications of the accrediting, certifying, or approving agency. A provider as described in 7 AAC 41.200(a)(6) must meet the applicable qualifications of 7 AAC 41.370. A provider as described in 7 AAC 41.200(a)(5) must

(1) be at least 18 years of age;

(2) have at least a high school diploma, GED, or the equivalent;

(3) have an understanding of the development of children;

(4) have the ability to care for children;

(5) have the skills to work with children, family members, department staff, community agencies, and, if applicable, staff of the child care facility; and

(6) have the skills necessary to handle finances and plan and evaluate programs.

(c) A provider exempt from licensure under 7 AAC 57.015 (7) and who was approved by the department for program participation before XX/XX/2016 may continue through their identified approval period.

(Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181; am ____/____/2016, Register _____)

Authority: AS 47.05.300 AS 47.05.340 AS 47.25.001
AS 47.05.310

7 AAC 41 is amended by adding a new section to read:

7 AAC 41.201. Provider application requirements.

(a) A provider listed under 7 AAC 41.200 who wishes to participate in the child care assistance program under this chapter must submit an acceptable and complete application on a form prescribed by the department, participate in an in-person or telephonic interview, complete the program orientation, and complete all required pre-service trainings. An acceptable application for program participation must contain at least the applicant's legibly written name, mailing address, and signature and date on the Certification and Statement of Truth.

(b) An application for program participation is submitted to the department or designee serving the community where the provider will operate, and the department or designee shall determine if an application is acceptable and complete. Following submission of the acceptable application, the department will review for completeness and notify the applicant within 10 days of any omissions or additional information required. A complete application must be received by the department or a designee within 30 days of an acceptable application submission, unless a due date after the 30th day of the acceptable application submission is identified in a notice from the department or a designee.

(c) An application for program participation for providers eligible under 7 AAC 41.200(a)(1)-(4) must contain the following information on a form prescribed by the department:

- (1) the name of the facility;
- (2) the first, middle (if applicable), and last name of the facility owner;
- (3) a completed and signed child care provider rates and responsibilities form, prescribed by the department, that includes the applicant's current rates and if applicable, registration fee, and certifies compliance with 7 AAC 41.210; and
- (4) Taxpayer Identification Number of facility.

(d) A provider under 7 AAC 41.200(a)(5), who is exempt from licensure under 7 AAC 57.015(8), may apply for approval to participate in the child care assistance program under this chapter if the provider will regularly provide care for children, all of whom are a relative of the provider. Children in the provider's care must be the grandchild, great grandchild, niece, nephew or sibling of the provider. Care may only be provided to a maximum of five children who are listed on the application, and includes all children under age 13 residing in the provider's household. Child care services must be provided by the provider as the sole caregiver, in the provider's private residence which is outside of the child's own home, and for less than 24 hours per day. A provider described in this subsection will be approved for participation in the program biennially. A parent will not be approved for participation in the program if that parent is providing care only for that parent's own children.

(e) An application for approval under (d) of this section must contain the following information on a form prescribed by the department:

- (1) the name of the facility if different from the applicant's name;
- (2) the first, middle (if applicable), and last name of the applicant;
- (3) Taxpayer Identification Number of facility;
- (4) mailing address;
- (5) physical address;
- (6) telephone number;
- (7) facsimile number, if any;
- (8) electronic mail address;
- (9) a copy of a government-issued photo identification of the applicant;
- (10) verification that the applicant is the only individual providing child care;

(11) the name, date of birth, and qualifying relationship for each child to be in the applicant's care;

(12) verification of the qualifying relationship of each child in care and the applicant;

(13) the name of each person who resides in the facility where child care is provided and that person's relationship to the applicant;

(14) a completed and signed child care provider rates and responsibilities form, prescribed by the department, that includes the applicant's current rates, and certifies compliance with 7 AAC 41.210;

(15) verification of compliance with 7 AAC 41.205 and 7 AAC 41.215;

(16) a completed child care provider disaster preparedness and emergency evacuation plan, on a form prescribed by the department;

(17) verification the applicant has completed all required preservice trainings including age appropriate CPR and first aid certifications based on the ages of children in care;

(18) verification the applicant has obtained and maintains a business license to operate a child care facility, as required by AS 43.70, and any other license, permit, or certificate necessary to perform that work as required by a state or local government;

(19) written acknowledgment and approval, on a form prescribed by the department, from the owner of record for the applicant to operate a child care facility in the rental property, if the location of the facility is a rental property;

(20) other information required by the department to determine whether the applicant meets the applicable requirements of this chapter; and

(21) a typical daily schedule and plan as described in 7 AAC 41.211 (c)(12).

(f) A provider under 7 AAC 41.200(a)(6), who is exempt from licensure under 7 AAC 57.015(9), may apply for approval for in-home child care under 7 AAC 41.370.

(Eff. ____/____/2016, Register ____)

Authority:	AS 47.05.300	AS 47.05.320	AS 47.05.340
	AS 47.05.310	AS 47.05.330	AS 47.25.001

7 AAC 41 is amended by adding a new section to read:

7 AAC 41.202. Provider authorization and participation.

(a) If the department or designee determines that the applicant meets the applicable requirements of this chapter, the department will or designee shall approve the provider to participate in the child care assistance program. The department will or designee shall provide written notice to a provider regarding eligibility to participate in the program. Program participation is effective the first of the month following the applicant meeting all applicable requirements of this chapter. Once determined eligible for program participation, the provider's program participation end date will, except as in (c) of this section:

(1) coincide with their licensure, certification, or approval as determined by that issuing entity for providers described in 7 AAC 41.200(a) (1)-(4) and reapplication for program participation is not required unless there is a lapse in their licensure, certification or approval;

(2) be the last day of the 24th month following program approval for providers described in 7 AAC 41.201(d). Providers must reapply for program participation; or

(3) be the last day of the family's program participation for providers described in 7 AAC 41.370. Providers must reapply for program participation in conjunction with the family's reapplication for program participation.

(b) If an applicant fails to meet any applicable eligibility requirements of this chapter, the provider's program participation will be denied unless a variance is requested under 7 AAC 10.930 or 7 AAC 41.270 and approved under 7 AAC 10.935 or 7 AAC 41.270, and the department or designee shall issue a written denial of participation in the program. If the department or designee denies participation in the program, the applicant may request a hearing under 7 AAC 49.

(c) If a provider fails to maintain eligibility status under this chapter, the department will or designee shall issue a written notice of termination from the program and advise the provider of the right to request a hearing under 7 AAC 49.

(d) The department will or a designee shall not grant approval for participation in the child care assistance program for applicants under 7 AAC 41.201(d) or 7 AAC 41.370, for more than one individual to operate as a child care provider during the same hours at the same location, including different levels or floors of the same home or separate rooms in a large building. This prohibition does not apply to separate units in a multi-family dwelling such as a duplex, triplex, apartment building, or condominium complex.

(e) The governing body or owner of a child care facility may not operate an additional business on the premises during the hours the facility provides child care services, if customers of the additional business would have access to the child care facility or would interrupt the supervision of children in care.

(Eff. ____/____/2016, Register ____)

Authority:	AS 47.05.300	AS 47.05.320	AS 47.05.340
	AS 47.05.310	AS 47.05.330	AS 47.25.001

7 AAC 41.205 is repealed and readopted to read:

7 AAC 41.205. Child protection and criminal history check requirements.

(a) An individual in a child care facility may not abuse a child or engage in any exploitive or sexual act with a child. The department or designee may require an individual who is subject to a background review under this section to provide an evaluation from a probation officer, health professional, or mental health professional affirming that the individual is free from problems that might pose a significant risk to the health, safety, or welfare of a child in care.

(b) Except as provided in (c) and (d) of this section, to participate in the child care assistance program, a child care provider identified in 7 AAC 41.200(a)(1) - (6) must meet the applicable requirements of AS 47.05.300 - 47.05.390 and 7 AAC 10.900 – 7 AAC 10.990 (Barrier Crimes, Criminal History Checks, and Centralized Registry) for that provider and for each individual associated with that provider in a manner described in 7 AAC 10.900(b). If the provider requests and receives a provisional valid criminal history check under 7 AAC 10.920 for that provider or another individual, the department office responsible for approvals under this chapter will, or the designee shall, issue a provisional approval if the department or designee determines that the provider or other individual is otherwise eligible to provide care for children under this section. If the department determines under 7 AAC 10.915 that the provider or other individual did not pass the criminal history check, or if the provisional valid criminal history check issued under 7 AAC 10.920 expires, the department will, or the designee shall, revoke the approval unless the provider requests a variance under 7 AAC 10.930, and the department grants that request under 7 AAC 10.935.

(c) To participate in the child care assistance program under this chapter, an individual seeking approval as a relative provider under 7 AAC 41.201(d) must submit to the department or designee, for that provider, and for each individual in contact with children in care who is

(1) 16 years of age or older, a signed release of information authorization to review criminal history information including

(A) criminal justice information;

(B) information regarding adjudication as delinquent for each individual who is 16 to 20 years of age, in accordance with AS 47.12.310(e).

(C) protective records developed under AS 47.17;

(D) child care licensing records; and

(E) criminal justice information at the level available to an interested person under AS 12.62.160(b)(9).

(2) Each individual who resides in the provider's facility or is in contact with children in the facility must

(A) be a responsible individual who exercises sound judgment;

(B) not abuse a child or engage in an exploitive or sexual act with a child; and

(C) be free of any physical health problem, behavioral health problem, or domestic violence problem that would pose a significant risk to the health, safety, or welfare of children in care. In this subparagraph,

(i) "behavioral health problem" has the meaning given in 7 AAC 57.990(a)(1)); and

(ii) "domestic violence problem" has the meaning given in 7 AAC 57.990(a)(14).

(d) The department will not, unless the department has granted a variance under 7 AAC 10.935, approve an individual seeking approval as a relative provider under 7 AAC 41.201(d) if the department or designee finds that the provider or any individual in contact with children in care for whom information was required to be submitted under (c) of this section

(1) is named on the centralized registry established under 7 AAC 10.955;

(2) was the subject of a prior adverse licensing action of the kind described in AS 47.32.140(d)(5) - (7); or

(3) was charged with, convicted of, found not guilty by reason of insanity for, or adjudicated as a delinquent for, an offense that is a barrier crime under 7 AAC 10.905.

(e) For purposes of (c) - (d) of this section, an individual in contact with children in care is an individual who has the opportunity to gain access to any area where child care is provided, a member of the provider's household, or an individual who resides in a part of the premises where child care is provided. However, an individual in contact with children in care does not include an individual described under 7 AAC 10.900(d).

(Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181; am ____/____/2016, Register ____)

Authority:	AS 47.05.300	AS 47.05.320	AS 47.05.340
	AS 47.05.310	AS 47.05.330	AS 47.25.001

7 AAC 41 is amended by adding a new section to read:

7 AAC 41.207 Admission and planning for care.

(a) A child care provider described in 7 AAC 41.200 (a)(1) must comply with the requirements of 7 AAC 57.400(a). A child care provider described in 7 AAC 41.200(a)(2), (3),

or (4) must meet the applicable requirements of the accrediting, certifying, or approving agency.

A provider described in 7 AAC 41.200 (5) shall

(1) at or before a child's admission for care, obtain emergency information about the child from the child's parent, including

(A) information about any drug or other allergies;

(B) information about any medication the child is taking or medical or other treatment the child requires;

(C) information on how to contact the child's parent and at least one other local emergency contact individual;

(D) permission slips on a form prescribed by the department, signed by the parent, for emergency transport to a health care facility and for the provision of emergency care and treatment; and

(E) the name of a hospital and physician of choice as designated by the parent;

(2) maintain the information obtained under (1) of this subsection on a form prescribed by the department; and

(3) review and update information obtained under (1) of this subsection at least semi-annually, and more often if a parent provides changed or additional information.

(b) A provider may not admit a child if that child's admission would place the provider beyond the conditions of approval to participate in the child care assistance program under this chapter.

(c) At or before admission of a child who is identified as having special needs under 7 AAC 41.990 (a)(55), the provider shall collaborate with the child's parent in developing and implementing a plan of care for the child. The plan of care

(1) must be approved by the parent and the provider responsible for the care of the child and must be signed and dated by the parent, the provider, and as applicable by provider type, the administrator and the facility coordinator for special needs children, if any;

(2) must be based on the following information, to the extent that the parent consents in writing to disclose the information:

(A) results of medical and developmental examinations;

(B) assessments of the child's cognitive functioning or current overall functioning;

(C) evaluations of the family's needs, concerns, and priorities;

(D) the child's individualized family service plan (IFSP) developed under 4 AAC 52.142 or individualized education program (IEP) developed under 4 AAC 52.140, if any;

(E) other evaluations as needed;

(3) must address any specific services the child care provider will provide in functional outcome objectives, and designated responsibility for provision, and financing;

(4) must list any additional services, including educational or therapeutic services, the child is receiving from other service providers, and must identify the providers of those services; and

(5) may contain permission from the parent for the child care provider to contact additional service providers and the child's IFSP coordinator, if any.

(d) A child care provider shall review information submitted about a child under (c) of this section in order to determine whether the provider can meet the child's needs. If, after reviewing that information, the provider determines it can satisfy the child's needs, the provider may admit the child. If the provider has reason to believe that, even with reasonable accommodation, the provider cannot meet the child's needs, the provider may deny admission to the child.

(Eff. ____/____/2016, Register ____)

Authority: AS 47.25.001 AS 47.32.010 AS 47.32.030

7 AAC 41.210(a) is amended to read:

7 AAC 41.210. Provider responsibilities.

(a) Except for a provider subject to 7 AAC 41.370, a participating provider shall **comply with the applicable requirements of 7 AAC 57.400(a).**

[(1) AT OR BEFORE A CHILD'S ADMISSION FOR CARE, OBTAIN EMERGENCY INFORMATION ABOUT THE CHILD FROM THE CHILD'S PARENT, INCLUDING

(A) INFORMATION ABOUT ANY DRUG OR OTHER ALLERGIES;

(B) INFORMATION ABOUT ANY MEDICATION THE CHILD IS TAKING OR MEDICAL OR OTHER TREATMENT THE CHILD REQUIRES;

(C) INFORMATION ON HOW TO CONTACT THE CHILD'S PARENT AND AT LEAST ONE OTHER LOCAL EMERGENCY CONTACT INDIVIDUAL;

(D) PERMISSION SLIPS ON A FORM PRESCRIBED BY THE DEPARTMENT, SIGNED BY THE PARENT, FOR EMERGENCY TRANSPORT TO

A HEALTH CARE FACILITY AND FOR THE PROVISION OF EMERGENCY
CARE AND TREATMENT; AND

(E) THE NAME OF A HOSPITAL AND PHYSICIAN OF CHOICE AS
DESIGNATED BY THE PARENT;

(2) MAINTAIN THE INFORMATION OBTAINED UNDER (1) OF THIS
SUBSECTION ON A FORM PRESCRIBED BY THE DEPARTMENT; AND

(3) REVIEW AND UPDATE INFORMATION OBTAINED UNDER (1) OF
THIS SUBSECTION AT LEAST SEMI-ANNUALLY, AND MORE OFTEN IF A PARENT
PROVIDES CHANGED OR ADDITIONAL INFORMATION.]

7 AAC 41.210(b) is repealed.

(b) repealed __/__/2016. (Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181;
am __/__/2016, Register____)

7 AAC 41.210(c)(1) is amended to read:

(1) shall **within 10 business days of a change of information provided on the
application** provide **to the department or designee** complete, accurate, and current information
regarding any factor that would affect eligibility to participate in the child care assistance
program under this chapter;

7 AAC 41.210(c)(4) is amended to read:

(4) shall provide written notice of any rate increase to the department or designee
and to participating families at least 30 days before the **first day of the month that the** increase
will take effect;

7 AAC 41.210(c)(5) is amended to read:

(5) must have a valid authorization before **requesting payment from**

[BILLING] the department for services under this chapter;

7 AAC 41.210(c)(6) is amended to read:

(6) shall immediately notify the department **or designee** regarding any circumstance that involves abuse, harm, or serious risk of harm to children in care;

7 AAC 41.210(c)(7) is amended to read:

(7) shall give written notice to [THE DEPARTMENT OR DESIGNEE AND TO] a participating family at least **10** [14] **business** days before child care services are discontinued, **specifying the last date care is to be provided;**

7 AAC 41.210(c)(8) is repealed.

(8) repealed ____/____/2016. (Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181; am ____/____/2016, Register____)

Authority: AS 47.05.300 AS 47.05.310 AS 47.25.001

7 AAC 41.210(c)(9) is repealed.

(9) repealed ____/____/2016. (Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181; am ____/____/2016, Register____)

Authority: AS 47.05.300 AS 47.05.310 AS 47.25.001

7 AAC 41.210(c) is amended by adding a new subsection to read:

(10) must cooperate with the department by allowing announced or unannounced access by the department to all areas of the child care premises, records, and children in care for purposes of health and safety inspections, investigations, or other program compliance reviews.

(Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181; am ____/____/2016, Register____)

Authority: AS 47.05.300 AS 47.05.310 AS 47.25.001

7 AAC 41 is amended by adding a new section .211 to read:

7 AAC 41.211. Ratios and program requirements.

(a) A licensed provider must meet the ratio requirements of 7 AAC 57. A provider described in 7 AAC 41.200(a)(2), (3), or (4) must meet the ratio requirements of the accrediting, certifying, or approving agency within the parameters of state law.

(b) A provider described in 7 AAC 41.200(a)(5) must ensure the number of children does not exceed the maximum of five children, under 13 years of age, and no more than two children are under the age of 30 months. Each child receiving care, regardless of the hours in care, must be counted in the maximum number of children allowed including the providers own children under 13 years of age.

(c) A provider described in 7 AAC 41.200(a)(5) shall provide structure and daily activities designed to promote a child's individual physical, social, intellectual, and emotional development. Satisfactory compliance with this subsection requires the provider to

- (1) provide direct care and supervision of children at all times;
- (2) ensure children receive responsible supervision that is appropriate to the child's age and developmental needs and that is adequate to prevent injury;
- (3) demonstrate respect for each child in care and the child's family;
- (4) support behavior of children with positive guidance and set clear and consistent limits to promote the children's ability for self-discipline;
- (5) provide children with a variety of age-appropriate learning and social experiences;
- (6) demonstrate a positive attitude toward bottle weaning, diapering, toilet learning, and individual needs of children;

(7) respond appropriately to a child's needs, including responding to a baby's cry as promptly and effectively as possible;

(8) prevent exposure of children to high risk situations, including exposure to physical hazards and encounters with individuals or animals posing a possible danger;

(9) use strategies to prevent a child's aggressive behavior and to de-escalate volatile situations;

(10) act as a positive role model for children, especially with regard to respecting the feelings and rights of others;

(11) provide an environment that respects the gender, culture, ethnicity, family composition, and special emotional, cognitive, and developmental needs of each child;

(12) have a schedule and daily plan of activities for each age group; the schedule and plan must provide a balance of quiet and active activities, and group and individual activities, and must include time for meals, snacks, sleep, toileting according to individual needs, and indoor and outdoor play; for purposes of this paragraph the schedule and plan need not be written, except that a typical daily schedule and plan must be presented with the application for approval;

(13) provide opportunities for

(A) individual self-expression and imaginative play;

(B) at least 20 minutes of vigorous physical activity for every three hours the provider is open between the hours of 7:00 a.m. and 7:00 p.m., and daily supervised outdoor activity when weather and the individual child's tolerance permit;

(C) each child to foster independence;

(D) intellectual and social development through use of a variety of activities and materials such as games, toys, books, crafts, puzzles, and blocks; and

(E) language development, including encouraging children to talk and read books; and

(14) limit screen viewing time including television, computer, and hand held devices as follows

(A) prohibit screen viewing time for children under the age of two years; and

(B) only allow up to one hour in a 24-hour period, of screen viewing time for children over two years of age, except for special occasions, and ensure

(i) any screen viewing time shall be for physical or educational use that is specifically designed for the interest and benefit of the child; and

(ii) children shall not be required to participate in screen viewing activities. Alternative activities shall be offered as an option for children during such times.

(d) In addition to the requirements in (c) of this section, a provider caring for infants or toddlers may not routinely leave a child awake in a crib, swing, or similar device for more than 15 minutes without direct adult contact. The provider shall

(1) provide opportunities for a child to develop a caring and nurturing relationship with and attachment to one caregiver whose care for and responsiveness to the child ensures relief of distress, experiences of stimulation and comfort, and satisfaction of the need for a connection with the child's caregiver;

(2) provide frequent verbal communication during feeding, changing, and cuddle times;

(3) provide physical contact through holding, rocking, and play, as well as bathing, dressing, and carrying a child;

(4) allow infants and toddlers ample supervised opportunity during the day to explore and learn on their own outside of a play yard or other restraining device; and

(5) ensure that infants are placed on their backs to sleep, unless otherwise ordered by a physician.

(e) In addition to the requirements in (c) of this section, a provider caring for school-age children shall provide

(1) a program that supplements rather than duplicates the child's school activities, providing a change of pace and interest between school and the child care program;

(2) freedom appropriate to the child's age and developmental level, and opportunities for self-reliance and social responsibility; and

(3) opportunities for school-age children to participate in the selection and planning of their own activities.

(f) The provider shall treat children in care equitably with the caregiver's own children.

(g) The provider shall encourage parental involvement and allow parents unlimited access to their children, provider, and to all areas of the child care facility, to observe or participate.

(h) In addition to meeting the requirements in (c) of this section, a provider caring for children identified as having special needs under 7 AAC 41.990(a)(56) shall

(1) ensure all children are afforded opportunities to participate in any scheduled activities, as possible;

(2) develop a plan of care under 7 AAC 41.207(c) for that child, unless the facility has reason to believe that, even with reasonable accommodation, the provider cannot meet the child's needs and discharges the child; and

(3) implement the plan of care developed under 7 AAC 41.207(c) for each child with special needs to enhance their health and developmental status; and

(4) conduct regularly scheduled reassessments of each child's plan of care to monitor effectiveness.

(Eff. ____/____/2016, Register _____)

Authority: AS 44.29.020 AS 47.32.010 AS 47.32.030

7 AAC 41 is amended by adding a new section to read:

7 AAC 41.213. Behavior guidance.

(a) A licensed provider must meet the applicable requirements of 7 AAC 57.535. A provider described in 7 AAC 41.200(a) (2), (3), or (4) must meet the applicable behavior guidance of the accrediting, certifying, or approving agency.

(b) A provider described in 7 AAC 41.200(a) (5) shall

(1) help a child to develop age-appropriate patterns of behavior that foster constructive relationships and increasing ability to deal with everyday life;

(2) provide for positive reinforcement, redirection, and the setting of realistic expectations and clear and consistent limits; and

(3) ensure discipline or a behavior management technique that is not cruel, humiliating, or otherwise damaging to the child is used.

(c) A child in care may not be

(1) removed from the other children for more than 10 minutes if the child is a young child, except as provided in (d) of this section;

(2) disciplined in association with food or rest;

(3) punished for bedwetting or actions in regard to toileting or toilet training;

(4) subjected to discipline administered by another child;

(5) subjected to verbal abuse, to derogatory remarks about the child or members of the child's family, or to threats to expel the child from the child care facility;

(6) placed in a locked room;

(7) physically restrained, except when necessary to protect a young child from accident, to protect persons on the premises from physical injury, or to protect property from serious damage; and then only passive physical restraint may be used;

(8) mechanically restrained, except for a protective device such as a seatbelt; or

(9) chemically restrained, except on the order of a physician and subject to the provisions of 7 AAC 10.1070.

(d) When a child has a pattern of out of control behavior, the child may be removed from the company of other children until the child's behavior has stabilized. In addition, the child care facility shall develop a plan with the child's parent to address the behavior issues.

(e) Corporal punishment of children in care is prohibited. For purposes of this subsection, "corporal punishment"

(1) means the infliction of bodily pain as a penalty for a disapproved behavior; and

(2) includes shaking, spanking, delivering a blow with a part of the body or an object, slapping, punching, pulling, and any other action that seeks to induce pain.

(Eff. ____/____/____, Register ____)

Authority: AS 44.29.020 AS 47.32.010 AS 47.32.030

7 AAC 41.215(a) is amended to read:

7 AAC 41.215. General health, medication, and nutrition [AND SAFETY] requirements.

(a) A licensed provider must meet the applicable health and safety requirements of 7 AAC 10.1000 – 7 AAC 10.1095 and 7 AAC 57. A provider described in 7 AAC 41.200(a)(2), (3), or (4) must meet the applicable general health and safety requirements of the accrediting, certifying, or approving agency.

7 AAC 41.215(b) is amended to read:

(b) A provider described in 7 AAC 41.200(a)(5) [7 AAC 41.200(d) OR (e)] must meet the health and safety requirements of this chapter and the general health, medication, and nutrition requirements [(c) – (e)] of this section. [TO BE APPROVED FOR PARTICIPATION IN THE PROGRAM.]

7 AAC 41.215(c) is repealed:

(c) repealed ____/____/2016. (Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181; am ____/____/2016, Register ____)

Authority: AS 47.05.300 AS 47.05.310 AS 47.25.001

7 AAC 41.215(d) is repealed.

(d) repealed ____/____/2016. (Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181; am ____/____/2016, Register ____)

Authority: AS 47.05.300 AS 47.05.310 AS 47.25.001

7 AAC 41.215(e) is repealed.

(e) repealed ____/____/2016. (Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181; am ____/____/2016, Register ____)

Authority: AS 47.05.300 AS 47.05.310 AS 47.25.001

7 AAC 41.215 is amended by adding a new subsection to read:

(f) A provider described in (b) of this section shall meet the following general health requirements:

(1) ensure that each person in contact with children washes that person's hands for at least 10 seconds with soap and water and rinses them with water

(A) before food handling, preparation, serving, eating, or table setting;

(B) after toileting or assisting a child with toileting or diapering;

(C) after handling an animal, animal waste, or an animal cage;

(D) before and after giving medication;

(E) before and after participation in moist play, including painting, cooking, or molding clay; and

(F) if hands are contaminated with a body fluid, including from nose wiping;

(2) encourage children to wash their hands at similar times described in (A) of this paragraph, as applicable;

(3) ensure that children in care have been immunized as required by 7 AAC 57.550(a) - (e);

(4) ensure care of other children is not compromised by admitting or allowing a mildly ill child to be in attendance;

(5) ensure a provider caring for a mildly ill child arranges a plan of care with the parent and provides a place where, under supervision, the child may rest or play quietly, apart from other children, if warranted;

(6) ensure a child who shows definite signs of a serious illness or of a highly communicable disease is not admitted or allowed to remain in attendance unless a medical provider approves the child's attendance;

(7) ensure an opportunity for a supervised rest or sleep period is provided for each child under the age of five who is in care more than five hours, and for any other child, if desired by the child. For a child who is unable to sleep, the provider shall provide supervised time and space for quiet play. The provider may place in a crib only an infant, a nonclimbing toddler, or a child identified as having special needs under 7 AAC 41.990(a)(56), if appropriate; and

(8) ensure the applicable requirements of 7 AAC 10.1045 and 7 AAC 10.1050 are met.

7 AAC 41.215 is amended by adding a new subsection to read:

(g) A provider described in (b) of this section shall meet the following requirements for the administration and storage of medication:

(1) A provider may administer medication only under the following conditions:

(A) written permission for the administration of prescription medication is obtained from the parent of a child in care upon admission , or when a new medication is prescribed;

(B) administer prescription medication and special medical procedures only in the dosage, at the intervals, or in the manner prescribed by a physician or other person

legally authorized to prescribe medication or medical procedures and must document in a medication log the date and time each dose is administered and provider's initials;

(C) if written permission has not been obtained from the child's parent for the administration of a commonly used nonprescription medication or medication contained in the first aid kit required by 7 AAC 10.1075, the provider shall document telephone permission to administer that medication;

(D) document in a medication log the date and time each dose is administered and provider's initials the use of any commonly used nonprescription medication for oral or topical use kept on hand by the provider for the communal use of any child;

(E) ensure prescription medicine is kept in

(i) the original container showing the date filled, the expiration date, instructions, and the physician's or other medical professional's name; or

(ii) medicine sets filled by a pharmacist or a licensed medical professional; the prescription date filled, the expiration date, instructions, and the physician's or other medical professional's name must be affixed to or stored with each medicine set;

(F) ensure all unused medication is returned to the parent of a child in care when the medication is no longer needed.

(2) A provider must ensure

(A) each stored medication, including each nonprescription medication, is in its original container and properly labeled with the name of the child for whom it is intended, the name of the medication, the dosage, expiration date, and directions for administration;

(B) medications are stored in a manner that prevents access by unauthorized persons;

(C) medications, including controlled substances, are stored in accordance with the manufacturer's recommendations. In this section "controlled substance" means a drug, substance, or immediate precursor included in the schedules set out in AS 11.71.140 - 11.71.190;

(D) nonprescription medications and health products, including nonaspirin fever reducers, naturopathic remedies, vitamin and mineral supplements, diaper ointments and powders, sunscreen, and insect repellent, are used only at the dose, duration, or method of administration specified on the manufacturer's label; and

(E) medication requiring refrigeration is grouped together, stored in a manner to prevent contamination of food, and labeled as required by this section.

7 AAC 41.215 is amended by adding a new subsection to read:

(h) A provider described in (b) of this section shall meet the following nutrition requirements

(1) ensure that snacks and meals meet the child care food program requirements of 7 C.F.R. 226.20.

(2) allow food for a child's meals and snacks to be provided by the child's parent and are labeled with the child's name and the date;

(3) maintain sanitary facilities for the proper care, storage, refrigeration, and preparation of food. The provider shall ensure that

(A) food served is not adulterated; and

(B) fruits and vegetables are thoroughly washed with potable water before use;

(4) observe the following requirements for bottle feedings if caring for infants;

(A) bottle feedings may be prepared by the parent or the provider; if the

provider prepares the bottle feedings, the provider shall consult with the parent to ensure consistency with the bottle feedings given at home;

(B) an infant must be fed on demand;

(C) a child on bottle feedings

(i) must either be held or fed sitting up or, if unable to sit up, always be held by a caregiver during the feeding; and

(ii) may not be permitted to hold or carry its bottle at times other than the feeding;

(iii) bottles may not be propped for a child.

(5) obtain information concerning any food allergies or special dietary needs of each child and shall plan that child's meals accordingly; and

(6) except for medical reasons, may not deny a meal or snack to a child, force-feed a child, or otherwise coerce a child to eat against the child's will for any reason. Mere encouragement without any element of compulsion is not prohibited.

Editor's note: A copy of the child care food program referred to in 7 AAC 57.560(a) may be obtained from the Department of Health and Social Services, Division of Public Health, P.O. Box 110610, 350 Main Street, Room 503, Juneau, Alaska 99811-0610 or any other office of that division in the state.

(Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181; am ____/____/2016, Register _____)

Authority: AS 47.05.300 AS 47.05.310 AS 47.25.001

7 AAC 41.220 is repealed and readopted to read:

7 AAC 41.220. Environmental health and safety requirements.

(a) A licensed provider must meet the applicable requirements of 7 AAC 10.1000 - 7 AAC 10.1095. A provider described in 7 AAC 41.200(a) (2), (3), or (4) must meet the applicable environmental health and safety requirements of the accrediting, certifying, or approving agency.

(b) A provider described in 7 AAC 41.200(a)(5) must meet the health and safety requirements of (c) and (d) of this section to be approved for participation in the program.

(c) In addition to the other health and safety requirements of this chapter, a provider described in (b) of this section shall ensure basic environmental health and safety by meeting the requirements of this section. The provider shall

- (1) maintain a functional telephone or other identified means of communication;
- (2) maintain an ample supply of potable water;
- (3) provide and maintain clean and sanitary toilet facilities and ensure that in each

toilet room

(A) at least one easily cleanable waste receptacle is provided; if soiled diapers are kept in a waste receptacle until disposed of, that waste receptacle must be covered;

(B) toilet tissue is provided from a wall-hung or protected container at each toilet;

(C) each step stool, if provided, has a nonslip tread made of a water-impervious, durable material;

(D) each floor and wall is covered with smooth, durable, nonabsorbent, easily cleanable material;

(E) each toilet lid, seat, and handle and each handsink is kept clean and sanitary;

(F) each handsink is used only for its designated purpose and is equipped with accessible soap and a single-use towel dispenser or cloth towels; the provider must ensure single-use towels are discarded after each use and cloth towels are laundered after each use; and

(G) each potty-chair is emptied into a toilet and cleaned and sanitized after each use in a utility sink or another place approved by the department. The provider shall ensure that the utility sink or other area is cleaned and sanitized after each use;

(4) ensure the child care facility premises and surrounding grounds are kept clean, sanitary, safe, and in good repair. The provider shall ensure

(A) the facility is free of hazards, including splintered surfaces, sharp edges, protruding corners, broken or hazardous toys or play equipment, steep stairways, ice on walkways, unsecured play equipment, and unsafe play areas;

(B) insects, rodents, and other pests are controlled and that the entity is kept free of conditions that are likely to attract or harbor pests; any pesticide use is subject to the notice and other applicable requirements of 7 AAC 10.1093; if the department determines that the facility is not adequately controlling pests, the department may require the provider to hire a commercial pest control applicator certified under 18 AAC 90, or to take other appropriate action if a commercial pest control applicator is not available in the community;

(C) outdoor areas are well drained and free from deep depressions that may collect standing water; if necessary to ensure the safety of children in care, the department will require that an outdoor recreation area be enclosed with landscaping, a fence, or another effective barrier that prevents or deters access to a busy roadway or other potential hazard;

(D) ventilation by natural or mechanical means is provided to keep air fresh and to prevent the accumulation of heat, steam, condensation, vapors, smoke, or fumes; openings to the outside must prevent the entrance of rodents, insects, and other pests;

(E) walls and ceilings have smooth, durable, nonabsorbent, easily cleanable surfaces, except that rough-textured and acoustical tile ceilings are permitted in bedrooms and living rooms;

(F) lead-based paint is not used, and any painted surface is free from flaking;

(G) stairways and steps have handrails and nonslip treads or covering;

(H) at any faucet that is accessible to children, hot water temperature is no less than 100 degrees Fahrenheit, and no more than 120 degrees Fahrenheit;

(I) an artificial light source is provided in each area of the facility; the light must be sufficient and appropriate for the activities performed in each area by children in care;

(J) cleaners, medicines, and other harmful substances are stored in a place that is inaccessible to children; and

(K) furniture and equipment is durable, safe, easily cleanable, and is kept clean and in good repair.

(5) ensure smoking is prohibited in a child care facility while children are in care. The provider must ensure

(A) tobacco, cigarettes or other smoking products, and ashtrays, lighters, or other smoking accessories are not visible or accessible to children;

(B) the home does not smell of smoke from cigarettes or other smoking products; and

(C) any vehicle used to transport children must be smoke-free.

(6) ensure that alcohol, marijuana, legal controlled substances, and illegal controlled substances are not accessible to children or used during the hours that children are in care; in this subparagraph, "controlled substance" means a drug, substance, or immediate precursor included in the schedules set out in AS 11.71.140 - 11.71.190;

(7) transport children in safe vehicles and use appropriate child restraints in each vehicle in accordance with 7 AAC 57.565;

(8) ensure that any firearms are unloaded and stored in a locked gun safe or other locked place that is not visible or accessible to children. The provider shall also ensure that ammunition is stored separately from the firearms in a place that is inaccessible to children. The provider shall inform each parent that firearms are present in the facility;

(9) ensure safety gates are installed and used to prevent access to stairs if infants or toddlers are in care;

(10) ensure outlet covers are installed in all electrical outlets that are not in use and that are accessible to children under age five;

(11) ensure items brought by a parent for a child's personal use such as towels for bathing, toothbrushes, and combs, are stored separately to prevent contamination;

(12) ensure toys used by children are kept clean and sanitary and if a toy has been mouthed or is otherwise contaminated, that toy is cleaned and sanitized before use by another child; and

(13) ensure that each crib, crib mattress, cot, mat, and playpen is cleaned and sanitized at least weekly, or before assigned to another child in care, or whenever soiled.

(Eff. 6/23/2006, Register 178; am. ____/____/____, Register ____)

Authority: AS 47.25.001

7 AAC 41 is amended by adding a new section to read:

7 AAC 41.222. Life and fire safety.

(a) A licensed provider must meet the applicable requirements of 7 AAC 10.1000 – 7 AAC 10.1095. A provider described in 7 AAC 41.200(a) (2), (3), or (4) must meet the applicable life and fire safety requirements of the accrediting, certifying, or approving agency.

(b) A provider described in 7 AAC 41.200(a)(5) must meet the life and fire safety requirements of (c) and (d) of this section to be approved for participation in the program.

(c) The department will inspect a provider described (b) of this section to determine if the provider meets the applicable requirements of this section. Based on the inspection, or if the department determines that it is necessary for purposes of public health, safety, or welfare, the department will request an advisory inspection report from one or more state or municipal building or fire safety authorities. The provider is responsible for any fee charged by the authority for each inspection.

(d) In addition to the other health and safety requirements of this chapter, a provider described in (b) of this section shall ensure basic life and fire safety by meeting the requirements of this section. The provider shall have a disaster preparedness and emergency evacuation plan that

(1) includes evacuation procedures that will ensure the complete evacuation of children in care, including children with limited mobility, within 150 seconds during an emergency;

(2) describes in detail the procedures that will be followed for the complete evacuation of the child care facility, including specific procedures, as applicable, for

(A) children under 30 months of age;

(B) children with limited mobility; and

(C) children who otherwise may need assistance in an emergency,

including a child who is mentally, visually, or hearing impaired;

(3) includes procedures for other emergency situations or natural disasters that may affect the child care facility, including, as appropriate, tsunami, flooding, and earthquake emergencies;

(4) includes procedures for reunifying the child and family when the child care facility is inaccessible.

(5) provides for emergency evacuation drills to be conducted and documented once each month unless postponed due to severe weather. The provider must document the reason for any postponement.

(e) An entity shall make and retain a record of each required evacuation drill and make the record available to the department upon request. The record must include

(1) the date and time of the drill;

(2) the name of each child in care who was present at the time of the drill but did not participate in the drill, and the reason for nonparticipation;

(3) the amount of time used to complete the drill;

(4) a critique of the drill including a brief evaluation of the evacuation.

(f) The critique of (e)(4) this section must include

(1) a review of actions taken by the provider;

(2) a review of responses by children in care during the drill;

(3) an evaluation of whether existing policies were followed and, if not, an explanation of why a policy was not followed;

(4) an evaluation of whether the policies followed were effective and, if not, a description of how any policy will be revised for future drills;

(5) for any critique that indicates a drill was ineffective in any way, an identification of factors contributing to an ineffective drill; and

(6) any suggestions for improving future drills.

(g) If an emergency affects the child care facility, the provider shall notify the department by telephone, facsimile, or electronic mail no later than the following working day and shall, within five working days, submit a detailed written report to the department that includes the following:

(1) the date and time of the emergency;

(2) a description of the nature of the emergency;

(3) a description of how the evacuation was achieved, including the amount of time used to achieve evacuation; and

(4) a critique of the evacuation that includes the information required under (f) of this section.

(h) A provider described in (b) of this section shall have at least two means of emergency escape that are remote from each other and that provide unobstructed access to the outside of the building; at least one means of emergency escape must be an exterior door; if one of the means of emergency escape is a window, the window must comply with the requirements of (2) of this subsection;

(1) the building occupied by children in care has at least one means of escape from any basement directly to the outside at or near ground level, if children in care occupy the basement for any part of the day;

(2) unless prohibited by the state fire marshal for a window 20 feet or more above ground level, each bedroom has at least one fully-opening window that provides escape directly to the outside and that meets the following requirements:

(A) the finished sill height may not exceed 44 inches above the floor; the department will allow a child care facility to meet this requirement through the provision of a permanently installed step, the top of which is no more than 44 inches from the sill, if the step does not create a tripping hazard, block wheelchair access in the bedroom, or block a heating element; any request for a variance of the sill height requirement must be accompanied by written approval from the state fire marshal; or

(B) the net clear openable area must be a minimum of 5.7 square feet; for purposes of this subparagraph,

(i) the net clear openable height may not be less than 24 inches; if the height is 24 inches, the width may not be less than 34.25 inches; and

(ii) the net clear openable width may not be less than 20 inches; if the width is 20 inches, the height may not be less than 41.25 inches;

(3) a window screen is not used if it permanently prevents exit or if it cannot be easily removed for exit;

(i) A provider described in (b) of this section shall ensure

(1) the child care facility is free of any accumulation of combustible waste material and other fire hazards in or around the premises;

(2) at least one AC primary powered smoke detection device with battery backup, or at least one monitored battery powered smoke detection device, is located in each bedroom; in addition, if the child care facility is in a multi-level facility, at least one smoke detection device must be installed on each level; each device required under this paragraph must be less than 10 years old, or newer if necessary to comply with the manufacturer's recommended replacement date; in this paragraph, "AC" means alternating current;

(3) at least one fully charged 2A:10BC dry chemical fire extinguisher is strategically located on each level of the child care facility, and is installed, inspected, tested, and serviced according to the requirements of 13 AAC 50.025(47);

(4) any flammable or combustible liquid is stored in a container with a tight-fitting lid specifically designed for holding flammable or combustible liquids, and ensure that these liquids are kept out of the reach of children;

(5) each heating device meets the applicable requirements of 7 AAC 10.1015; and

(6) if the facility uses oil, wood, natural gas, or propane as a heating or cooking fuel, that an operating carbon monoxide detector is installed in each hallway outside of, or within, each sleeping area, and ensure that each device is regularly inspected, tested, and serviced; in addition, for a multi-level facility, at least one operating carbon monoxide detector must be installed on each level.

(Eff. ____/____/2016, Register ____)

Authority: AS 44.29.020 AS 47.32.010 AS 47.32.030

7 AAC 41.225 is repealed and readopted to read:

7 AAC 41.225. Diapering.

(a) A licensed provider must meet the requirements of 7 AAC 10.1060(d) and (e). A provider described in 7 AAC 41.200(a) (2), (3), or (4) must meet the applicable diapering requirements of the accrediting, certifying, or approving agency.

(b) A provider described in 7 AAC 41.200(a)(5) who provides care for infants or toddlers shall use safe and sanitary equipment and supplies for diapering that minimize the risk of disease and the risk of contamination to hands and surfaces. A provider must wash their hands each time after changing a diaper. The provider shall ensure that diapering is conducted in accordance with 7 AAC 10.1060(e).

(Eff. 6/23/2006, Register 178, am; ____/____/2016, Register ____)

Authority: AS 47.25.001

7 AAC 41.230 is repealed and readopted to read:

7 AAC 41.230. First aid kit and procedures.

(a) A licensed provider must meet the requirements of 7 AAC 10.1075. A provider described in 7 AAC 41.200(a)(2), (3), or (4) must meet the applicable requirements of the accrediting, certifying, or approving agency with respect to first aid kits and procedures.

(b) A provider described in 7 AAC 41.200(a)(5) shall review and either post or make readily available first aid and CPR instructions. The provider shall post emergency telephone numbers, including the number for the poison control center, near the telephone. The provider shall maintain first aid kits in accordance with 7 AAC 10.1075 with the exception of activated charcoal, which is not required.

(Eff. 6/23/2006, Register 178; am ____/____/2016, Register____)

Authority: AS 47.25.001

7 AAC 41.235(b) is repealed and readopted to read:

(b) A provider under 7 AAC 41.200(a)(5) shall obtain prior to approval and maintain throughout their approval period a valid certification for first aid and age-appropriate CPR. A currently certified emergency medical or trauma technician on duty at the child care facility satisfies the requirements of this subsection. Certification in accordance with 7 AAC 57.350(e) satisfies the requirements of this subsection.

(Eff. 6/23/2006, Register 178; am ____/____/_____, Register ____)

Authority: AS 47.25.001

7 AAC 41.240 is repealed and readopted to read:

7 AAC 41.240. Animals, toxic substances, and poisonous plants.

(a) A provider licensed under 7 AAC 57 shall meet the requirements of 7 AAC 10.1090. A provider described in 7 AAC 41.200(a)(2), (3), or (4) must meet the applicable requirements of the accrediting, certifying, or approving agency with respect to the presence of animals in the child care facility.

(b) A provider described in 7 AAC 41.200(a)(5) shall inform parents of children in care, if any animal is present in the entity.

(c) A provider described in 7 AAC 41.200(a)(5) shall ensure that any animal kept in the child care facility has no communicable disease, has immunizations required under state and federal law, and is free of internal and external parasites. The provider must show proof of compliance with required immunizations to the department upon request.

(d) A parakeet, pigeon, or other similarly small-sized psittacine bird may be kept in the child care facility only if the bird

(1) receives prophylactic antibiotics before introduction into the child care facility; and

(2) is isolated at least 45 days in a room separate from a room occupied by any other birds in the entity.

(e) Ducklings and chicks may not be incubated or hatched in the room where infants or toddlers are present, and

(1) children do not handle the ducklings or chicks; and

(2) the ducklings and chicks are removed from the child care facility when hatched;

(f) Amphibians, ferrets, reptiles, and wild, poisonous, or predatory animals may not be kept in the child care facility. This does not apply to domestic dogs and domestic cats.

(g) A provider described in 7 AAC 41.200(a)(5) shall ensure

(1) any birds, fish, and other animals allowed by this section are kept in appropriately designed cages or aquariums. This does not apply to domestic dogs and domestic cats;

(2) the area around a cage or aquarium is smooth, nonabsorbent, impervious to water, and easily cleanable, and is cleaned and sanitized at a frequency to keep the area clean and sanitary;

(3) animal waste is removed daily, or at a frequency to prevent odor or contact with children in care;

(4) each cage is lined with an impervious material and is cleaned at a frequency necessary to prevent a health risk to children in care;

(5) bowls used for providing food and water for animals are cleaned at a frequency necessary to prevent a health risk to children in care; and

(6) cleaning of animal waste

(A) is conducted when children in care are not present; and

(B) is not conducted in an area used for food preparation or service.

(h) A provider described in 7 AAC 41.200(a)(5) shall

(1) disclose to the department information regarding any animal in the child care facility, if that animal has

(A) been the subject of a past contact with an animal control official because of aggressive behavior or biting; or

(B) a history of aggressive behavior or biting, regardless of whether the animal has been the subject of a past contact with an animal control official;

(2) notify the department within 24 hours of any occurrence of aggressive behavior or biting by an animal in the child care facility, including whether the occurrence resulted in a contact with an animal control official;

(3) immediately remove from contact with children in care, an animal described in (1) or (2) of this subsection; and

(4) permanently remove from the child care facility an animal described in (1) or (2) of this subsection, if the department determines that the animal is a threat to the life or safety of children in care.

(i) In this section, "psittacine bird" means a bird classified as part of the family Psittaciadae, including parrots, macaws, and parakeets. (Eff. 6/23/2006, Register 178)

(j) A provider under 7 AAC 41.200(a) (1) - (5) must meet the requirements for toxic substances and poisonous plants under 7 AAC 10.1095.

(Eff. 6/23/2006, Register 178; am____/____/____, Register ____)

Authority: AS 47.25.001

7 AAC 41.245 is amended to read:

7 AAC 41.245. Provider charges.

(a) Except for a provider subject to 7 AAC 41.370, a participating provider shall ensure that a rate charged by a provider to a family participating in the program is not higher than the rate charged to other families for the same service. A rate charged by a provider to a participating family must be a rate submitted under **7 AAC 41.201(c)(3) and 7 AAC 41.201(e)(14), or as amended under 7 AAC 41.210(c)(4).** [7 AAC 41.200(g)(4).]

(b) If a participating provider has a discounted rate for families that meet the provider's requirements for that rate, the provider shall offer the discounted rate to all participating families meeting those requirements.

(c) A provider approved under **7 AAC 41.200(a)(5)** [7 AAC 41.200(d) OR (e)] may not charge a registration fee to a participating family.

(Eff. 6/23/2006, Register 178; am____/____/2016, Register ____)

Authority: AS 47.25.001

7 AAC 41.250(a) is amended to read:

7 AAC 41.250. Request for payment [BILLING STATEMENTS AND PAYMENT].

(a) **A** [EXCEPT FOR A PROVIDER SUBJECT TO 7 AAC 41.370, A] participating provider shall submit **a request for payment** [BILLING STATEMENTS] and any corrections to those **requests** [STATEMENTS] to the department or to the designee, **on a form prescribed by the department. A payment request must be submitted on or before the last day of the month immediately following the month in which child care services were provided. If the department determines that a payment request includes information which is incorrect or incomplete, the department may obtain the correct or missing information or will return**

the request to the provider. The department will not make payment for any payment request that has been returned as incorrect or incomplete unless the incorrect or missing information is received by the department on or before the last day of the month following the month in which it was returned by the department. Exceptions to this are: [AS DETERMINED BY THE DEPARTMENT, AS FOLLOWS:]

(1) PASS II payments may be made outside the timeframes in (a) of this section for a parent transitioning from PASS I to PASS II, if necessary to avoid a break in service, or
(2) a provider did not receive the authorization for care timely for children in the provider's care. If an authorization is issued beyond this time, the provider must submit a request for payment within 30 days of issuance to be considered timely for payment processing.

[(1) FOR THE FIRST 10 MONTHS OF A STATE FISCAL YEAR, NO LATER THAN THE LAST DAY OF THE THIRD MONTH FOLLOWING THE MONTH IN WHICH THE CHARGES WERE INCURRED;

(2) FOR THE LAST TWO MONTHS OF A STATE FISCAL YEAR, NO LATER THAN 31 DAYS AFTER THE END OF THE FISCAL YEAR.]

7 AAC 41.250(b) is repealed.

(b) repealed ____/____/2016. (Eff. 6/23/2006, Register 178; am____/____/2016, Register____)

Authority: AS 47.25.001 AS 47.25.051

7 AAC 41.250(c) is repealed.

(c) repealed ____/____/2016. (Eff. 6/23/2006, Register 178; am____/____/2016, Register____)

Authority: AS 47.25.001 AS 47.25.051

7 AAC 41.250 is amended by adding a new subsection to read:

(d) Payment will be based on the lesser of the rate the provider charges under

7 AAC 41.245 or the program rate established under 7 AAC 41.025.

7 AAC 41.250 is amended by adding a new subsection to read:

(e) Registration fee may only be paid to a licensed child care provider

under 7 AAC 200(a)(1) in a month in which a child attends at least one day.

7 AAC 41.250 is amended by adding a new subsection to read:

(f) Care will be paid on an full month or part month enrollment basis, based on the program rate established under 7 AAC 41.025, except when additional attendance days are authorized, not to exceed state maximum payment under 7 AAC 41.025.

(Eff. 6/23/2006, Register 178; am _____/_____/2016, Register _____)

Authority: AS 47.25.001 AS 47.25.051

7 AAC 41.255 is repealed and readopted to read:

7 AAC 41.255. Records. A participating provider shall retain records required for participation and compliance with the program for at least three years from the date of the record's creation. The provider shall make available for inspection during normal business hours upon request of the department or designee records including but not limited to following:

- (1) each license or permit, and approval required for operation;
- (2) copies of rates and responsibilities forms;
- (3) facility's requests for payment;
- (4) daily attendance records that reflect the date and time children are in care, on a

form provided or in an manner approved by the department;

(5) children's records including emergency information for each child on a form prescribed by the department;

(6) caregiver employment records; and

(7) documentation of emergency evacuation drills.

(Eff. 6/23/2006, Register 178; am _____/_____/2016, Register _____)

Authority: AS 47.25.001

7 AAC 41 is amended by adding a new section to read:

7 AAC 41.260. Reports.

(a) A provider licensed under 7 AAC 57 shall meet the requirements of 7 AAC 57.240. A provider described in 7 AAC 41.200(a) (2), (3), or (4) must meet the applicable requirements of the accrediting, certifying, or approving agency with respect to reporting.

(b) A provider described in 7 AAC 41.200(a)(5) shall immediately report the following incidents involving a child in care to the child's parent:

(1) the death of a child while in care;

(2) an injury or illness of a child in care that requires attention by medical personnel outside of the child care facility; and

(3) the exposure of a child to a contagious condition such as lice or scabies or to a communicable disease other than a cold.

(c) A provider described in 7 AAC 41.200(a)(5) shall immediately report to the department the following occurrences in the facility:

(1) the death of a child while in care;

(2) a serious injury or illness of a child while in care that requires attention by medical personnel outside of the facility; and

(3) a fire or other emergency situation that affects the child care facility, reported as required by 7 AAC 10.1010(i).

(d) A provider described in 7 AAC 41.200(a)(5) shall within 10 days of a change occurring, report to the department or designee a change in

- (1) a member of the provider's household;
- (2) the name of the person operating the facility;
- (3) the name of the facility;
- (4) the children in care; and
- (5) hours of operation.

(Eff. __/__/2016, Register _____)

Authority: AS 44.29.020 AS 47.32.010 AS 47.32.030

7 AAC 41 is amended by adding a new section to read:

7 AAC 41.265. Compliance and other reviews.

(a) For purposes of determining compliance with this chapter, on-going monitoring, and to assist the department in its review of a provider, the department may conduct inspections, including announced or unannounced onsite inspections and investigations.

(b) In addition to compliance and monitoring reviews described in (a) of this section, the department will inspect and investigate the provider for purposes of health and safety compliance within 90 days of receiving a complete application or participation approval.

(c) The department may extend the time specified in (b) of this section, if the department determines a longer period is needed to obtain additional information or evaluate the effect of a change.

(Eff._____/_____/2016, Register _____)

Authority: AS 44.29.020 AS 47.32.030 AS 47.32.110
AS 47.32.010 AS 47.32.090

7 AAC 41 is amended by adding a new section to read:

7 AAC 41.270. General Variances.

(a) The purpose of this section is to provide a process for determining whether a general variance, if requested, should be granted for a requirement of AS 47.32 or this chapter.

(b) A provider licensed under 7 AAC 57 shall meet the requirements of 7 AAC 10.9500 – 10.9535. A provider described in 7 AAC 41.200(a) (2), (3), or (4) must meet the applicable requirements of the accrediting, certifying, or approving agency with respect to general variances.

(c) A provider described in 7 AAC 41.200(a)(5) shall meet the requirements of this section. The department may grant a general variance if

(1) an alternative means, acceptable to the department, satisfies the purpose of the requirement for which the variance is sought; and

(2) the health, safety, and welfare of recipients of services are protected.

(d) A provider described in 7 AAC 41.200(a)(5) seeking a general variance under this section must submit to the department or designee, on a form supplied by the department, a request for a general variance as required by this section. A request must contain the following:

(1) the requirement from which the variance is sought;

(2) the reasons why the provider is unable to comply with the requirement, a description of how the provider is not in compliance, and the extent to which compliance with the requirement will impose any substantial economic, technological, programmatic, legal, or medical hardship on the provider or recipients of services;

- (3) the period of time for which the variance is requested;
 - (4) the proposed alternative means of satisfying the purpose of the requirement for which the variance is sought;
 - (5) a statement as to how the health, safety, and welfare of recipients of services will be protected during the period of the variance;
 - (6) the plan for achieving compliance before the variance expires;
 - (7) assurance that the conditions at the child care facility do not present an imminent danger to the health, safety, or welfare of recipients of services;
 - (8) if the request for a variance involves fire safety or another state or municipal requirement, evidence that the request has been reviewed by the appropriate authority; and
 - (9) any additional information requested by the department or designee to determine the effect of a variance on the health, safety, and welfare of recipients of services.
- (e) The department or designee will evaluate a request for a general variance by
- (1) investigating the statements in the request form;
 - (2) requesting the department to inspect the child care facility, if appropriate; and
 - (3) taking one or both of the following actions:
 - (A) conferring with the applicant regarding the request;
 - (B) discussing the request with the parents of affected recipients of services, as appropriate, to determine whether they support granting the variance.
- (f) The department's decision to grant or deny a request for a general variance will be issued in writing and will be delivered to the provider who made the request.
- (1) Subject to (2) of this section, the department may grant a general variance, for a period that does not exceed one year, if the department determines that the provider

(A) is unable to comply with the requirement from which the variance is sought;

(B) has an effective plan for achieving compliance during the term of the variance; and

(C) is able to adequately provide for the health, safety, and welfare of recipients of services during the term of the variance.

(2) The department may grant a general variance for a longer period than allowed under (1) of this section if the department determines that

(A) strict compliance with the requirement from which the variance is sought cannot be accomplished without a substantial economic, technological, programmatic, legal, or medical hardship; or

(B) the variance will maintain or improve the quality of services for recipients of services; and

(C) the provider has an effective plan for meeting the goal of the requirement from which the variance is sought, and that the plan adequately protects the health, safety, and welfare of recipients of services and otherwise meets all applicable statutory or regulatory standards.

(3) A decision to grant a request for a general variance will identify the statutory or regulatory requirement involved by section number and subject matter and state the duration, terms, and conditions of the variance, including the steps the provider must take to achieve compliance before the variance expires.

(4) A decision to deny a request for a general variance will be in writing and will state the reasons for the denial. The provider may reapply for a variance, addressing the department's stated reasons for the denial or may request reconsideration under (i) of this section.

(5) If a provider violates a condition of a general variance granted under this section, the department will send written notice to the provider that the variance is revoked. The notice will advise that the provider may request reconsideration under (i) of this section.

(g) If the department grants a request for a general variance, the provider shall maintain a copy with their records, notify parents of children in care, and make it available to any person who wishes to review it. A general variance remains in effect for the duration stated, unless the department revokes the variance under (h) of this section.

(h) The department will revoke a general variance if the department finds that the provider is not following its plan for achieving compliance, or is no longer able to adequately provide for the health, safety, and welfare of recipients of services during the term of the variance. If the department decides to revoke a variance, it will provide written notice of revocation to the provider, setting out the reasons for the department's decision. The department will advise the provider of its right to request reconsideration under (i) of this section. A notice of revocation issued under this subsection is effective 30 days after it is received by the provider unless a request for reconsideration is submitted. Nothing in this subsection precludes the department from issuing a notice of immediate revocation if the department finds that the life, health, safety, or welfare of recipients of services is threatened.

(i) If the department denies or revokes a variance the provider may submit a written request to the department or designee for reconsideration of that decision.

(1) A request under this section must be submitted within 30 days after the provider receives the denial or notice of revocation, and must include

(A) the requestor's name, mailing address, telephone number, and, if available, electronic mail address and facsimile number;

(B) a summary of the department's decision to be reviewed; and

(C) a clear and concise statement of the reason for the request, including

(i) a statement of the nature and scope of the requestor's interests, and an explanation of how and to what extent those interests would be directly and adversely affected by the decision;

(ii) the contested terms and conditions of the department's decision, and proposed alternatives; and

(iii) copies of any documents or data that would assist the department in its review.

(2) After reviewing a request for reconsideration, the department will notify the provider in writing within 30 days after receiving the request, and will state the reasons for the department's final decision.

(Eff. ____/____/2016, Register ____)

Authority: AS 47.32.010 AS 47.32.030

Article 3

Provisions for Families

7 AAC 41.300 is amended to read:

7 AAC 41.300. Eligible family [FAMILY PROGRAM ELIGIBILITY]

(a) **At the time of application, unless** [UNLESS] one or more of the parents in a family is determined to be ineligible for a reason set out in **7 AAC 41.055 or** 7 AAC 41.450 and except as provided in (b) of this section, a family is eligible to participate in the child care assistance program if **the family has at least one eligible child as specified in 7 AAC 41.350,** each parent in the family, except as specified in **7 AAC 41.360** [7 AAC 41.365], is participating in an eligible activity under 7 AAC 41.310, and the family's monthly income is at or below the maximum allowed under **7 AAC 41.335(b).** [7 AAC 41.335.]

(b) **A** [THE] family of **which a parent is** an owner of a child care facility may not receive program benefits **for care of the owner's child provided by any facility** during the **parent's facility's** hours of operation. [OF ANY FACILITY OWNED BY THAT PERSON.]

(c) A family determined eligible to participate in the child care assistance program may continue participating if during the family's eligibility period the parent of a family is determined under 7 AAC 41.360 to be temporarily incapacitated or temporarily away from the child or children due to participating in an eligible activity as specified in 7 AAC 41.310. Each parent in the family must meet the requirements of (a) of this section to be considered eligible for renewing participation in the child care assistance program.

(Eff. 6/23/2006, Register 178; am ____/____/2016, Register____)

Authority: AS 47.05.010 AS 47.25.001 AS 47.25.021
AS 47.25.031

7 AAC 41.305(a) is amended to read:

(a) The department will or a designee shall determine family eligibility to participate in the child care assistance program under AS 47.25.021, 47.25.031, and this chapter. **After a determination of eligibility, the department will not and a designee shall not re-determine**

family eligibility for twelve months, so long as the family's average monthly income, as described in 7 AAC 41.325(b), does not exceed 85 percent of the state median income, as described in 7 AAC 41.335(b), for a family of the same size. [THE DEPARTMENT WILL OR A DESIGNEE SHALL DETERMINE FAMILY ELIGIBILITY AT LEAST ONCE EVERY SIX MONTHS, ON THE BASIS OF A FAMILY'S DOCUMENTED ELIGIBILITY UNDER AS 47.25.021, 47.25.031, AND THIS CHAPTER.] The department will or the designee shall provide written notice to a family regarding eligibility to participate in the program.

7 AAC 41.305(c) is repealed.

(c) repealed __/__/2016. (Eff. 6/23/2006, Register 178; am __/__/2016,

Register__)

Authority: AS 47.05.010 AS 47.25.021 AS 47.25.031
AS 47.25.001

7 AAC 41.310 is repealed and readopted to read:

7 AAC 41.310. Eligible activities. Upon application, the time of care eligible for a program benefit, as specified in the child care authorization issued under 7 AAC 41.340, is based on the schedule of eligible activities of each parent, the care need of the child, and the child care provider's hours of operation.

(a) Eligible activities are as follows:

- (1) working;
- (2) attending school;
- (3) doing library or laboratory activities, attending workshops or tutoring sessions, or participating in a similar activity required for satisfactory completion of a school course or

class; time eligible for a program benefit under this paragraph is limited to one hour for each credit hour per week;

(4) sleeping up to eight hours before or after the parent works a night shift. For purposes of this paragraph, "night shift" means employment requiring a minimum of six work and travel hours between 8:00 p.m. and 6:00 a.m.;

(5) traveling between an eligible activity and the participating provider, up to a maximum travel time of

(A) one hour before and one hour after the eligible activity, in increments of not less than one-half hour; or

(B) one and one-half hours before and one and one-half hours after the eligible activity, in increments of not less than one-half hour, if the parent travels more than 30 miles from the provider or uses public transportation.

(b) During the family's eligibility period, if a parent experiences a non-temporary job loss or ends participation in a job training or educational program, the family will receive up to three months of program benefits for the parent to engage in job search activities. The family's program benefits will end after the three month period of job search activities, unless the parent has resumed work or attendance in a job training or educational program. Time eligible for a program benefit under this paragraph is limited to a part month for each month of the three month job search period.

(Eff. 6/23/2006, Register 178; am ____/____/2016, Register____)

Authority: AS 47.05.010 AS 47.25.001 AS 47.25.021

7 AAC 41.312 is amended to read:

7 AAC 41.312 Work. For purposes of this chapter, work is

(1) an activity for which a wage or salary is paid at or above minimum wage established in AS 23.10.065; or

(2) being engaged in a business

(A) operated with the intention of making a profit;

(B) for which a business license under AS 43.70 has been obtained; and

(C) that generates net income to the person so engaged that, when converted to an hourly rate using a 40-hour work week, is equal to or exceeds the minimum wage established in AS 23.10.065. [REVENUE DURING ANY CONSECUTIVE THREE-MONTH PERIOD.]

(Eff. 6/23/2006, Register 178; am ____/____/2016, Register____)

Authority: AS 47.05.010 AS 47.25.001 AS 47.25.021

7 AAC 41 is amended by adding a new section to read:

7 AAC 41.313 School. For the purposes of this chapter, school is an educational or training program that includes classroom or online settings. An educational program is a structured learning environment in which an instructor or teacher leads students through a course of study that includes specific learning objectives, goals, and standards, and leads to a certificate of mastery or completion, a state license, a diploma, or a degree. A training program is a structured learning environment for a participant to gain or enhance job skills that has specific learning objectives, identified skills to be mastered, a beginning date, and an ending date.

(Eff. ____/____/2016, Register ____)

Authority: AS 47.05.010 AS 47.25.001 AS 47.25.021

7 AAC 41.315(a) is amended to read:

7 AAC 41.315. Family application.

(a) A family seeking to participate, or to continue participation, in the PASS [II or PASS III] **program and receive child care assistance** must **submit an application** [APPLY] to any designee serving the community where the family resides or participates in an eligible activity **and participate in an in-person or telephonic interview**. If no designee serves that community, the family may apply to the department.

7 AAC 41.315(b) is amended to read:

(b) Application **for program participation** [, INCLUDING A RENEWAL APPLICATION,] must be made on a form prescribed by the department and must be submitted to the department or a designee, as appropriate, for review **for an eligibility determination**. [AND APPROVAL.] **The application must be determined to be acceptable and complete by the department or designee. Following submission of the initial application, the department will review for completeness and notify the applicant of any omissions or additional information required within 10 days after the department or designee receives the application. A complete application must be received by the department or a designee within 30 calendar days of the initial application submission, unless a due date, after the 30th calendar day of the initial application submission, is identified in a notice from the department or a designee.**

7 AAC 41.315 is amended by adding a new subsection to read:

(c) A complete application for child care assistance under this chapter must include the following information, as applicable:

(1) for each parent of the family, the name, mailing address, telephone number, electronic mail address, marital status and aliases;

(2) for each individual in the family, the name, date of birth, and relationship of the individual to the parent of the family;

(3) for each parent in the family, a copy of the parent's current government-issued photo identification;

(4) for each working parent in the family receiving wages or a salary, the name and address of the parent's employer, start date of the parent's employment, the parent's work schedule, the parent's hourly wage or hourly wage equivalent, the parent's frequency of pay, and verification of the parent's gross earnings;

(5) for each working parent in the family engaged in a business as described in 7 AAC 41.312(2),

(A) a copy of all current State of Alaska business licenses possessed by the parent; and

(B) verification of the parent's profits and net income from the business;

(6) for each parent in the family attending school, the name of the program in which the parent is enrolled, the parent's date of enrollment in the program, the date on which the parent anticipates completing the program, verification of the parent's enrollment in the program, and verification of the amounts and terms of financial aid, if any, the parent has received, or anticipates receiving, to participate in the program;

(7) for each member of the family, all sources and amounts of income, the frequency with which such income is received, and documentation verifying all amounts of unearned income;

(8) for each child of the family for which child care assistance is requested, proof of the child's age and citizenship or alien status;

(9) for each child in the family subject to a child-custody arrangement, the terms of the custody arrangement;

(10) for each child in the family attending an elementary school, pre-elementary school or Early Head Start/Head Start program, the name of the elementary school, pre-elementary school or Early Head Start/Head Start program that the child attends, and the days and hours of the day during which the child attends the elementary school, pre-elementary school or Early Head Start/Head Start program;

(11) the name of the eligible child care provider the family has selected;

(12) the signature of each parent in the family declaring the information provided is true, accurate and complete; and authorizing release of information by other State agencies or private organizations or individuals for purposes of obtaining verification of program eligibility; and

(13) a certification that the family's assets do not exceed \$1,000,000.

7 AAC 41.315 is amended by adding a new subsection to read:

(d) An application submitted to continue participation may meet the requirements of section (c) by the family confirming documents previously submitted in connection with an application approved under 7 AAC 41.315(c)(3), (8) and (9) remain true and correct. An application to continue participation received from a family, in which a parent has been determined temporarily incapacitated or away from the child or children due to participating in an eligible activity must meet the criteria specified in 7 AAC 41.360.

7 AAC 41.315 is amended by adding a new subsection to read:

(e) Documentation required under 7 AAC 41.315(c) (3), (8) and (9) may be delayed by a period of 90 days from the initial application submission if a family is homeless, as defined

under the McKinney-Vento Homeless Education Assistance Act (42 U.S.C. §11301 et seq.); displaced from their normal residence due to state or federally declared disaster; or experiences fire, flooding or other damage or destruction to the home that renders the home uninhabitable and verification is provided to the Department.

(Eff. 6/23/2006, Register 178; am _____/_____/2016, Register____)

Authority: AS 47.05.010 AS 47.25.001 AS 47.25.051

7 AAC 41.320 is amended to read:

7 AAC 41.320. Family responsibilities.

(a) A family applying for child care assistance under this chapter shall provide complete, accurate and current information **and required verification** regarding children, family income, hours of employment or training, work activities, and other factors that would affect eligibility for program benefits. At the time of application, a parent of the family shall read and sign a family responsibilities form prescribed by the department that includes the requirements of this section and contains a statement that the person signing the form has read those requirements, understands them, and agrees to abide by them. **The family shall participate in an in-person or telephonic interview.**

(b) If requested by the department or a designee, a family shall provide documentation to support information provided on the application or family responsibilities form.

(c) A family participating in the child care assistance program under this chapter shall

(1) select an eligible provider;

(2) **during the family's eligibility period,** notify the department or designee within **10** [SEVEN] **business days**:

(A) of changing providers;

(B) after a change affecting the level of child care;

(C) after a non-temporary loss of employment, or ending attendance at a job training or educational program; or

(D) after an increase in income to a level that exceeds 85% of the State median income [AFTER AN INCOME CHANGE IN EXCESS OF \$200 A MONTH, A CHANGE IN A WORK ACTIVITY, OR ANY OTHER CHANGE THAT WOULD AFFECT THE FAMILY'S BENEFITS OR ELIGIBILITY UNDER THIS CHAPTER];

failure to give notice as required under this paragraph may result in a determination of overpayment of program benefits and subsequent action by the department under 7 AAC 41.420;

(3) pay the portion of the family's eligible cost of care that is not paid on the family's behalf under this chapter;

(4) notify the provider in writing at least **10 business** [14] days before the family intends to terminate child care services with that provider, **specifying the last date care is to be provided**, except

(A) in the case of sudden program ineligibility;

(B) in the case of **a licensing or law-enforcement investigation of** an allegation of abuse, harm, or serious risk of harm to a child in the provider's care; [OR]

(C) upon mutual **written** agreement between the provider and the family, **specifying the last date of care to be provided; or**

(D) in the event of a death of a child.

(5) **upon receipt of notification from the department or designee to** renew **eligibility, submit a complete application and participate in an interview** [THE CHILD

CARE AUTHORIZATION IN A MANNER] timely enough to provide for continuity of care;
and

(6) if requested by the department or a designee, review the provider's attendance records and monthly **requests for payment** [BILLING STATEMENT] to verify that care was billed only for hours of eligible activity[.];

(7) within 24 hours, report to child care licensing or to local police, abuse, harm or serious risk of harm to a child in the provider's care; and

(8) repay the department any overpayment of program benefits, as described in 7 AAC 41.420.

(d) If a participating family does not give notice as required in paragraph (c)(4) of this section, and obtains care with a new provider, the participating family is solely responsible for payment of the new provider, unless the extenuating circumstances described in subparagraphs (c)(4)(B) or (c)(4)(C) of this section exist. In the case of mutual agreement between the parent and provider as noted in subparagraph (c)(4)(C) of this section, the original provider will be paid only through the agreed-upon last date of care.

(Eff. 6/23/2006, Register 178; am __/__/2016, Register__)

Authority: AS 47.05.010 AS 47.25.001

7 AAC 41 is amended by adding a new section to read:

7 AAC 41.322. Family rights. A family applying for or participating in the child care assistance program has the right to

(1) unlimited access to their children and the providers caring for their children, during the providers' normal hours of operation and whenever children are in the providers' care;

(2) request and access information from the department regarding a child care provider's compliance with licensing or approval requirements, public reports of inspections or investigations and any quality measures;

(3) discuss any action taken on its application or case with a caseworker or the caseworker's supervisor; and

(4) request a hearing under 7 AAC 49 if the family disagrees with a decision made by the department or designee.

(Eff. ____/____/2016, Register _____)

Authority: AS 47.05.010 AS 47.25.001

7 AAC 41.325(a) is repealed and readopted to read:

7 AAC 41.325. Family income determination.

(a) For the purposes of this chapter, the department will or a designee shall determine a family's monthly income by

(1) totaling

(A) the monthly gross earned income of each parent including wages, salary, tips, bonuses, or commissions;

(B) the greater of

(i) the self-employment income of each parent, determined in accordance with 7 AAC 45.445 and 7 AAC 45.450; or

(ii) the number of hours in the parent's proposed monthly work schedule attributable to self-employment activity, multiplied by the minimum wage established under AS 23.10.065;

(C) the monthly unearned income of the family, unless that income is excluded under (2) of this subsection; for purposes of this subsection, "unearned income" includes

- (i) unemployment benefits;
- (ii) alimony;
- (iii) child support payments;
- (iv) child support arrearage payments;
- (v) foster care payments;
- (vi) retirement benefits;
- (vii) regular insurance or annuity payments;
- (viii) veteran's payments;
- (ix) pensions;
- (x) workers' compensation cash benefits;
- (xi) Social Security payments;
- (xii) investment income;
- (xiii) public assistance;
- (xiv) military cash allowances;
- (xv) federal cost-of-living allowances (COLA);
- (xvi) scholarships for other than tuition and books;
- (xvii) education grants for other than tuition and books;
- (xviii) fellowships and assistantships;
- (xix) capital gains;
- (xx) employer contributions for child care costs;
- (xxi) strike benefits from a union fund;

(xxii) housing allowances or fair market value of employer-provided housing;

(xxiii) stipends;

(xxiv) room and board paid by others in the household;

(xxv) dividends;

(xxvi) interest;

(xxvii) net rental income;

(xxviii) net royalties;

(xxix) periodic receipts from an estate or trust;

(xxx) the portion of Native corporation dividend payments distributed under 43 U.S.C. 1601 - 1629h (Alaska Native Claims Settlement Act) that exceeds \$2,000 annually for each shareholder; and

(xxxi) one-time, lump-sum payments in excess of \$500, such as insurance proceeds, disability and death benefits, awards and cash gifts, inheritance, terminal leave and severance pay, and net gambling or lottery winnings;

(2) excluding

(A) income that is a documented loan evidenced by an executed contract or a document signed by the lender and establishing a timeframe for repayment of the loan;

(B) payments under AS 43.23 (Alaska Permanent Fund Dividends);

(C) federal income tax refunds;

(D) earned income tax credits under 26 U.S.C. 32 (Internal Revenue Code); and

(E) federal noncash benefits, including Medicare, Medicaid, Supplemental Nutrition Assistance Program (SNAP), and supplements under 42 U.S.C. 1786 (Special Supplemental Food Program for Women, Infants, and Children (WIC)); and

(F) any federal major disaster and emergency assistance or any comparable disaster assistance provided by states, local governments, or disaster assistance organizations.

(3) deducting payments made for

(A) child support and

(B) catastrophic medical or dental costs.

7 AAC 41.325(b) is repealed and readopted to read:

(b) The department will or a designee shall determine a family's eligibility by using the family's monthly income, calculated under (a) of this section. The department will or the designee shall make a best estimate of the average monthly income a family receives or is expected to receive for the period their eligibility is being determined. Either or both of the following methods may be used to calculate prospective average monthly income:

(1) projecting the monthly income a family receives or is expected to receive during each month for which eligibility is being determined on the basis of employer verification or income information provided by the family; or

(2) averaging seasonal, commission, or other irregular income and irregular deductions, such as catastrophic medical or dental payments, for a period not to exceed 12 months.

7 AAC 41.325(c) is amended to read:

(c) In this section, catastrophic medical or dental payments may be considered only for that portion of the medical or dental payments that exceed 10 percent of the family's monthly income, if the payments are made for more than 60 days, and are projected to be an ongoing expense for more than six months. **The following medical** [MEDICAL] and dental payments [TO BE] considered under this section are for **services provided to parents and children in the child care assistance family:**

(1) procedures and treatments allowable for payment under AS 47.07, regardless of the family member's eligibility for Medicaid coverage under AS 47.07;

(2) adult dental care and treatment for

(A) preventative dental care;

(B) treatment of cavities, pain, and infection; and

(C) dentures and orthodontia in extreme cases of malformation meeting criteria under AS 47.07 for payment for care and treatment for children under the Medicaid program; and

(3) medical and dental insurance premiums for services described in (1) or (2) of this subsection.

(Eff. 6/23/2006, Register 178; am ____/____/2016, Register____)

Authority: AS 47.05.010 AS 47.25.001 AS 47.25.031

7 AAC 41.330 is amended to read:

7 AAC 41.330. Family contribution.

(a) As the contribution toward child care costs required under AS 47.25.041, a participating family shall pay to the provider a percentage of its income as determined in the department's *Family Income and Contribution Schedule*, adopted by reference in 7 AAC 41.335.

If the family has more than one child care provider, the department will or the designee shall specify the amount of the family's income to be paid to each provider.

(b) In addition to the family contribution paid under (a) of this section, if the provider's charges are higher than the relevant program rate under 7 AAC 41.025, the participating family is responsible for paying the provider the difference within a time period agreed to between the family and the provider. The provider is responsible for obtaining, or recovering, that difference. Nothing in this subsection precludes a provider from requiring payment **from a family** in advance of the services to be provided.

(Eff. 6/23/2006, Register 178; am____/____/2016, Register _____)

Authority: AS 47.05.010 AS 47.25.001 AS 47.25.031
AS 47.25.041

7 AAC 41.335 is amended to read:

7 AAC 41.335. Family income and contribution schedule.

(a) To determine the amount the family must contribute toward the eligible cost of care, the department will or a designee shall use the department's *Family Income and Contribution Schedule*, revised as of November 2010 and adopted by reference. This amount will be based on family size and income level, and [BASED] on a sliding fee scale.

(b) The maximum family monthly income allowed for participation in the program appears in the *Family Income and Contribution Schedule*, adopted by reference in (a) of this section. The maximum family monthly income

(1) **cannot exceed 85 percent** [IS BASED ON A PERCENTAGE] of the **state's** median income (**SMI**) level developed by the federal government for this state, as periodically published in the federal register, and adjusted by family size; and

(2) is adjusted by deducting the estimated amount of the permanent fund dividend calculated under AS 43.23.025 for the year during which the schedule was prepared, multiplied by the number of family members.

(c) The department will review and revise the family income and contribution schedule, based on one or more of the following factors:

(1) implementation experience may demonstrate unintended results or irregularities that require a schedule adjustment, including

(A) when increases in earned income are entirely consumed by an increased contribution under the schedule; and

(B) when contributions compete with the provision of basic necessities for a family, including reasonable expenses for the provision of food, shelter, or transportation;

(2) the state's median income (SMI) level as defined in (b)(1) of this section [LEVEL DEVELOPED BY THE FEDERAL GOVERNMENT FOR THIS STATE, AS PERIODICALLY PUBLISHED IN THE FEDERAL REGISTER,] and adjusted by amounts payable to a family under AS 43.23 (Permanent Fund Dividends) for the current year;

(3) the level of appropriations for the program changes, and the department must redetermine the maximum number of families that may receive child care assistance;

(4) the number of children in care and needing care under the program;

(5) the number of children in care in a family under the program;

(6) other factors that the department determines are necessary to administer a fair and equitable program consistent with the law and available appropriations.

(d) Families renewing participation, whose income exceeds the maximum family monthly income in (a) of this section and who are otherwise eligible, will be determined

eligible for program benefits, for a period of 12 months, if their maximum family monthly income does not exceed the amount listed in (b)(1) of this section at the time of renewal.

(Eff. 6/23/2006, Register 178; am ____/____/2016, Register____)

Authority: AS 47.05.010 AS 47.25.001 AS 47.25.041
AS 47.25.051

Editor's note: The *Family Income and Contribution Schedule*, adopted by reference in

7 AAC 41.335, is available from the Department of Health and Social Services **3601 C Street, Suite 140, Anchorage, Alaska 99503 or online at**

<http://dhss.alaska.gov/dpa/Pages/ccare/default.aspx>. [619 E. SHIP CREEK AVENUE, SUITE 230, ANCHORAGE, ALASKA 99501-1677.]

7 AAC 41.340 is amended to read:

7 AAC 41.340. Child care authorization.

(a) After the department or [A] designee determines a family is eligible to participate in the program, and that the provider selected by the family is an eligible provider, the department will or [THE] designee shall issue to the family and the provider, a child care authorization that

- (1) identifies the children for whom child care is authorized;
- (2) identifies the provider selected by the family;
- (3) describes the child care authorized, including each category of care, based on the expected participation by each parent in an eligible activity under 7 AAC 41.310;
- (4) states the anticipated eligible cost of care, including
 - (A) the family contribution amount calculated under 7 AAC 41.335; and
 - (B) the anticipated benefit amount to be paid under 7 AAC 41.345; and
- (5) states the period of time for which the authorization is effective.

(b) If necessary to address a change in a participating family's circumstances, the department will or [A] designee shall issue to the family and the provider a new child care authorization under (a) of this section. In the new authorization, the department will or the designee shall state the period of time for which the authorization is in effect, but the department will not, and the designee may not extend the authorization beyond the last day of the family's current eligibility period.

(c) When the family notifies a provider in writing of the family's intent to discontinue services, care authorized to the provider is canceled for any time beyond the identified last date of care. The department will or its designee shall issue a new child care authorization stating that care delivered by the current provider is authorized for a period of time ending no later than the end of the identified last date of care.

(Eff. 6/23/2006, Register 178; am ____/____/2016, Register____)

Authority: AS 47.05.010 AS 47.25.001 AS 47.25.051

7 AAC 41.345 is amended to read:

7 AAC 41.345. Payment of program benefits.

(a) After subtracting a family's contribution calculated under 7 AAC 41.335, the department will pay the remainder of the eligible cost of care **received** during the time the family is eligible, to

(1) a participating provider on behalf of the participating family for child care provided; or

(2) a **participating** family **when the family** [THAT] hires an approved in-home child care **caregiver** [PROVIDER] under 7 AAC 41.370.

(b) The department will or a designee shall prorate a family's contribution required under 7 AAC 41.330 during the month the family applies and is determined eligible to receive [MONTHS THE FAMILY FIRST RECEIVES AND LAST RECEIVES] child care if less than a full month, based on the number of days in the month in which child care is authorized.

(c) In addition to the program benefits paid under (a) of this section, the department will pay to a licensed provider, on behalf of a child, any registration fee not to exceed \$50 charged by the provider and billed to the department. [THE DEPARTMENT WILL NOT PAY MORE THAN \$50 UNDER THIS SUBSECTION]. The department will pay only one registration fee per child, per licensed provider, in a calendar year.

(d) If an enrollment authorization is currently in place and the family provides written notice of not less than 10 business days that the family intends to discontinue services, the department will or its designee shall pay benefits through the last date of care identified in the notice, even if the child did not attend.

(e) If a provider requires a child to leave without providing the family at least a 10 business day written notice, payments will be made only through the last day the child was in attendance.

(f) In addition to the program benefits authorized for a participating family, the provider may request payment from the program and be paid for up to 10 hours of care each day, not to exceed 50 hours of care in a month, if a school aged child was in care due to being too ill to attend school.

(Eff. 6/23/2006, Register 178; am ____/____/2016, Register____)

Authority: AS 47.05.010 AS 47.25.001 AS 47.25.051
AS 47.25.041 AS 47.25.021

7 AAC 41.350 is repealed and readopted to read:

7 AAC 41.350. Eligible child.

(a) Subject to (b) of this section, a child eligible to participate in the child care assistance program under this chapter means an individual:

(1) who is less than 13 years of age;

(2) whose family income does not exceed 85 percent of the State median income for a family of the same size, and whose family assets do not exceed \$1,000,000 (as certified by a member of such family); and

(3) who

(A) resides with a parent or parents who are working or attending a job training or educational program; or

(B) is receiving, or needs to receive, protective services and resides with a parent or parents not described in subparagraph (a).

(b) A child described in (a) of this section is not eligible to participate in the program during the time school is in session and the child is enrolled in grades one through 12 of an academic program, of any public, private, home school, or other school referred to in 4 AAC 60.010, according to the schedule of the school.

(Eff. 6/23/2006, Register 178; am ____/____/2016, Register____)

Authority: AS 47.05.010 AS 47.25.001 AS 47.25.095

7 AAC 41.355 is repealed:

7 AAC 41.355. Inactive status. Repealed. (Eff. 6/23/2006, Register 178; repealed ____/____/2016, Register____)

7 AAC 41.360 is amended to read:

7 AAC 41.360. Allowable absence, incapacitation [: SINGLE-PARENT FAMILY]

(a) If a participating family **or family applying to continue participation** consists of only one parent and that parent is **temporarily incapacitated** or temporarily away from the child or children due to participating in an eligible activity under 7 AAC 41.310, the family may continue to receive program benefits **for a 12 month period if one of the following criteria is met:** [UP TO THE END OF THE FOLLOWING MONTH. IF THE PARENT IS STILL ABSENT AFTER THAT PERIOD, THE FAMILY'S ELIGIBILITY UNDER THE PROGRAM IS TERMINATED.]

(1) Temporarily incapacitated: verification is provided confirming the parent's incapacitation and anticipated date they will be able to return to work; parent's employer is holding their job; and the parent returns to the job within the current or new twelve month period; or

(2) Temporarily away from the child or children: verification from the parent's employer confirming the parent is continuing to participate in their eligible activity away from the child or children.

(b) A family in which there are two parents, and one parent is participating in an eligible activity under 7 AAC 41.310, and not away from the child or children, and the second parent is incapacitated or temporarily away from the child or children due to participating in an eligible activity under 7 AAC 41.310, and if the family otherwise meets eligibility requirements under this chapter, the family may receive or continue to receive program benefits.

(c) In a participating family, in which there are two parents, where one parent is incapacitated or temporarily away from the child or children due to participating in an eligible activity under 7 AAC 41.310, and the second parent becomes temporarily incapacitated or temporarily away from the child or children due to participating in an eligible activity under 7 AAC 41.310, the family may continue to receive program benefits if one of the following criteria is met for the second parent:

(1) Temporarily incapacitated: verification is provided confirming the parent's incapacitation and anticipated date they will be able to return to work; parent's employer is holding their job; and the parent returns to the job within the current or new twelve month period; or

(2) Temporarily away from the child or children: verification from the parent's employer confirming the parent is participating in their eligible activity away from the child or children.

(d) In this section, "incapacitated" means physically incapable of caring for children in the family, or temporarily unable to participate in an eligible activity, as determined by a health care or mental health care professional.

(Eff. 6/23/2006, Register 178; am ____/____/2016, Register____)

Authority: AS 47.05.010 AS 47.25.001 AS 47.25.021

7 AAC 41.365 is repealed:

7 AAC 41.365. Allowable absence or incapacity; two-parent family. Repealed. (Eff. 6/23/2006, Register 178; repealed ____/____/2016, Register____)

7 AAC 41.370 is repealed and readopted to read:

7 AAC 41.370. Child care in the child's own home.

(a) To participate in the child care assistance program, an eligible PASS II or PASS III family may hire an in-home child care caregiver to care for the family's children in the family's home only if the caregiver has a valid criminal history check under AS 47.05.300 - 47.05.390 and 7 AAC 10.900 - 7 AAC 10.990, and is approved under (d) of this section. A parent will not be approved for participation in the program as an in-home caregiver for the care of the parent's own children. A family eligible to hire an in-home caregiver for the children of the family residing in the family's home must require care for:

(1) At least three children, who are eligible as specified in 7 AAC 41.350, not including any children of the in-home child care caregiver;

(2) at least one child with a disability, defined as follows:

(A) a child with a disability, as defined in section 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401);

(B) a child who is eligible for early intervention services under part C of the Individuals with Disabilities Education Act (20 U.S.C. 1431 et seq.);

(C) a child who is less than 13 years of age and who is eligible for services under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794); or

(D) a child with special needs, as specified in 7 AAC 41.990(a)(56);

(3) at least one child who is under 12 months of age; or

(4) at least one child of a family in which all parents are working a night shift as defined in 7 AAC 41.310 (4).

(b) The family must participate in an orientation and shall submit to

(1) the department office responsible for conducting criminal history checks all items required under 7 AAC 10.910(b) for the selected in-home child care caregiver; and

(2) the designee or to the department office responsible for approvals under this chapter, on or before the date on which the family submits the application required by 7 AAC 41.315, an additional application containing at least each of the following:

(A) a copy of a government-issued photo identification of the selected in-home child care caregiver;

(B) a verification signed by the selected in-home child care caregiver, on a form prescribed by the department, that the selected caregiver

(i) is the same person pictured on the identification; and

(ii) is at least 18 years of age;

(C) a verification signed by the family and the selected in-home child care caregiver, on a form prescribed by the department, that the selected caregiver

(i) if approved under (c) or (d) of this section, will be employed by the family, and will care only for children of the family who reside in the family's home; if fewer than five children are in the family, the caregiver may also care for the caregiver's own children if the total number of all children in care does not exceed five; and

(ii) has been provided with a copy of the materials listed under (h)(2) and (4) of this section; and[.]

(D) verification the in-home caregiver has obtained the age appropriate CPR and first aid certifications, for the children in care.

(c) If the department determines under 7 AAC 10.915 that the selected in-home child care caregiver did not pass the criminal history check, or if the valid criminal history check issued under 7 AAC 10.920 expires, the department will, or the designee shall, revoke the approval, and

the family shall terminate association with the selected caregiver, unless the family requests a variance under 7 AAC 10.930, and the department grants the request under 7 AAC 10.935.

(d) If the selected in-home child care caregiver passed the criminal history check conducted under 7 AAC 10.915, the department will, or the designee shall, determine whether the caregiver has met the applicable requirements of this section and 7 AAC 41.205(a). If the department or designee determines that the caregiver

(1) has met the applicable requirements of this section and 7 AAC 41.205(a), the department will, or the designee shall, approve that caregiver in accordance with the applicable provisions of this chapter; or

(2) has not met the applicable requirements of this section and 7 AAC 41.205(a), the department will, or the designee shall, deny that caregiver and notify the family and

(A) specify the reasons for that determination; and

(B) advise the family of the right to request a hearing under 7 AAC 49

(e) If the selected in-home child care caregiver did not pass the criminal history check, the department office responsible for conducting criminal history checks will notify

(1) the caregiver of the right to request reconsideration under 7 AAC 10.950; and

(2) the family of the right to request a variance under 7 AAC 10.930.

(f) The department or designee will not approve under this chapter a selected in-home child care caregiver who did not pass a background check unless

(1) a request for reconsideration under 7AAC 10.950 is made by the selected caregiver and the department grants the request under 7 AAC 10.950(b); or

(2) the family requests a variance under 7 AAC 10.930, and the department grants the request under 7 AAC 10.935.

(g) The department will, or a designee shall, provide written notice to the family of the family's obligation to pay the approved in-home child care caregiver at least the minimum wage established under AS 23.10.065 or the amount of the family's program benefits established under 7 AAC 41.345, including the family's contribution established under 7 AAC 41.330, whichever is more.

(h) The department will, or a designee shall, provide an in-home child care packet to the family choosing in-home child care. The packet must contain information specified by the department, including

(1) state and federal employment information;

(2) United States Internal Revenue Service Form W-2 and a wage and tax statement;

(3) a reminder that the parent is responsible for complying with applicable labor laws and tax requirements; and

(4) a checklist of the health and safety requirements and trainings to be completed pre-service or during the caregiver's orientation period.

(i) Upon approval of the family's in-home child care caregiver and subject to the monthly maximum set in 7 AAC 41.025(g) and the amount of the family contribution under 7 AAC 41.330, the department will, or a designee shall, issue an authorization for in-home child care and program benefit payments to the family. The family shall submit a request for payment and any corrections to request for payment to the department or designee on a form prescribed by the department. A request for payment must be submitted on or before the last day of the month immediately following the month in which child care services were provided. If the department determines information in a request for payment is incorrect or incomplete, the department will

return the request to the family. Unless the request is corrected and resubmitted to the department no later than the last day of the month following the month in which it was returned by the department, the department will not make payment for that request for payment.

(j) The department will not pay program benefits included on a request for payment or a correction to a request for payment submitted later than the applicable deadline set in (i) of this section.

(k) The family shall retain for at least three years all records related to attendance of children in care, requests for payment under this chapter, and in-home child care caregiver [PROVIDER] employment.

(l) The family and the approved in-home child care caregiver shall cooperate with the department or a designee for purposes of monitoring reviews or investigations to determine compliance with this section. In this subsection, "cooperate" includes providing access to

- (1) the site where care is provided;
- (2) records; and
- (3) children for purposes of conducting interviews.

(m) Benefits will not be paid for care rendered by an in-home child care caregiver before the effective date of the department's approval of the caregiver.

(n) The family must provide notice of at least 10 business days, except in the circumstances described in 7 AAC 41.320(c)(4)(A) and 7 AAC 41.320(c)(4)(B), to the department or designee when discontinuing employment of their in-home child care caregiver. The notice must include the last date care is to be provided. If an enrollment authorization is currently in place and the family provides written notice of at least 10 business days to discontinue services, the department or its designee shall pay for authorized care only through

the indicated last date of care. The department will pay for care provided by a subsequent in-home child care caregiver only after the family submits the information required by (b) of this section and the department issues an approval under (d) of this section for the subsequent caregiver.

(o) In addition to the program benefits authorized for a participating family, the provider may request payment from the program and be paid for up to 10 hours of care each day, not to exceed 50 hours of care in a month, when a school aged child was in care due to being too ill to attend school.

(Eff. 6/23/2006, Register 178; am ____/____/2016, Register____)

Authority:	AS 47.05.010	AS 47.05.300	AS 47.05.310
	AS 47.25.001	AS 47.25.051	

7 AAC 41 is amended by adding a new section to read:

7 AAC 41.375. Compliance and other reviews.

(a) For purposes of determining compliance with this chapter, the department or designee may monitor, investigate, and conduct file reviews of information regarding a family's eligibility.

(b) A family must cooperate with the department or a designee for the purpose of a monitor, investigation or file review to determine compliance with this chapter, by providing additional information regarding the family's eligibility as requested by the department or designee.

(c) If a family fails to comply with (b) of this section, the noncompliance will be considered an intentional program violation under 7 AAC 41.410.

(Eff. ____/____/2016, Register ____)

Authority: AS 47.05.010

AS 47.25.001

Article 4
General Provisions

7 AAC 41.400 is amended by adding a new subsection to read:

7 AAC 41.400. Confidentiality. (a) Information relating to a family's participation in the child care assistance program is confidential under AS 47.05.020 and to the extent provided under law.

(b) A child care provider may communicate with the department or designee regarding a parent's application for program participation, the status of the parent's eligibility, and care authorized only if the parent has signed and submitted to the department or designee a written Release of Information. A provider may not require a Release of Information to be signed by the parent as a condition for enrolling the parents' children into the child care facility.

(Eff. 6/23/2006, Register 178; am ___/___/2016, Register _____)

Authority: AS 47.05.010

AS 47.05.020

AS 47.25.001

7 AAC 41.405 is repealed and readopted to read:

7 AAC 41.405. Notice of proposed action.

(a) The department will or designee shall give at least 10 days written notice to a participating family before taking an action to reduce or terminate program benefits. The 10 day notice timeframe begins the date the notice is sent and advises the family of the right to request a hearing under 7 AAC 49, unless

(1) the family indicates in writing that the family no longer desires program benefits; [OR]

(2) the family's whereabouts are unknown and mail directed to the family's last known address was returned by the post office indicating no known forwarding address; or

(3) the department has information evidencing the only participating child of the family is no longer part of the family unit or is deceased.

(b) In a circumstance described in (a)(1)-(3) of this section, the department will or the designee shall terminate program benefits without prior notice.

(c) The department will or designee shall give at least 10 days written notice to a participating provider before taking an action to terminate program participation. The 10 day notice timeframe begins the date the notice is sent and advises the provider of the right to request a hearing under 7 AAC 49 unless

(1) the provider indicates in writing the provider no longer wants to participate in the program;

(2) the department has information evidencing the provider is deceased; or

(3) the provider's whereabouts are unknown and mail directed to the provider's last known address was returned by the post office indicating no known forwarding address or the forwarding address is an out of state address.

(d) In a circumstance described in (c)(1) – (3) of this section, the department will or the designee shall terminate program participation without prior notice.

(e) A family or provider aggrieved by a written determination made under this chapter, except for intentional program violation determinations under 7 AAC 41.410 and 7 AAC 41.41.423, may request a hearing under 7 AAC 49.

(Eff. 6/23/2006, Register 178; am____/____/2016, Register _____)

Authority: AS 47.05.010

AS 47.25.001

7 AAC 41.407(a) is amended to read:

7 AAC 41.407. Noncompliance and [COMPLIANCE REVIEWS;] plans of correction.

(a) A participating provider or [AND] a participating family using an [CHOOSING] in-home child care caregiver shall cooperate with the department or a designee for purposes of file [MONITORING] reviews, inspections, or investigations to determine compliance with this chapter, including allowing access to the premises where child care is provided, [TO] relevant records, and [TO] children and staff for purposes of conducting interviews.

7 AAC 41.407(b) is amended to read:

(b) If, after a compliance review under this section, the department or designee determines that a provider or a family as described in (a) of this section [CHOOSING IN-HOME CHILD CARE] has failed to comply [IS NOT IN COMPLIANCE] with one or more applicable requirements of AS 47.25.001 [AS 47.25.002] - 47.25.095 or this chapter, the provider or family described in (a) of this section will be required to submit to the department [WILL ISSUE] a plan of correction, stating a date on or before which compliance will [MUST] be achieved.

7 AAC 41.407(c) is repealed.

(c) repealed ____/____/2016. (Eff. 6/23/2006, Register 178; am____/____/2016, Register _____)

Authority: AS 47.05.010 AS 47.25.001

7 AAC 41.407 is amended by adding a new subsection to read:

(d) The plan of correction required under (b) of this section must contain the following information for each violation identified

(1) each action that will be taken to cure the violation;

(2) each measure that will be taken or change that will be made to ensure the violation does not recur;

(3) how the provider or family described in (a) of this section will monitor each corrective action to ensure the violation is cured and will not recur; and

(4) the date on or before which the violation will be cured.

7 AAC 41.407 is amended by adding a new subsection to read:

(e) The plan of correction must be signed by the provider or the family as defined in (a) of this section, for a violation.

7 AAC 41.407 is amended by adding a new subsection to read:

(f) If the department determines that any recipients of services were affected by a violation, the department may also require the provider or family described in (a) of this section to describe

(1) each corrective action that will be taken with regard to those recipients; and

(2) how the provider or family described in (a) of this section will identify other recipients of services who might be affected by the violation, and what corrective action will be taken.

7 AAC 41.407 is amended by adding a new subsection to read:

(g) The department will review a plan of correction submitted under this section to determine whether the plan is acceptable. If the department determines that the plan is unacceptable, the department may

(1) request additional information regarding one or more corrective actions described in the plan;

(2) require the provider or family described in (a) of this section to amend the

plan as directed by the department;

(3) require the provider or family described in (a) of this section to comply with a plan of correction developed by the department under (h) of this section.

7 AAC 41.407 is amended by adding a new subsection to read:

(h) If the department finds that the provider or family described in (a) of this section has failed to correct a violation of AS 47.25.001 - 47.25.095 or this chapter, has failed to submit a plan of correction for department approval, or has submitted an unacceptable plan, the department may require the family or the provider to participate in a plan of correction developed by the department under (i) of this section.

7 AAC 41.407 is amended by adding a new subsection to read:

(i) In a plan of correction developed by the department, the department will describe each violation, specify each corrective action the provider, or the family described in (a) of this section, must take to correct the violation, and specify the date on or before which the provider, or the family must cure the violation. The department will notify the provider, or the family in writing of a decision to require compliance with a plan of correction developed under this subsection, and will provide a copy of the plan of correction with the notice. In the notice, the department will describe any penalties under 7 AAC 41.425 the department intends to take, regardless of whether the violation is cured.

7 AAC 41.407 is amended by adding a new subsection to read:

(j) The department may conduct a follow-up inspection to determine compliance with the plan of correction. Failure to comply with a plan of correction will result in an intentional program violation.

(Eff. 6/23/2006, Register 178; am_____/_____/2016, Register _____)

Authority: AS 47.05.010 AS 47.25.001

7 AAC 41 is amended by adding a new section to read:

7 AAC 41.409. Emergency suspension.

(a) If the department determines continued participation in the program will result in an imminent potential threat to the health, safety, or welfare of a child in care, the department shall

(1) immediately suspend program participation;

(2) provide the provider a notice of an emergency suspension; initial notification may be oral;

(3) provide formal written notification within 14 working days of the determination, and advise the provider of the right to request a hearing under 7 AAC 49.

(b) The emergency suspension is effective immediately, for a period necessary to allow the department to conduct an investigation and reach a final decision.

(c) A provider may not request payment from the department or the designee for services provided under this chapter during a period of an emergency suspension.

(d) The department will remove a suspended provider from the list of eligible providers maintained under 7 AAC 41.445. The department will reinstate a provider to the list of eligible providers after the end of a period of emergency suspension if the provider meets the applicable requirements of this chapter.

(Eff. ____/____/2016, Register _____)

Authority: AS 47.05.010 AS 47.25.001

7 AAC 41.410 is repealed and readopted to read:

7 AAC 41.410. Intentional program violation.

(a) An intentional program violation is an action, inaction, or statement made by a family or provider to deliberately misrepresent, conceal, or withhold a material fact, resulting in

establishing a benefit or payment to the family or the provider under this chapter, for which the family or the provider is not entitled. The department may impose a penalty upon the family or the provider under 7 AAC 41.425 for an intentional program violation set out in (b) or (c) of this section. The department will impose a level of penalty necessary to ensure benefits are being paid in accordance with AS 47.25.001 - 47.25.095 and this chapter.

(b) A family is subject to penalty under the program for

(1) reporting incomplete or inaccurate information regarding the family's income or eligibility for benefits;

(2) failing to keep required information current;

(3) failing to comply with family responsibilities for participation in the program as specified in 7 AAC 41.320, including payment of the required family contribution;

(4) providing false or misleading information, or withholding information, in order to receive benefits under the program;

(6) failing to cooperate with a compliance review or investigation by the department or designee regarding

(A) eligibility for benefits;

(B) provision of services by a participating provider; or

(C) compliance with the applicable requirements of this chapter; or

(7) failing to comply with any repayment plan developed under 7 AAC 41.420 or to cooperate with the development of the plan.

(c) A provider or a family using in-home care is subject to penalty for

(1) failing to maintain status as an eligible provider;

(2) providing false or misleading information or withholding necessary information that results in an erroneous determination of eligibility or an erroneous payment of program benefits;

(3) failing to maintain records concerning the program as required by this chapter;

(4) failing to cooperate with a compliance review or investigation by the department or a designee;

(5) failing to provide care that conforms to applicable requirements of this chapter, if the non-compliance places the health, safety, or welfare of the children in care at significant risk;

(6) failing to comply with requirements related to rates charged in accordance with 7 AAC 41.245;

(7) falsifying attendance records to reflect a higher amount of time a child was in care than actually occurred;

(8) failing to comply with any repayment plan developed under 7 AAC 41.420, or to cooperate with the development of the plan; or

(9) failing to comply with a plan of correction issued under 7 AAC 41.407.

(d) If, after a compliance review or an investigation, a participating family or provider is believed by the department to have committed an intentional program violation, as defined in (a) of this section, the department may

(1) proceed against the accused family or provider, through an administrative disqualification hearing, in accordance with 7 AAC 41.423; or

(2) refer the matter to the appropriate authorities for civil or criminal action in a state or federal court.

(e) The department will, to the extent reasonably possible and within the timeframes allowed, coordinate action against a family or provider accused of an intentional program violation under (b) or (c) of this section with any known corresponding action being taken in other assistance programs administered by the State of Alaska .

(f) An individual is disqualified from receiving child care assistance benefits or payment for benefits for the time period specified in (g) of this section if the individual

(1) is found, through an administrative disqualification hearing under 7 AAC 41.423, to have committed an intentional program violation;

(2) has waived the individual's right to an administrative disqualification hearing under 7 AAC 41.423;

(3) is found, by a state or federal court, to have committed an intentional program violation; or

(4) has signed a disqualification consent agreement, confirmed by a court, in which the individual admits committing an intentional program violation.

(g) A family or a provider who is disqualified from child care assistance for an intentional program violation will be ineligible to receive child care assistance benefits or payment for benefits as identified in (g) of this section or under 7 AAC 41.425 (c) or (d).

(h) If a family or a provider is disqualified under this section to receive child care assistance benefits or payment for benefits, by a hearing officer, by consent, or by a court of law under this section, the disqualification period will begin on the date specified by the court order.

If that family or provider is disqualified by a hearing officer, by consent, or by a court of law that has not specified the date for initiating the disqualification period, the disqualification period will begin on the first day of the second calendar month following the date

(1) of the notice of disqualification, as described in (h) of this section, resulting from a hearing or a court action; or

(2) the family or provider waived their right to an administrative disqualification hearing under 7 AAC 41.423; or

(3) the family or provider signed a disqualification consent agreement under (f)(5) of this section; or

(4) a court rules that the family or provider has committed a crime involving an intentional program violation, whichever occurs first.

(i) When an action to disqualify a family or provider is taken, the department will notify the disqualified individual in writing. The notice of disqualification will state the disqualification penalty and date that the disqualification period begins and ends.

(j) A disqualification penalty will remain in effect, without possibility of an administrative stay, until the finding upon which the penalty was based is subsequently reversed by a court of appropriate jurisdiction;

(k) If an individual, disqualified in another state for a child care assistance intentional program violation, moves to this state, the department may

(1) impose the remaining period of the child care assistance disqualification originally imposed by the other state; and

(2) for any subsequent child care assistance intentional program violation committed in this state, consider all prior violations committed in another state when determining the disqualification under 7 AAC 41.423 of this section.

(I) If the department imposes a penalty described in 7 AAC 41.425(c) (3) or (4) against a family's responsible party or as described in 7 AAC 41.425(d)(3) or (4) against a provider's authorized agent, and after opportunity for a hearing under 7 AAC 49, the

(1) department will place the individual's name on the list maintained under 7 AAC 41.450 of ineligible families and providers; and

(2) family or provider will be prohibited from participating in or receiving payments from PASS I, PASS II or PASS III child care assistance until the name is removed from that list or the prohibited individual is no longer residing in the household.

(Eff. ____/____/2016, Register _____)

Authority: AS 47.05.010 AS 47.25.001

7 AAC 41.415 is repealed and readopted to read:

7 AAC 41.415. Determination of incorrect payment of program benefits.

(a) If the department or designee determines there is reasonable evidence of an incorrect payment of program benefits for a participating family, or to a participating provider, the department will or designee shall conduct one or more of the following methods of investigation:

(1) review and audit records in the files of the family, provider, designee, or department;

(2) make announced or unannounced inspections of the premises where child care is provided;

(3) interview family members, the provider, provider's staff and others;

(4) review any other information available to the department;

(5) take such other actions necessary to determine whether an incorrect payment occurred.

(b) The family or provider shall cooperate with the department or designee and provide any information requested during an investigation conducted under this section, and provide any information necessary to assist the department or designee in completing the investigation.

(c) Based on any investigation conducted under this section, the department will determine whether an incorrect payment of program benefits or an intentional program violation has occurred and will take action under 7 AAC 41.420 or 7 AAC 41.425 as appropriate.

(Eff. 6/23/2006, Register 178; am ____/____/2016, Register ____)

Authority: AS 47.05.010 AS 47.25.001

7 AAC 41.420 is repealed and readopted to read:

7 AAC 41.420. Incorrect payment of program benefits.

(a) An incorrect payment of program benefits occurs if a family or provider receives a benefit or payment to which they are not entitled or does not receive a benefit or payment to which they are entitled under AS 47.25.001 - 47.25.095 and this chapter.

(b) If the department determines under 7 AAC 41.415 (c) that an underpayment of program benefits for a participating family or to a provider has occurred, the department will provide written notice to the family or provider that includes

(1) the determination and basis of that determination and

(2) how the underpayment of program benefits will be corrected by the department.

(c) If the department determines under 7 AAC 41.415(c) that an overpayment of program benefits of \$100 or more to a family or provider has occurred, regardless of the cause, the department will provide written notice to the family or provider that

(1) includes the determination, and the basis for that determination;

(2) advises the family or provider of the requirement to develop a repayment plan;

(3) advises if the family or provider refuses to cooperate in the development of a repayment plan within 15 days after receiving notice under this subsection, the department will take action to recover the overpayment through collection procedures or deduction from any future amounts paid under AS 47.25.001 - 47.25.095 and this chapter; and

(4) advises the family or provider of the right to request a hearing under 7 AAC 49.

(d) The department will consult with the family or provider to develop a repayment plan. Any repayment plan developed under this subsection must be approved by the department.

(e) If the family or provider fails to develop or comply with a repayment plan developed under (c) of this section, the department will

(1) take action to recover the overpayment through collection procedures or deduction from any future amounts paid under AS 47.25.001 - 47.25.095 and this chapter;

(2) in the case of a provider, remove the name of the provider from the list of eligible providers maintained by the department; the provider will be prohibited from receiving child care assistance benefits or payments until satisfaction of the repayment plan;

(3) in the case of a family, place the name of the family on the list maintained under 7 AAC 41.450 of ineligible families. A family including an ineligible individual will be

prohibited from receiving PASS I, PASS II, or PASS III child care assistance or payments until the name is removed from the list; and

(4) provide a written notice to the family or provider that

(A) describes the action the department intends to take, and the effective date of that action; and

(B) advises the family or provider of the right to request a hearing under 7 AAC 49.

(f) Unless the family or provider requests a hearing under 7 AAC 49 an action taken under (c)(3) or (e) of this section is effective 15 days after the family or provider receives notice under (c) or (e) of this section, as applicable.

(Eff. 6/23/2006, Register 178; am____/____/2016, Register _____)

Authority: AS 47.05.010 AS 47.25.001

7 AAC 41 is amended by adding a new section to read:

7 AAC 41.423. Administrative disqualification hearings.

(a) If the department believes that a family or provider has committed an intentional program violation under 7 AAC 41.410 the department will refer the matter to the office of administrative hearings (AS 44.64.010) for scheduling of an administrative disqualification hearing. After the office of administrative hearings sets a date and time for the hearing, the department will provide the family or provider with a written notice at least 30 calendar days before the scheduled date of the administrative disqualification hearing. In the notice the department will include

(1) the date, time, and location of the hearing;

(2) the accusations against the family or provider;

(3) a summary of the evidence to be presented by the department, and how and where the evidence can be examined;

(4) a description of the availability of a hearing postponement, as specified in (b) of this section;

(5) an explanation of the consequences of failure to appear at the hearing, as provided in (c) of this section;

(6) instructions on how to claim good cause for failure to appear at the hearing, as provided in (d) of this section;

(7) an explanation of the intentional program violation and penalties as provided in 7 AAC 41.425 as applicable to the case scheduled for hearing;

(8) a statement that the hearing does not preclude the state or federal government from prosecuting the family or provider for an intentional program violation in a civil or criminal court action, or from recovery of an overpayment;

(9) an explanation of the public resources available that may provide free legal representation, and that the department is not responsible for providing legal representation;

(10) an explanation that the hearing may be held face-to-face or by telephone, at the hearing officer's discretion;

(11) a statement of the accused family or provider right to remain silent and that anything said or signed by the family or provider concerning the accusations can be used against the accused family or provider in the hearing or a court of law;

(12) a statement that the accused family or provider may waive the right to the disqualification hearing; the statement will inform the family or provider

(A) of the date by which a signed waiver-of-rights form must be received by the department;

(B) that a waiver of rights will result in penalties up to and including disqualification, benefit reduction, and repayment obligations, even if the accused does not admit to the facts as represented by the department; and

(C) that the family or provider may specify on the waiver-of-rights form whether the family or provider admits to the facts as represented by the department.

(b) An accused family or provider may request one hearing postponement of no more than 30 calendar days from the date of the first scheduled administrative disqualification hearing if the request for postponement is received by the department at least 10 calendar days before the first scheduled hearing.

(c) If an accused family or provider fails to appear at an administrative disqualification hearing, the administrative law judge shall

(1) hold the hearing without the accused family or provider;

(2) carefully consider the evidence based on the information provided by the department; and

(3) determine if an intentional program violation was committed.

(d) An accused family or provider who fails to appear, or have a representative appear, for a scheduled administrative disqualification hearing has 10 calendar days after the date of the scheduled hearing to contact the department, provide evidence of good cause for failure to appear, and request that a new hearing be scheduled. If the administrative law judge determines that the family or provider did have good cause for not appearing, the administrative law judge shall schedule a new hearing and reopen the hearing record.

(e) An administrative law judge with the office of administrative hearings shall conduct a hearing under this section. After hearing the facts of the case and examining the evidence, the administrative law judge shall decide whether a family or provider has committed an intentional program violation. The administrative law judge shall base a determination of intentional program violation on clear and convincing evidence that the family or provider committed, and intended to commit, an intentional program violation as defined in 7 AAC 41.410.

(f) At a hearing, the accused family or provider may choose self-representation, or to be represented by an attorney or any other person who may be helpful in defense of the accusation. If the accused family or provider chooses to be represented at the hearing by an attorney or any other person, the representative of the accused family or provider shall submit a completed permission form provided by the department, that is signed by the accused family or provider and their representative.

- (g) The accused family or provider or their representative, will have an opportunity to
- (1) examine the contents of the family's or provider's file, and all documents and records to be used at the administrative disqualification hearing, at a reasonable time before the date of the hearing, and during the hearing;
 - (2) at their own expense, present at the hearing witnesses and documents pertinent to the case;
 - (3) establish pertinent facts and circumstances;
 - (4) present oral and written arguments pertinent to the case; and
 - (5) question or refute any testimony or evidence, including the opportunity to cross-examine witnesses.
- (h) As long as the accused family or provider is notified in advance, a hearing under 7 AAC 49 and an administrative disqualification hearing under this section that are based on the same or related circumstances may be combined by the administrative law judge into a single hearing.
- (i) The administrative law judge shall render a decision within 90 calendar days after the date the accused family or provider received the notice of the hearing in accordance with (a) of this section; however, if the accused family or provider or their representative, is granted a postponement, the 90 day time limit will be extended for the same number of days that the hearing is postponed.
- (j) If the administrative law judge determines that a family or provider has committed an intentional program violation, as described in 7 AAC 41.410, no further administrative remedy exists; however, the family or provider is entitled to seek relief in a court having appropriate jurisdiction.

(Eff. ____/____/2016, Register _____)

Authority: AS 47.05.010 AS 47.25.001

7 AAC41.425 is repealed and readopted to read:

7 AAC 41.425. Penalties for an intentional program violation.

(a) Except in the case of an emergency suspension under 7 AAC 41.409, if the department makes a determination under 7 AAC 41.415(c) that a family or provider committed an intentional program violation under 7 AAC 41.410, the department will send a written notice to the family or provider that

(1) includes the department's determination, and the basis for that determination;

(2) describes the action the department intends to take, and the effective date of that action; and

(3) advises the family or the provider of the right to request a hearing under 7 AAC 49 of the determination.

(b) A penalty imposed under this section is effective 15 days after the family or provider receives notice under (a) of this section unless the family or the provider requests a hearing under 7 AAC 41.49.

(c) A family found to have committed a child care assistance intentional program violation will be subject to the following penalties.

(1) for the first child care assistance intentional program violation resulting in no dollar loss to the department, at its discretion the department may impose a provider lock-in for up to six months

(2) for the first child care assistance intentional program violation resulting in a dollar loss to the department, at its discretion the department may impose any or all of the following:

(A) a provider lock-in for up to twelve months; and/or

(B) a 10 percent reduction in child care assistance benefits for six months;

(C) an obligation to repay the child care assistance program loss attributable to the intentional program violation regardless of the family's continued participation;

(3) for the second child care assistance intentional program violation regardless of dollar loss, at its discretion the department may impose any or all of the following:

(A) a provider lock-in for up to twelve months;

(B) a 20 percent reduction in child care assistance benefits for 12 months;

(C) an obligation to repay the child care assistance program loss attributable to the intentional program violation regardless of the family's continued participation

(4) for the third child care assistance intentional program violation regardless of dollar loss, the department will terminate a family from the program, including terminating authorizations.

(d) A provider found to have committed a child care assistance intentional program violation resulting in a loss of over \$100 will be subject to the following penalties:

(1) for the first child care assistance intentional program violation, at its discretion the department may impose the following requirements of the provider for continued participation in the child care assistance program

(A) timely compliance with any corrective action plan issued by the department;

(B) repayment of the child care assistance program loss attributable to the intentional program violation by the department's established repayment plan and deadline; and

(C) cooperation with heightened and more frequent departmental reviews.

(2) for the second child care assistance intentional program violation, at its discretion the department may impose a suspension from participation in the child care assistance program of up to six months, after which the following are required for the provider to again participate

(A) timely compliance with any corrective action plan issued by the department;

(B) repayment of the child care assistance program loss attributable to the intentional program violation by the department's established repayment plan and deadline, if applicable; and

(C) cooperation with heightened and more frequent departmental reviews.

(3) A provider found to have committed a third child care assistance intentional program violation will result in

(A) the provider being permanently disqualified from participation in the child care assistance program; and

(B) the name of the provider being removed from the list of eligible providers maintained under 7 AAC 41.445; and

(C) an obligation to repay child care assistance program loss attributable to the intentional program violation, if applicable.

(e) The department or designee will notify families participating in the program upon a provider's suspension or termination from the program. Care authorized for the month the suspension or termination occurred will remain effective but will be cancelled for any future months.

(f) A provider may request payment from the department for services provided under this chapter during the month the suspension or termination is determined. A provider may not request payment from the department for services provided under this chapter during the remaining period of suspension, or for services provided after termination from the program.

(g) The department will remove a suspended provider from the list of eligible providers that is maintained under 7 AAC 41.445, effective the date the department issues its final decision. If the provider continues to meet the applicable requirements of this chapter, the department will reinstate a provider to the list of eligible providers after the end of the provider's period of suspension.(h) If termination from the program is imposed, the department will remove a provider from the list of eligible providers referred to in 7 AAC 41.445, effective the date the department issues its final decision.

(i) A termination imposed by a final department decision is permanent, and the family or provider may not be approved to participate in the program, as either a family or a provider.

(Eff. 6/23/2006, Register 178; am____/____/2016, Register _____)

Authority: AS 47.05.010 AS 47.25.001

7 AAC 41.430 is repealed.

7 AAC 41.430. Emergency suspension. Repealed. (Eff. 6/23/2006, Register 178;
Repealed ____/____/2016, Register)

7 AAC 41.435 is repealed.

7 AAC 41.435. Request for administrative review. Repealed. (Eff. 6/23/2006, Register
178; Repealed ____/____/2016, Register)

7 AAC 41.440 is repealed.

7 AAC 41.440. Administrative review. Repealed. (Eff. 6/23/2006, Register 178;
Repealed ____/____/2016, Register)

7 AAC 41.445 is amended by adding a new subsection to read:

7 AAC 41.445. Department list of eligible providers.

(a) The department will

(1) maintain a list of current licensed and approved providers who are eligible
providers under this chapter; and

(2) provide the list upon request.

**(b) The department will remove a provider found to be ineligible under this chapter
from the list of eligible providers and bar them from program participation until the
period of suspension ends and the provider complies with the requirements of all
applicable corrective action and repayment plans.**

(Eff. 6/23/2006, Register 178; am____/____2016, Register _____)

Authority: AS 47.05.010 AS 47.25.001

Editor's note: A copy of the list of eligible providers referred to in 7 AAC 41.445 may be obtained from the Department of Health and Social Services, Child Care Program Office, **3601 C St., Suite 140, PO Box 241809**, [619 E. SHIP CREEK AVENUE, SUITE 230,] Anchorage, Alaska **99524**. [99501-1677.] The list is also available on the department's website at <http://health.hss.state.ak.us/dpa/programs/ccare/>

7 AAC 41.450 is repealed and readopted to read:

7 AAC 41.450. Department debarment of ineligible families.

(a) The department will debar from program participation the family found to be ineligible under this chapter due to

(1) a penalty described in 7 AAC 41.425(c) for an intentional program violation described in 7AAC 41.410;

(2) failing to comply with a repayment plan developed under 7 AAC 41.420; or

(3) failing to cooperate with the development of a repayment plan.

(b) A family including a debarred individual may not participate in the child care assistance program.

(Eff. 6/23/2006, Register 178; am____/____/2016, Register _____)

Authority: AS 47.05.010 AS 47.25.001

Article 5
Definitions

7 AAC 41.990 is repealed and readopted to read:

7 AAC 41.990. Definitions.

(a) In this chapter, unless the context indicates otherwise

(1) "adult" means an individual who is 18 years of age or older;

(2) "age groups" means infant (birth through 12 months); toddler (13 months through 35 months); preschool age child (36 months through 59 months); and school age child (5 years through 12 years);

(3) "approved provider" means a provider described in 7 AAC 41.201(d) who has been found eligible to participate in the child care assistance program;

(4) "approved in-home child care provider" means an in-home child care provider who is approved under 7 AAC 41.370(d);

(5) "ATAP" means the Alaska Temporary Assistance Program under AS 47.27

(6) "attendance" means the time during which a child is actually in the care of a provider;

(7) "attendance rate" means a full or part day rate for actual time a child is in care;

(8) "authorized" means contained in a child care authorization;

(9) "category of care" means a classification of child care described in 7 AAC 41.025(b) and specified in a child care authorization;

(10) "child," when that term is used to refer to

(A) a child receiving child care services under this chapter, has the meaning given that term in AS 47.25.095;

(B) the children of a family, for purposes of determining family eligibility, means an individual under 18 years of age;

(11) "child care" has the meaning given "day care" in AS 47.25.095;

(12) "child care assistance program" means the program described in 7 AAC 41.010;

(13) "child care authorization" means the written authorization regarding program

assistance issued under 7 AAC 41.340;

(14) "clean" has the meaning given in 7 AAC 10.9990;

(15) "contaminate" or "contamination" has the meaning given in 7 AAC 10.9990;

(16) "contract" means an agreement between the department and a designee, under which the department provides money to the designee to carry out the program under AS 47.25.001 - 47.25.095 and this chapter;

(17) "CPR" means cardiopulmonary resuscitation;

(18) "day" means calendar day;

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

(20) "designee" means a municipality or other entity that has been designated by the department to assume one or more of the department's duties under this chapter;

(21) "easily cleanable" has the meaning given in 7 AAC 10.9990;

(22) "eligible cost of care" means the program rate set under 7 AAC 41.025 or the provider's charge for services, whichever is less;

(23) "eligible family" means a family that meets the requirements of this chapter for receiving program benefits;

(24) "eligible provider" means a licensed provider or an approved provider determined by the department or a designee to be eligible to participate in the program;

(25) "enrollment rate" means a rate based on a schedule of an estimated number of units of a care per month, regardless of the actual time a child is in care;

(26) "family" means a group described in 7 AAC 41.013;

(27) "food" has the meaning given in 7 AAC 10.9990;

(28) "grant" has the meaning given "contract" in this section;

(29) "handsink" means a lavatory

(A) equipped to provide hot and cold running water in a manner that meets the requirements of 7 AAC 41.220(c)(4)(H); and

(B) used solely for washing hands, face, arms, or other portions of the body;

(30) "homeless" means a child or a family with one or more children who meets the definition of homeless under the , McKinney-Vento Homeless Assistance Act (42 U.S.C. 11434a(2)).

(31) "impervious bag" has the meaning given in 7 AAC 10.9990;

(32) "in care" means receiving care in a provider's facility;

(33) "in-home child care" means child care services provided in the child's own home by an approved in-home child care caregiver;

(34) "in-home child care caregiver" means an individual who provides child care services in the child's own home;

(35) "in loco parentis" means a person acting in place of a parent, such as a guardian, relative or friend who provides supervision like a parent but without the formalities of legal guardianship or adoption;

(36) "licensed provider" means a provider licensed under AS 47.32 and 7 AAC 57;

(37) "month" means a calendar month;

(38) "monthly enrollment rate" means a rate based on a schedule of an estimated number of units of care per month;

(39) "municipality" has the meaning given in AS 01.10.060;

(40) “night shift” means employment requiring a minimum of six work and travel hours between 8:00 p.m. and 6:00 a.m.;

(41) “non-temporary” means a period of time that does not have a limit specified and/or exceeds three months;

(42) "parent" means a

(A) parent by blood, marriage, or adoption;

(B) legal guardian of a child; or

(C) person standing in loco parentis;

(43) "participating family" means a family the department has determined to be eligible to participate in the program and to whom the department has issued a current child care authorization;

(44) "participating provider" means a provider the department has determined to be eligible to participate in the program and who is providing child care services under a child care authorization;

(45) "PASS" means Parents Achieving Self-Sufficiency;

(46) "pest" has the meaning given in 7 AAC 10.9990;

(47) "potable water" has the meaning given in 7 AAC 10.9990;

(48) "program" means the child care assistance program under AS 47.25.001 - 47.25.095 and this chapter;

(49) "provider" means

(A) a provider licensed under 7 AAC 57; for purposes of this subparagraph, "provider" has the meaning given "day care facility" under AS 47.25.095;

(B) a provider described in 7 AAC 41.200(a)(2), (3), and (4);

(C) an approved provider; and

(D) an approved in-home child care provider;

(50) "registration fee" means a charge associated with the initial or annual enrollment of a child by a provider;

(51) "regularly provides care" means that a child is enrolled for regular care with a provider, regardless of whether that child receives full-time or part-time care;

(52) "relative" means a child who, by marriage, blood, or court decree, is the

(A) grandchild or great-grandchild of the provider;

(B) niece or nephew of the provider; or

(C) sibling of the provider if the provider lives in a separate residence;

(53) "sanitize" has the meaning given in 7 AAC 10.9990;

(54) "single-use" has the meaning given in 7 AAC 10.9990;

(55) "special needs" means a child

(A) with a disability, as defined in 602 of the Individuals with Disabilities Education Act (20 U.S.C. 1401);

(B) who is eligible for early intervention services under part C of the Individuals with Disabilities Education Act (20 U.S.C. 141431 et seq); and

(C) who is less than 13 years of age and who is eligible for services under section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794);

(56) "subcontract" means a binding legal agreement that provides for an organization or an individual other than the designee to carry out the administrative duties required by a grant or contract under this chapter;

(57) "toilet" has the meaning given in 7 AAC 10.9990;

(58) "unit of care" means a fixed duration of child care time in relation to a rate, such as part or full day rate, or part or full month enrollment rate;

(59) "work" means an activity described in 7 AAC 41.312;

(60) "work activities" has the meaning given in AS 47.27.900.

(b) In the definition of "developmental disability" in AS 47.25.095, "disability" means a condition attributable to one or more mental or physical impairments that are severe, chronic, and likely to continue indefinitely.

(Eff. 6/23/2006, Register 178; am __/__/2016, Register __)

Authority: AS 47.05.010 AS 47.25.001 AS 47.25.095