

DEPARTMENT OF HEALTH AND SOCIAL SERVICES



PROPOSED CHANGES TO REGULATIONS

PERSON-CENTERED PRACTICE & SETTINGS AMENDMENTS

- 7 AAC 130. Medicaid Coverage; Home & Community-Based Waiver Services; &
- 7 AAC 160. Medicaid Program; General Provisions.



PUBLIC REVIEW DRAFT
April 3, 2017

COMMENT PERIOD ENDS: June 5, 2017

Please see the 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paragraph, or subparagraph is being added, or that an existing section, subsection, paragraph, or subparagraph is being repealed and readopted (replaced), *the new or replaced text is not bolded or underlined*.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 proposed change relates within the context of the whole section and the whole chapter.

Title 7 Health and Social Services.**Chapter 130****Medicaid Coverage; Home and Community-Based Waiver Services.****Sec 200. Purpose.**

7 AAC 130.200 is amended to read:

7 AAC 130.200. Purpose.

The purpose of this chapter is to offer to individuals that meet the eligibility criteria in 7 AAC 130.205 the opportunity to choose to receive home and community-based waiver services as an alternative to institutional care. **These services, when implemented through a person-centered plan of care, will provide opportunities for eligible individuals to receive services in the community and to maximize engagement in community life. The individual and those chosen by the individual to participate in service planning, and the providers selected by the individual to render services will work in collaboration to align services and supports in a person-centered practice that provides the full benefits of community living, and contributes to the achievement of the individual’s goals.**

(Eff. 2/1/2010, Register 193; am 11/3/2012, Register 204; am 7/1/2013, Register 206; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.045
AS 47.07.030

7 AAC 130.202. Services provided by family members.

7 AAC 130.202 is amended to read:

(a) Home and community-based waiver services covered under this chapter do not include services provided by the spouse of the recipient, the parent of a minor child that is the recipient, an individual with a legal duty to support the recipient under state law, or the recipient’s legal representative. For the purposes of this section, a foster parent is not an individual with a legal duty to support a recipient placed in the care of that foster parent by the department.

(b) Notwithstanding (a), an individual named in this section may provide home and community-based services to a recipient for payment if

(1) a court appoints that individual as guardian to a ward, and authorizes the guardian to provide those services under AS 13.26.311 (c); and

(2) the individual appointed as guardian is both qualified to provide those services and employed by a provider certified under 7 AAC 130.220 (a) (1) or (3).

[(1) AN IMMEDIATE FAMILY MEMBER OF A RECIPIENT TO THE RECIPIENT;

OR

(2) A GUARDIAN TO A WARD, UNLESS A COURT HAS AUTHORIZED THE GUARDIAN TO PROVIDE THOSE SERVICES UNDER AS 13.26.145(c).]

(Eff. 2/1/2010, Register 193; am 11/3/2012, Register 204; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

Sec 205. Eligibility for home and community-based waiver services.

7 AAC 130.205(b) is amended to read:

7 AAC 130.205. Eligibility for home and community-based waiver services.

(b) Home and community-based waiver services are not available to an individual

(1) while the individual is an inpatient of a nursing facility, a hospital, or an

Intermediate Care Facility for Individuals with Intellectual Disability (ICF/IID) [ICF/IID], except

for **review of an application** [SCREENING] under 7 AAC 130.211 or assessment under 7 AAC 130.213;

or

(Eff. 2/1/2010, Register 193; am 11/3/2012, Register 204; am 7/1/2013, Register 206; am ___/___/___,

Register _____)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.045

AS 47.07.030

Sec 211. Screening.

7 AAC 130.211 is amended to read:

7 AAC 130.211. Screening **of applications**.

(a) The department will pay for and review, in any 365-day period, one **application** [SCREENING OF AN APPLICANT] for home and community-based waiver services to determine whether there is a reasonable indication that the applicant might need services at a level of care provided in a hospital, nursing facility, or ICF/IID in 30 or fewer days unless the applicant receives home and community-based waiver services under this chapter. [THE DEPARTMENT WILL

(1) CONDUCT THE SCREENING;

(2) CONTRACT WITH ANOTHER ORGANIZATION TO CONDUCT THE

SCREENING; OR

(3) OFFER THE APPLICANT THE OPPORTUNITY TO

SELECT A CARE COORDINATOR OR OTHER PROVIDER APPROVED BY THE DEPARTMENT TO CONDUCT THE SCREENING.]

(b) **The** [IF A CARE COORDINATOR CONDUCTS THE SCREENING THE] care coordinator, **selected by the applicant to assist with the application,** shall

(1) inform the applicant regarding the care coordinator's relationship as an employee of any provider certified under 7 AAC 130.220 and of any relationship described in 7 AAC 130.240(f); and

(2) provide to the department **a complete application in accordance with 7 AAC 130.207(a), and** appropriate and contemporaneous documentation that

(A) addresses each medical and functional condition that places the applicant into a recipient category listed in 7 AAC 130.205(d); and

(B) indicates the applicant's need for home and community-based waiver services.

(c) Following **notification of** a decision by the department that an applicant would not need services as specified in (a) of this section, the applicant may **submit** [REQUEST], and the department will pay for and review, another **application** [SCREENING] if a material change in the applicant's condition occurred after **submission of** a prior **application** [SCREENING]. In this subsection, "material change in the applicant's condition" means an alteration in the applicant's health, behavior, or functional capacity of sufficient significance that the department is likely to reach a different decision regarding the applicant's need for home and community-based waiver services.

(Eff. 7/1/2013, Register 206; am ___/___/___, Register ___)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.045
AS 47.07.030

Sec 213. Assessment and reassessment.

7 AAC 130.213(a) is amended to read:

7 AAC 130.213. Assessment and reassessment

(a) If **an application** [A SCREENING] under 7 AAC 130.211 and supportive diagnostic documentation reasonably indicate the need for services described in 7 AAC 130.211(a), the department will conduct an assessment of the applicant's physical, emotional, and cognitive functioning to determine the

...

7 AAC 130.213 is amended by adding a new subsection to read:

(h) For recipients eligible for the recipient category specified in 7 AAC 130.205 (d) (3), the department will

(1) determine whether the recipient meets the level-of-care requirements of 7 AAC 130.215 (3) following an assessment scheduled on the basis of the age of the recipient:

- (A) annually for recipients ages 3 to 7;
- (B) every three years for recipients ages 7 to 21; and
- (C) as necessary for recipients age 21 and older if, after two consecutive assessments, there is no reasonable expectation of a change in the severity of the condition of the recipient such that the level of care needed by the recipient would change; and

(2) conduct a file review, and confer with the care coordinator for the recipient, to confirm that the recipient continues to meet the level-of-care requirements for each year an assessment is not conducted.

7 AAC 130.213 is amended by adding a new subsection to read:

(i) The department may schedule and conduct assessments and reassessments by video teleconferencing for applicants and recipients that

(1) are located in a state borough or census area other than the Municipality of Anchorage or Fairbanks North Star Borough; and

(2) prior to scheduling, submit to the department

(A) an application in accordance with 7 AAC 130.207;

(B) consent for assessment by video teleconferencing, in a format provided by the department; and

(C) information about the residential setting of the applicant or recipient, in a format provided by the department.

7 AAC 130.213 is amended by adding a new subsection to read:

(j) The department will pay an administrative services fee to a provider that maintains an originating site for video teleconferencing in a location specified in (i) of this section, and coordinates and hosts an applicant or a recipient, that the department has approved for assessment by video teleconferencing; the provider, at the time of assessment, must have

(1) a provider agreement signed by a representative of the department, in a format provided by the department;

(2) written policies, implemented as required by the provider agreement;

(3) video-teleconferencing equipment that meets connectivity specifications; and

(4) a conference room that meets the room set-up and privacy requirements.

(Eff. 7/1/2013, Register 206; am 7/1/2015, Register 214; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.045

AS 47.07.030

7 AAC 130.217. Plan of care development and amendment.

7 AAC 130.217(a) is repealed and re-adopted to read:

(a) Not less than once every 12 months, the care coordinator shall submit a plan of care, based on the current needs of the recipient, the most recent assessment or reassessment conducted under 7 AAC 130.213, and the level-of-care determination made in accordance with 7 AAC 130.215. After an assessment or reassessment under 7 AAC 130.213, and after receiving the department's notice that the recipient meets the level-of-care requirement under 7 AAC 130.215, the care coordinator shall

(1) inform the recipient regarding

(A) the care coordinator's relationship as an employee of any provider certified under 7 AAC 130.220 and of any relationship described in 7 AAC 130.240 (f);

(B) the full range of home and community-based waiver services and the names of all providers that offer those services; and

(C) the recipient's right to free choice of providers, including the option to choose another care coordinator to develop the recipient's plan of care; the care coordinator shall support the recipient in the recipient's exercising the right to free choice of providers;

(2) consult, in person or by electronic mail, telephone, or videoconference, with each member of a planning team that meets the requirements of 7 AAC 130.218 (b);

(3) prepare in writing, in a format provided by the department, a plan of care developed in accordance with 7 AAC 130.218;

(4) secure the signature, either in person or electronically, of

(A) the recipient or recipient's representative indicating that the recipient or recipient's representative

(i) agrees to the plan of care;

(ii) is aware of any relationship between the care coordinator and any provider certified under 7 AAC 130.220 and of any relationship described in 7 AAC 130.240(f) ; and

(iii) has been informed of the recipient's right to free choice of providers;

(B) each provider representative indicating the provider agrees to render the services as specified in the plan of care; and

(C) each individual on the planning team to verify participation in the development of the recipient's plan of care; and

(5) submit the plan of care and supporting documentation to the department for approval; unless the care coordinator has submitted to the department written documentation of unusual circumstances that prevent timely completion of the plan of care, and the department has approved a later submission date, the care coordinator shall submit the plan of care not later than

(A) 60 days after the date of the department's notice to the recipient and the recipient's care coordinator that the recipient meets the level-of-care requirement in 7 AAC 130.215;

(B) 30 days before expiration of the current plan year.

(Eff. 7/1/2013, Register 206; am 7/1/2015, Register 214; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.045
AS 47.07.030

7 AAC 130 is amended by adding a new section to read:

7 AAC 130.218. Person-centered practice.

(a) Based on capacity and interest in participation, the recipient of home and community-based waiver services shall lead the planning process that results in a plan of care under 7 AAC 130.217.

(b) The providers selected by the recipient to render home and community-based waiver services must participate in a person-centered planning process that

(1) recognizes and supports the recipient as central to the process with the authority to specify goals and needs, to request meetings at times and locations convenient to the recipient, and to revise the plan of care when necessary;

(2) includes the recipient, the recipient's representative, and individuals chosen by the recipient to participate in the planning process, in addition to the providers other than providers of specialized medical equipment, transportation, or environmental modification services;

(3) responds to recipient requests in a timely manner;

(4) reflects cultural considerations;

(5) provides information the recipient needs to make informed choices regarding services and supports; the information must be in plain language, and presented in a manner accessible to a recipient with disabilities or limited English proficiency; and

(6) includes strategies for solving conflicts or disagreements that might arise during the process, including conflict-of-interest guidelines for all planning participants.

(c) The providers, selected in accordance with (b) of this section, must collaborate with the recipient and the individuals chosen by the recipient to participate in the planning process to develop a written, person-centered plan of care for the recipient that

(1) addresses the clinical and support needs identified through a functional assessment conducted in accordance with 7 AAC 130.213;

(2) reflects the recipient's strengths, and preferences for delivery of services and supports;

(3) identifies the elements important to the recipient to achieve the quality of life the recipient wishes, including the recipient's goals and desired outcomes;

(4) identifies

(A) the services and supports (paid and unpaid) that will assist the recipient to achieve those goals and outcomes;

(B) the providers of those services and supports, including natural supports;

(C) for each service

(i) the number of units, the frequency, and the projected duration of that service; and

(ii) an analysis of whether the service and amount of that service is consistent with the assessment of reassessment conducted under 7 AAC 130.213, the level-of-care-determination made in accordance with 7 AAC 130.215, and any treatment plans developed for the recipient;

(5) documents the options for services and supports that were offered to the recipient under (b)(5) of this section;

(6) reflects that the setting in which the recipient resides is chosen by the recipient;

(7) documents any modification of the requirements for provider-owned or –operated residential settings in accordance with 7 AAC 130.220 (p);

(8) reflects risk factors and measures in place to minimize risks, including an individualized back-up plan and strategies as needed;

(9) identifies the individuals responsible for monitoring the plan; and

(10) results in a document that

(A) uses plain language, and is written in a manner that is both accessible to a recipient with disabilities or limited English proficiency and makes the plan of care understandable by the recipient and the individuals important in supporting the recipient;

(B) is finalized and agreed to with the informed consent of the recipient and the recipient’s representative, and signed by the recipient, the recipient’s representative, and all individuals

and providers responsible for implementing the plan of care; any disagreement among planning team members about outcomes or service levels, or any suggestion by a team member that an outcome or service level should be different than the one established in the plan of care, must be documented and attached to the plan of care submitted to the department for consideration and approval; and

(C) is distributed to the recipient and to others involved in developing the plan of care.

(d) The providers, recipient, and individuals chosen by the recipient to participate in the planning process must ensure that

(1) unnecessary or inappropriate services and supports are not included in the plan of care developed in accordance with (c) of this section; and

(2) the settings in which home and community-based services are rendered are integrated in, and support full access to, the greater community.

(e) Providers of home and community-based waiver services shall develop and implement written policies and procedures to ensure services are provided in accordance with this section and with 7 AAC 130.220 (m) – (r).

7 AAC 130.219. Enrollment in home and community-based waiver services; disenrollment.

7 AAC 130.219(b)(1) is amended to read:

(b) The department will notify

(1) an applicant, determined eligible under 7 AAC 130.205, that the applicant may choose between home and community-based waiver services and institutional care in a nursing facility or ICF/IID; the applicant's choice of service must be documented **in a format provided** [ON A FORM APPROVED] by the department; and

...

7 AAC 130.219(c) is amended to read:

(c) The department will consider the recipient to be enrolled under this section after the recipient has

- (1) **submitted an application** [APPLIED] under 7 AAC 130.207;[:]
- (2) been **approved** [SCREENED] for assessment under 7 AAC 130.211;
- (3) been assessed under 7 AAC 130.213;
- (4) met the level-of-care requirement under 7 AAC 130.215; and
- (5) received an approved plan of care under 7 AAC 130.217.

(Eff. 7/1/2013, Register 206; am 7/1/2015, Register 214; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.045
AS 47.07.030

7 AAC 130.220. Provider certification.

7 AAC 130.220(b) is amended to read:

(b) To receive payment for home and community-based waiver services, a provider must enroll in the Medicaid program under 7 AAC 105.210 and must be certified under this section. To be certified by the department, a provider [(1)] must submit, **in a format provided by the department, a complete application, and**

(1) to provide services at an in-state location, [AN APPLICATION, AND]

(A) meet the applicable certification criteria, including the provider qualifications and program standards, set out in the department's *Provider Conditions of Participation*, adopted by reference in 7 AAC 160.900; and

(B) [(2)] for each service the provider plans to offer to recipients of home and community-based waiver services, must comply with the provisions of this chapter applicable to each

service and with the **conditions of participation** [CONDITIONS-OF-PARTICIPATION DOCUMENT] adopted by reference in 7 AAC 160.900 and applicable to that service; [.]

(2) to provide services at an out-of-state location,

(A) meet all applicable Medicaid home and community-based services certification and licensing requirements of the jurisdiction in which the provider is located;

(B) meet all applicable Medicaid home and community-based services provider qualification and program standards of that jurisdiction;

(C) provide to a recipient only the services that the provider is certified to offer at that out-of-state location; at the request of the department, for each service that the provider will render to a recipient, verify the provider’s qualifications and capacity to provide the specified services to that recipient; and

(D) submit critical incident reports to the department in accordance with 7 AAC 130.224.

7 AAC 130.220(j)(2) is amended to read:

(j) The department will grant an exception to a provider agency under (a) of this section if

...

(2) the provider agency requests an exception **in a format** [ON A FORM] provided by the department.

7 AAC 130.220 is amended by adding a new subsection to read:

(m) A provider certified to offer the following home and community-based waiver services shall render those services in settings that are integrated in, and support full access by the recipient to, the greater community to the same degree of access as an individual that does not receive home and community-based waiver services:

- (1) adult day services under 7 AAC 130.250;
- (2) day habilitation services under 7 AAC 130.260
- (3) residential habilitation services under 7 AAC 130.260 (b) and (g);
- (4) supported employment services under 7 AAC 130.270;
- (5) transportation services under 7 AAC 130.290 provided as agency-based services;
- (6) meal services under 7 AAC 130.295 provided in a congregate setting;
- (7) residential supported-living services under 7 AAC 130.255.

7 AAC 130.220 is amended by adding a new subsection to read:

(n) A provider shall render each service, listed in (m) of this section, in a setting that

(1) was selected by the recipient from among settings options that include non-disability specific settings;

(2) ensures the rights of the recipient to privacy, dignity, and respect, and to freedom from coercion and restraint;

(3) optimizes the recipient's initiative, autonomy, and independence in making life choices, including those for daily activities, physical environment, and interactions with others;

(4) implements the recipient's choices regarding services and supports, and the individuals that will provide them;

(5) assists the recipient that chooses to

(A) seek employment and work in competitive, integrated settings;

(B) receive services in the community;

(6) encourages and facilitates the recipient's engagement in community life; and

(7) provides the opportunity for the recipient to control the recipient's personal resources.

7 AAC 130.220 is amended by adding a new subsection to read:

(o) In addition to ensuring a setting meets the requirements specified in (n) of this section, a provider that owns or controls a residential setting

(1) shall provide for the recipient:

(A) a legally-enforceable, written agreement that complies with the requirements AS 34.03.010 – 34.03.380;

(B) the option of a private unit, if available in the setting and appropriate for the recipient's needs, preferences, and resources for payment of room and board;

(C) a setting that is physically accessible for the recipient; and

(2) except as provided under (p) of this section, shall provide for the recipient:

(A) privacy in the recipient's living or sleeping unit;

(B) the freedom and support needed for a recipient to control the recipient's schedule and activities;

(C) access to food at all times;

(D) visitors of the recipient's choosing at any time.

7 AAC 130.220 is amended by adding a new subsection to read:

(p) A provider that owns or controls a residential setting may modify the setting requirements in (o)(2) of this section for a specific, assessed need of a recipient only after positive interventions, and supports and less intrusive methods of meeting the need, prove unworkable; the modification must be justified in the plan of care developed in accordance with 7 AAC 130.217, and supported by a written record that includes

(1) identification of an assessed need specific to the recipient;

(2) documentation of

(A) positive interventions and supports used to address that need prior to any modification;

(B) less intrusive methods of meeting that need that were tried, but did not work;

(3) a description of the modification that is directly proportional to the specific assessed need;

(4) an explanation of the method for collecting and reviewing data to measure the ongoing effectiveness of the modification;

(5) time limits for periodic reviews to determine if the modification continues to be necessary or should be terminated;

(6) documentation of the informed consent of the recipient for the modification; and

(7) assurances that the modification will not cause harm to the recipient.

7 AAC 130.220 is amended by adding a new subsection to read:

(q) Unless otherwise approved by the department, a provider may not render home and community-based waiver services in a setting that is

(1) in a building that is a publicly- or privately-operated facility that provides inpatient institutional treatment;

(2) in a building on the grounds of, or immediately adjacent to, a public institution;

(3) in a location that isolates recipients from the broader community.

7 AAC 130.220 is amended by adding a new subsection to read:

(r) A provider of services listed in (m) of this section shall

(1) implement written policies and procedures that address

(A) the requirements of (n) of this section; and

(B) in addition, if the provider owns or controls a residential setting, the requirements of (o) and (p) of this section;

(2) train administrative staff and direct care workers to provide services as directed by those policies and procedures; and

(3) monitor and evaluate services to ensure compliance with settings requirements specified in this section.

(Eff. 2/1/2010, Register 193; am 7/1/2013, Register 206; am 7/1/2015, Register 214; am 7/1/2016, Register 218; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 130.224. Critical incident reporting.

(a) A provider shall report to the department, **in a format** [ON A FORM] provided by the department, a critical incident involving a recipient not later than one business day after observing or learning of the critical incident.

(b) A provider shall develop and implement a system to manage and report critical incidents that includes

(1) methods for identifying a critical incident;

(2) a protocol for emergency response to a critical incident;

(3) procedures for investigating and analyzing a critical incident to determine its cause;

(4) a plan to ensure that each member of the provider's staff is trained in critical incident management and reporting; and

(5) a process that ensures timely reporting of a critical incident to the department **and the recipient's representative, and to other service providers when necessary to protect recipient health, safety, and welfare.**

(Eff. 7/1/2013, Register 206; am 7/1/2015, Register 214; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 130.229. Use of restrictive intervention.

7 AAC 130.229(a) is amended to read:

(a) A home and community-based waiver services provider may use restrictive intervention only

when justified, and as described in the plan of care developed in accordance with 7 AAC 130.217,

(1) as a response when a recipient presents an imminent danger to the recipient's safety or to the safety of others;

(2) when other types of interventions have been tried, and documented as ineffective for safe management of the recipient's behavior that requires intervention; and

(3) if the type of intervention is safe, proportionate to the recipient's behavior, and appropriate to the recipient's chronological and developmental age, size, gender, and physical, medical, and psychological condition.

(Eff. 7/1/2013, Register 206; am 7/1/2015, Register 214; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 130.240. Care coordination services.

7 AAC 130.240(f) is amended to read:

(f) A care coordinator must disclose, to the department **in a format** [ON A FORM] provided by the department, any close familial relationship or close business relationship with a home and community-based waiver services provider.

7 AAC 130.240(g) is amended to read:

(g) The department will not pay for care coordination services provided by the recipient, a member of the recipient's immediate family, the recipient's representative, **an individual with a duty to support the recipient under state law**, a holder of power of attorney for the recipient, or the recipient's personal care assistant.

(Eff. 2/1/2010, Register 193; am 7/1/2013, Register 206; am 7/1/2015, Register 214; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 130.245(c)(1) is amended to read:

7 AAC 130.245. Chore services.

(c) The department will either deny or limit the time authorized for chore services if

(1) an individual that lives in the recipient's home is responsible for performing the chores described in (b) of this section, and the individual is **a** [AN ADULT] member of the recipient's immediate family, **an individual with a duty to support the recipient under state law**, or a caregiver for the recipient;

(Eff. 2/1/2010, Register 193; am 7/1/2013, Register 206; am 7/1/2015, Register 214; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 130.260. Day habilitation services.

7 AAC 130.260(d) is amended to read:

(d) Notwithstanding (b)(1) of this section, the department will waive the requirement for provision of day habilitation services in a non-residential setting if the provider documents to the department's satisfaction, **in a format** [ON A FORM] provided by the department,

(1) the unavailability of a suitable non-residential setting in the community or location in which the services are to be provided, except that services under this section may not be provided in the private residence of a recipient; and

(2) the setting where day habilitation services are to be provided will

(A) offer opportunities for activities appropriate for the recipient population to be served; and

(B) be delivered in a manner that protects recipient health, safety, and welfare.

(Eff. 2/1/2010, Register 193; am 7/1/2013, Register 206; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 130.265. Residential habilitation services.

7 AAC 130.265(b)(2)(B) is amended to read:

(b) The department will consider residential habilitation services to be family home habilitation services if

...

(2) the recipient's primary caregiver

(A) lives with the recipient in the same residence;

(B) is not a member of the recipient's immediate family, **or an individual with a**

duty to support the recipient under state law; and

7 AAC 130.265(e) is amended to read:

(e) The department will pay for supported-living habilitation services under (d) of this section subject to the following limitations:

(1) the department will not pay for more than 18 hours per day of supported-living habilitation services from all providers combined, unless the department determines that the recipient is unable to benefit from

(A) other home and community-based waiver services; or

(B) services provided by **natural** [FAMILY MEMBERS OR COMMUNITY]

supports;

(2) the department will approve other direct care services for a recipient under (d) of this section, if the recipient's care coordinator confirms in writing and the department is satisfied that those services do not supplant or duplicate services provided by **natural** [FAMILY MEMBERS OR COMMUNITY] supports; for purposes of this paragraph, "direct care services" includes

(A) personal care services under 7 AAC 125.010 - 7 AAC 125.199;

(B) chore services under 7 AAC 130.245;

(C) transportation services under 7 AAC 130.290; and

(D) meal services under 7 AAC 130.295;

7 AAC 130.265(i)(1) is amended to read:

(i) The department will pay for in-home support habilitation services under (h) of this section, subject to the following limitations:

(1) the department will not pay for more than 18 hours per day of in-home support habilitation services from all providers combined unless the department determines that the recipient is unable to benefit from

(A) other home and community-based waiver services; or

(B) services provided by **natural** [FAMILY MEMBERS OR COMMUNITY]

supports;

(Eff. 2/1/2010, Register 193; am 7/1/2013, Register 206; am 7/1/2015, Register 214; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 130.275. Intensive active treatment services.

7 AAC 130.275(a)(1) is amended to read:

(a) The department will pay for intensive active treatment services

(1) that are provided to a recipient in one of the following recipient categories:

(A) [(B)] adults with physical and developmental disabilities;

(B) [(C)] individuals with intellectual and developmental disabilities, **age 21 and**

older;

[(A) CHILDREN WITH COMPLEX MEDICAL CONDITIONS;]

(Eff. 2/1/2010, Register 193; am 3/1/2011, Register 197; am 7/1/2013, Register 206; am 7/1/2015, Register 214; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 130.319. Definitions.

7 AAC 130.319(8) is amended to read:

(8) "immediate family" **means the spouse of the recipient, and the parent of a minor child**

that is the recipient; [INCLUDES THE PARENTS OR MINOR SIBLINGS OF A RECIPIENT UNDER 18 YEARS OF AGE, AND THE SPOUSE OF A RECIPIENT;]

(Eff. 2/1/2010, Register 193; am 11/3/2012, Register 204; am 7/1/2013, Register 206; am 7/1/2015, Register 214; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 160.900. Requirements adopted by reference.

7 AAC 160.900(d)(32) is amended to read:

(32) the *Adult Day Services Conditions of Participation*, dated **December 9, 2016;** [MAY 2, 2013;]

7 AAC 160.900(d)(34) is amended to read:

(34) the *Care Coordination Services Conditions of Participation*, dated **December 9, 2016;** [MARCH 4, 2015;]

7 AAC 160.900(d)(35) is amended to read:

(35) the *Chore Services Conditions of Participation*, dated **December 9, 2016;** [MAY 2, 2013;]

7 AAC 160.900(d)(36) is amended to read:

(36) the *Day Habilitation Services Conditions of Participation*, dated **December 9, 2016;** [MAY 2, 2013;]

7 AAC 160.900(d)(42) is amended to read:

(42) the *Meal Services Conditions of Participation*, dated **December 9, 2016;** [MAY 2, 2013;]

7 AAC 160.900(d)(44) is amended to read:

(44) the *Provider Conditions of Participation*, dated **December 9, 2016;** [MARCH 21, 2014;]

7 AAC 160.900(d)(45) is amended to read:

(45) the *Residential Habilitation Services Conditions of Participation*, dated **December 9, 2016;** [MAY 2, 2013;]

7 AAC 160.900(d)(46) is amended to read:

(46) the *Residential Supported-Living Services Conditions of Participation*, dated **December 9, 2016;** [MARCH 21, 2014;]

7 AAC 160.900(d)(48) is amended to read:

(48) the *Respite Care Services Conditions of Participation*, dated **December 9, 2016;** [MAY 2, 2013;]

7 AAC 160.900(d)(49) is amended to read:

(49) the *Supported Employment Services Conditions of Participation*, dated **December 9, 2016;** [MARCH 21, 2014;]

7 AAC 160.900(d)(50) is amended to read:

(50) the *Transportation Services Conditions of Participation*, dated **December 9, 2016;** [MARCH 4, 2015;]

7 AAC 160.900(d)(53) is amended to read:

(53) the *Environmental Modification Services Conditions of Participation*, dated **December 9, 2016.** [APRIL 4, 2014]

(Eff. 2/1/2010, Register 193; am 8/25/2010, Register 195; am 12/1/2010, Register 196; am 1/1/2011, Register 196; am 1/15/2011, Register 197; am 2/9/2011, Register 197; am 3/1/2011, Register 197; am 10/1/2011, Register 199; am 12/1/2011, Register 200; am 1/26/2012, Register 201; am 3/8/2012, Register 201; am 4/1/2012, Register 201; add'l am 4/1/2012, Register 201; am 5/11/2012, Register 202; am 10/16/2012, Register 204; am 11/3/2012, Register 204; am 12/1/2012, Register 204; am 12/2/2012, Register 204; am 1/1/2013, Register 204; am 1/16/2013, Register 205; am 7/1/2013, Register 206; add'l am 7/1/2013, Register 206; am 11/3/2013, Register 208; am 1/1/2014, Register 208; am 2/2/2014, Register 209; am 3/19/2014, Register 209; am 3/22/2014, Register 209; am 5/18/2014, Register 210; am 2/26/2015, Register 213; am 3/15/2015, Register 213; am 7/1/2015, Register 214; am 5/1/2016, Register 218; am 6/16/2016, Register 218; am ___/___/___, Register ___)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040
AS 47.05.012