

7 AAC 47 General Relief

7 AAC 47.300. Applicability

(a) The department has determined that a need exists among the state's adult population for the availability of nonmedical residential care. The purpose of the program described in 7 AAC 47.300 - 7 AAC 47.525 is to provide financial assistance to eligible adults, including vulnerable adults, who require the protective oversight of an assisted living home. The program objective is to enable those adults to

(1) obtain the level of care that an individual could receive in the individual's own home from interested friends or relatives; and

(2) live in the least restrictive setting possible.

Authority: AS 47.05.010, AS 47.24.011, AS 47.24.017, AS 47.25.120, AS 47.33.920

7 AAC 47.310. Assisted living care

Assisted living care is a range of care described in AS 47.33 and 7 AAC 75 that includes more than housing and food service, but does not include continuous nursing or medical care. Assisted living care encompasses 24-hour supportive and protective services in the activities of daily living and in the instrumental activities of daily living for an individual who is 18 years of age or older, as those services are described in that individual's residential services contract executed under AS 47.33.210 and assisted living plan prepared under AS 47.33.220 and 47.33.230. Assisted living care is provided in a residential environment and encourages independent living to the greatest extent possible for each resident.

Authority: AS 47.05.010, AS 47.24.011, AS 47.24.017, AS 47.25.120, AS 47.33.210,

AS 47.33.220, AS 47.33.230, AS 47.33.920

7 AAC 47.320. Assisted living home

In this chapter, an assisted living home is a home licensed by the department under AS 47.33 and 7 AAC 75, and with which the department has entered into an assisted living home agreement for services under 7 AAC 47.440.

Authority: AS 47.05.010, AS 47.25.170 (Discusses eligibility for DPA General Relief and can't be used when placed in an ALH), AS 47.33.920

7 AAC 47.330. Eligible individuals

Assistance under 7 AAC 47.300 - 7 AAC 47.525 is available for an individual

- (1) who is a resident of the state;
- (2) who is 18 years of age or older;
- (3) who has been assessed for eligibility by a case manager or other person approved by the department;
- (4) who has
 - (A) a disability that is attributable to a severe and persistent mental illness, or to an intellectual disability or developmental disability or another condition closely related to an intellectual disability or developmental disability, that
 - (i) significantly impairs intellectual functioning and adaptive behavior; and
 - (ii) includes a significant deficit in the daily living skills that are necessary to function without supervision or support;
 - (B) a hearing, speech, visual, orthopedic, or other major health impairment such as cerebral palsy, epilepsy, or autism, that significantly impedes participation in the social, economic, educational, recreational, and other activities generally available to the individual's nonimpaired peers in the community; or
 - (C) a significant deficit in adaptive behavior in the area of self-care, communication of needs, mobility, or independent living that may be the result of the aging process, a major health impairment, an emotional health disturbance, or alcohol or drug dependence;
- (5) who, without assisted living care is subject to, or at risk of abuse, neglect, or exploitation by others;
- (6) whose income, if any, does not exceed the amount permitted by 7 AAC 47.340;
- (7) whose resources, if any, do not exceed the amount permitted by 7 AAC 47.350; and
- (8) who has applied for financial assistance from other agencies, organizations, or programs as required by 7 AAC 47.370, and has exhausted the use of alternative financial assistance, if any, as required by 7 AAC 47.380(a) .

Authority: AS 47.05.010, AS 47.24.011, AS 47.24.017, AS 47.25.120, AS 47.25.130, AS 47.33.920

7 AAC 47.340. Income

- (a) Subject to allowable exclusions, to be eligible for assistance under 7 AAC 47.300 - 7 AAC 47.525, the total monthly countable income, if any, of an individual described in 7 AAC 47.330 may not exceed the minimum daily rate set under 7 AAC 47.470.
- (b) Unless otherwise specified in 7 AAC 47.340 - 7 AAC 47.367, income not received in cash is valued at the current fair market value of that which is received.
- (c) Income is determined on a monthly basis except that earnings from self-employment are computed on a yearly basis and then divided by 12 to determine monthly income. Unless otherwise specified, any property, money, or service described in the definition of "income" set out in 7 AAC 47.367 is considered income in the month of receipt but is considered a resource in any calendar month after the month of receipt.
- (d) For the purpose of determining eligibility of an individual who does not receive monthly SSI payments, income is that received or expected to be received in the month for which assistance is to be provided.
- (e) For an individual who also receives monthly SSI payments, income is equal to the applicable SSI payment standard for the month for which assistance is provided, less the value of any support and maintenance furnished the applicant in kind in the relevant month.

Authority: AS 47.05.010, AS 47.25.120, AS 47.25.130

7 AAC 47.345. Income exclusions

- (a) Certain types of income, excluded under the APA program in 7 AAC 40, are also excluded under this chapter in determining the total monthly income of an individual described in 7 AAC 47.330, together with spousal income, if any, under 7 AAC 47.360, including
 - (1) cash or other property received from the sale, exchange, or other disposition of a resource;
 - (2) the premium payment for supplementary medical insurance under Title XVIII of the Social Security Act (42 U.S.C. 1395s), if paid by a third party;
 - (3) the value of any third-party payment for medical care or medical services, including payment for room and board furnished during medical confinement;
 - (4) the value of any support and maintenance furnished in kind;
 - (5) the value of any social services furnished by a governmental or private agency;
 - (6) income tax refunds;

(7) the amount of any ordinary and necessary expense incurred in getting or receiving unearned income, except for income tax;

(8) the amount of any ordinary and necessary expense of operating and maintaining property that is producing rent, except for depreciation and acquisition costs other than interest;

(9) \$1,500 of the proceeds of any life insurance policy or the amount spent by the beneficiary of the policy on the insured's last illness and burial, whichever is less;

(10) any income that would be excluded under 7 AAC 47.355 if the income were considered to be a resource;

(11) any taxes on real property or food refunded by a public agency;

(12) any portion of a grant, scholarship, or fellowship that is not made or insured by the United States Department of Education but is used to pay for tuition, fees, books, or supplies at an educational institution;

(13) the value of any agricultural products or foodstuffs obtained through subsistence activities, if not obtained through a trade or business, and consumed by the individual or that person's immediate family;

(14) any earned income that does not exceed \$10 a month and either is received less frequently than twice a quarter or cannot be reasonably anticipated;

(15) any unearned income that does not exceed \$20 a month and either is received less frequently than twice a quarter or cannot be reasonably anticipated;

(16) payments made under AS 47.45 (Alaska Longevity Bonus);

(17) payments for the foster care of a child who is ineligible for SSI or assistance under 7 AAC 40 (Adult Public Assistance);

(18) one-third of any income received by a child from an absent parent; in this paragraph, "child" includes a person who is not married, not the head of a household, and either under 18 or under 22 and attending a school, college, university, or course of vocational or technical training to prepare for gainful employment;

(19) \$1,200 a calendar quarter, not to exceed \$1,620 a year, of the earned income of a person under 22 with a disability, including blindness, who regularly attends school, as provided in 20 C.F.R. 416.1112;

(20) \$65 a month of any earned income plus one-half of the remainder;

(21) the amount of any expenses for aid to the blind that are reasonably attributable to the earning of income;

(22) income needed to fulfill a plan for achieving self-support that has been approved by the Social Security Administration or by the division of vocational rehabilitation;

(23) the first \$20 a month of income, earned or unearned, other than unearned income based on need;

(24) a permanent fund dividend issued under AS 43.23;

(25) veterans' benefits paid under 38 U.S.C. 1110 or 38 U.S.C. 1131;

(26) compensation to volunteers under the federal retired and senior volunteers, foster grandparents, and senior companion programs (42 U.S.C. 5001, 42 U.S.C. 5011, and 42 U.S.C. 5013, respectively), in accordance with 42 U.S.C. 5044(f);

(27) federal World War II restitution payments made under 50 U.S.C. App. 1989b-4 and 1989c-5;

(28) payments under AS 18.67 (crime victim compensation);

(29) Agent Orange Settlement Fund payments made under P.L. 101-201 and sec. 10405 of P.L. 101-239;

(30) burial spaces owned by the individual and intended for use by the individual or the individual's spouse or dependent; and

(31) the income of the individual's spouse, if any, that is protected under 7 AAC 47.360 and, if the spouse's income is less than \$2,000 a month, so much of the individual's income as will bring the spouse's income up to \$2,000 a month.

(b) The exclusions in (a) of this section apply first to unearned income and then to earned income in the order in which they are listed. Unless otherwise specified, income excluded in this section is not included as a resource.

Authority: AS 47.05.010, AS 47.25.120, AS 47.25.130

7 AAC 47.350. Resources

(a) Subject to allowable exclusions, to be eligible for assistance under 7 AAC 47.300 - 7 AAC 47.525, the total resources, if any, of an individual described in 7 AAC 47.330 may not exceed

(1) \$2,000 for the individual; or

(2) \$3,000 for an individual living with a spouse, regardless of whether or not the spouse is eligible for assistance under 7 AAC 47.300 - 7 AAC 47.525.

(b) If an individual has nonexcludable resources that do not exceed the applicable resource limit at any time on the first day of a calendar month, the applicant is considered to meet the resource requirement for that month.

(c) To determine an individual's total resources, the department will apply the provisions of

(1) 7 AAC 47.355, dealing with excluded resources; and

(2) 7 AAC 47.357, dealing with the disposal of excess resources.

(d) Any cash or other property received from the sale, exchange, or other disposition of a resource retains the character of a resource.

Authority: AS 47.05.010, AS 47.25.120, AS 47.25.130

7 AAC 47.355. Resource exclusions

(a) Certain types of resources, excluded under the APA program in 7 AAC 40, are also excluded under this chapter in determining the resources of an individual described in 7 AAC 47.330, together with the resources of a spouse, if any, under 7 AAC 47.360, including

(1) the individual's home if used as the principal place of residence, all land contiguous to it, and all outbuildings necessary for operation of the home;

(2) household goods and personal effects having an equity value of \$2,000 or less, one wedding ring, one engagement ring, and any household goods or personal effects the retention of which is necessitated by the individual's physical condition, such as a prosthetic device or hospital bed;

(3) one motor vehicle regardless of value if the motor vehicle is used by the individual or a member of the individual's family for employment or for obtaining medical treatment, on a regular basis, or if the motor vehicle has been modified for use by a person with a disability; any other motor vehicle is excluded to the extent that its retail market value does not exceed \$4,500;

(4) property necessary for the individual's self-support, including real or personal property used in a trade or business, if the property is producing income consistent with its value;

(5) property of person with a disability, including blindness, that is needed to fulfill a plan for achieving self-support that has been approved by the Social Security Administration or by the division of vocational rehabilitation;

(6) stock held by an Alaska Native in a regional or village corporation under the Alaska Native Claims Settlement Act (43 U.S.C. 1606 and 1607);

(7) term insurance and burial insurance without regard to value and life insurance if the face value of life insurance policies on an individual does not exceed \$1,500; if the face value of life insurance exceeds \$1,500, its cash surrender value is a resource;

(8) cash received from an insurance policy to replace or repair an excluded resource if used for repair or replacement within three months of receipt in the case of personal property and within six months in the case of real property;

(9) allotted land held by an individual who is a member of, or eligible for membership in, a federally recognized Indian tribe if the land cannot be alienated without the permission of the tribe or the federal government;

(10) payments made under Title II of the Uniform Relocation Assistance and Real Property Acquisition Act of 1970 (42 U.S.C. 4636);

(11) payments to members of the Blackfeet and Gros Ventre tribes under Public Law 92-254 (25 U.S.C. 1264) and Indian per-capita payments made under Public Law 93-134 (25 U.S.C. 1407) to the extent excluded by 20 C.F.R. 416.1236;

(12) the value of the food stamp allotment provided under 7 U.S.C. 2011 - 7 U.S.C. 2036 (Food Stamp Program); the value of assistance provided under 42 U.S.C. 1751 - 42 U.S.C. 1769h (School Lunch Programs); the value of assistance provided under 42 U.S.C. 1771 - 42 U.S.C. 1791 (Child Nutrition); and the value of federally donated foods distributed under 7 C.F.R. Part 250, 7 C.F.R. Part 251, sec. 32 of Public Law 74-320, or 7 U.S.C. 1431 (sec. 416 of the Agriculture Act of 1949);

(13) any grant or loan to an under-graduate student for educational purposes made or insured by the United States Department of Education under Public Law 90-575 (20 U.S.C. 1070 - 1089);

(14) payments to volunteers under 42 U.S.C. 4950 - 42 U.S.C. 5085 (Domestic Volunteer Services);

(15) in accordance with 43 U.S.C. 1626(c), distributions received by an individual Alaska Native or descendant of an Alaska Native from a Native corporation formed under the Alaska Native Claims Settlement Act as follows:

(A) cash, including cash dividends on stock received from a Native corporation, is disregarded to the extent that it does not, in the aggregate, exceed \$2,000 per individual each year; the \$2,000 limit is applied separately each year, and cash distributions up to \$2,000 that an individual received in a prior year and retains in subsequent years will not be counted as a resource in those years;

(B) stock, including stock issued or distributed by a Native corporation as a dividend or distribution on stock;

(C) a partnership interest;

(D) land or an interest in land, including land or an interest in land received from a Native corporation as a dividend or distribution on stock;

(E) an interest in a settlement trust;

(16) the value of any assistance paid with respect to a dwelling unit under the United States Housing Act of 1937, the National Housing Act, sec. 101 of the Housing and Urban Development Act of 1965, or Title V of the Housing Act of 1949 as provided in 42 U.S.C. 1382a(b)(14) and 42 U.S.C. 1382b(a)(8); and

(17) the value of a limited entry fishing permit if the holder of the permit uses the permit to produce income; if the permit used to produce income or is for sale, the fair market value less any amount owed by the holder is included as a resource.

(b) For a resource listed in (a) of this section to be excluded, the resource must be distinguishable from other resources.

Authority: AS 47.05.010, AS 47.25.120, AS 47.25.130

7 AAC 47.357. Disposal of excess resources

(a) If the nonexcludable resources of an otherwise eligible applicant exceed the resource limits of 7 AAC 47.350, assistance will be provided if the applicant enters into an agreement with the

(1) Social Security Administration under 20 C.F.R. 416.1240 - 20 C.F.R. 416.1244 to dispose of the excess resources and to repay SSI benefits; and

(2) department to repay assistance provided during the duration of the SSI agreement, in the amount of the proceeds of the disposal less the amount repaid to SSI or the assistance provided, whichever is smaller.

(b) If the nonexcludable resources of an otherwise eligible applicant whose income exceeds SSI standards exceed the resource limits of 7 AAC 47.350 and the applicant has, in cash or negotiable instruments, no more in nonexcludable resources than three times the monthly SSI payment standard for an eligible individual, or eligible couple if living with a spouse, assistance will be provided if the applicant enters into an agreement

(1) with the department to dispose of the excess resources at their current market value within nine months for real property or within three months for personal property; the department may extend the three-month period to dispose of personal property by an additional three months if circumstances beyond the applicant's control prohibit disposal; and

(2) to repay the assistance provided during the time the agreement is in effect or the proceeds of the disposal, whichever is less.

Authority: AS 47.05.010, AS 47.25.120, AS 47.25.130, AS 47.25.230, AS 47.25.240, AS 47.33.920

7 AAC 47.360. Spousal income and resources

(a) Subject to allowable exclusions, the income and resources of a spouse who is living with an individual seeking assistance under 7 AAC 47.300 - 7 AAC 47.525 are considered available to the individual for purposes of computing the amount of the individual's income under 7 AAC 47.365. The department will apply the standards to prevent spousal impoverishment established under the Medicaid requirements of 42 U.S.C. 1396r-5 (Title XIX of the Social Security Act, as amended) or a regulation adopted under that statute.

(b) If the individual lives with a spouse and the income of that spouse is considered available to the individual under (a) of this section, certain types of income of the spouse, excluded under the APA program in 7 AAC 40, are also excluded under this chapter in determining the total monthly income, including

(1) the amount of any financial assistance furnished by a state, political subdivision of a state, or the United States on the basis of need, and the amount of any income taken into account in determining eligibility for and amount of that assistance;

(2) a grant, scholarship, or fellowship to the extent used to pay tuition or fees to an educational institution;

(3) payments received for the foster care of a child who is ineligible for SSI or assistance under 7 AAC 40;

(4) the value of food stamps, United States Department of Agriculture donated foods, and home produce and subsistence foodstuffs obtained for personal consumption;

(5) income tax refunds and any taxes on real property or food refunded by a public agency;

(6) any income used to comply with a court order of child support and support payments made under Title IV-D of the Social Security Act (42 U.S.C. 654);

(7) the value of any support and maintenance furnished to a spouse, parent, spouse of a parent, or children who reside with the individual seeking assistance and are ineligible for SSI or assistance under 7 AAC 40;

(8) payments made under AS 47.45 (Alaska Longevity Bonus);

(9) income needed to fulfill a plan for achieving self-support that has been approved by the Social Security Administration or by the division of vocational rehabilitation;

(10) income that is not listed in this subsection, but is excluded under 7 AAC 47.345(a) (1) - (30).

(c) Unless otherwise specified, income that is excluded in this section is not included as a resource.

Authority: AS 47.05.010, AS 47.25.120, AS 47.25.230, AS 47.25.240, AS 47.33.920

7 AAC 47.365. Income computation

The following computations are made to determine total monthly income:

- (1) the monthly income available to the individual seeking financial assistance is identified by source, type, and amount;
- (2) from the amounts identified under (1) of this section are subtracted any amounts excluded under 7 AAC 47.345 or 7 AAC 47.360;
- (3) the resulting amounts derived under (2) of this section are added and rounded to the nearest dollar; this amount, which cannot be less than zero, is the total monthly income.

Authority: AS 47.05.010, AS 47.25.120, AS 47.25.130

7 AAC 47.367. Definitions for terms used in 7 AAC 47.340 - 7 AAC 47.365

For purposes of 7 AAC 47.340 - 7 AAC 47.365, unless the context otherwise requires,

- (1) "earned income" means wages or other compensation paid by an employer in exchange for service rendered; in the case of a self-employed person, "earned income" means gross earnings less the cost of doing business;
- (2) "income" means property, money, or service received by the individual, together with a spouse, if any, under 7 AAC 47.360, that can be used, directly or indirectly, to meet the individual's need for food, clothing, and shelter;
- (3) "living with" means residing as a family unit in a single residence, except that
 - (A) spouses, both of whom are otherwise eligible for assistance, who have separated without either having taken another spouse are reputably presumed to be living together unless they have been separated for six months;
 - (B) spouses, only one of whom is otherwise eligible for assistance, who have separated are rebuttably presumed to no longer live together on the first day of the calendar month following the month of separation; and
 - (C) spouses who have separated because one spouse enters long-term medical or nursing care are considered to no longer live together on the first day of the calendar month following the month of separation;
- (4) "proceeds" means the sale price of the resource less any amount owed on the resource and any cost of its disposal;

(5) "resources" means any real or personal property that an individual, together with a spouse, if any, under 7 AAC 47.360, owns and can convert to cash to be used for the individual's support and maintenance;

(6) "spouse" means a person who is legally married;

(7) "unearned income" means income that is not earned, including income from an annuity, pension or retirement payments, disability benefits, veteran's compensation and pensions, workers compensation payments, social security payments, black lung benefits, assistance payments such as Supplemental Security Income (SSI), Alaska Temporary Assistance Program, Bureau of Indian Affairs general assistance, railroad retirement, unemployment compensation, insurance payments, support and alimony, gifts and prizes, inheritances, rents, dividends, royalties, interest, and any income considered available to the individual under 7 AAC 47.360.

Authority: AS 47.05.010, AS 47.25.120, AS 47.33.920

7 AAC 47.370. Concurrent applications; reimbursement to department by resident or by assisted living home

(a) An individual who applies for assistance under 7 AAC 47.300 - 7 AAC 47.525 must also submit an application to each agency, organization, or program that provides financial assistance for which the individual may be eligible, including Social Security, SSI, Medicaid, Adult Public Assistance (APA), the home and community-based waiver services program under 7 AAC 43.1000 - 7 AAC 43.1110, and the programs listed in 7 AAC 47.380(a) and (b). Each application must be submitted within 30 days after filing an application for assistance under 7 AAC 47.300 - 7 AAC 47.525. The department, or a responsible person acting on the individual's behalf, may assist the individual in submitting each application. The individual's failure to apply for each program will result in denial of assistance under 7 AAC 47.300 - 7 AAC 47.525, unless the department determines that the individual is ineligible for a specified program.

(b) The department may also require an individual to apply for other benefits for which the department believes the individual is eligible. These benefits include veteran's and disability insurance benefits, worker's compensation, unemployment compensation, retirement system benefits, awards, and annuities. The individual's failure to apply for the benefits, after being given 30 days' written notice of the request, may result in denial of assistance under 7 AAC 47.300 - 7 AAC 47.525. The department will provide to the assisted living home a copy of the written notice if the individual is a resident when notice is given. An assisted living home that receives a notice under this subsection may choose to immediately issue a notice under 7 AAC 47.490, advising that the individual may be subject to involuntary discharge from the home if the individual fails to apply for benefits as requested by the department under this subsection.

(c) A resident of an assisted living home, placed in the home under 7 AAC 47.400, who is later determined eligible for other assistance applied for as required by (a) and (b) of this section, or whose total monthly countable income exceeds the minimum daily reimbursement rate set under 7 AAC 47.470, shall

(1) inform the department of any payments or benefits for which the resident has been determined eligible; and

(2) forward to the department

(A) any retroactive payments received, up to the amount the department has provided for that resident under 7 AAC 47.300 - 7 AAC 47.525, if the additional assistance received is intended to cover any portion of the same care that the assistance under 7 AAC 47.300 - 7 AAC 47.525 covered for that resident; and

(B) an amount that reimburses the department for assistance paid under this chapter for any period that the resident's total monthly countable income exceeded the minimum daily reimbursement rate set under 7 AAC 47.470.

(d) If an assisted living home receives a payment, including a retroactive payment, from another agency, organization, or program, or from a family member, relative, or other person, for providing care to a resident receiving assistance under 7 AAC 47.300 - 7 AAC 47.525, the administrator shall reimburse the department, up to the amount the department has provided for that resident under 7 AAC 47.300 - 7 AAC 47.525, if the additional assistance received is intended to cover any portion of the same care that the assistance under 7 AAC 47.300 - 7 AAC 47.525 covered for that resident.

(e) The department may require an assignment of rights to bill for and receive reimbursement for assistance provided under 7 AAC 47.300 - 7 AAC 47.525 from

(1) a resident receiving assistance under 7 AAC 47.300 - 7 AAC 47.525; or

(2) an assisted living home that is entitled to receive a retroactive payment from another agency, organization, or program for providing care to a resident receiving assistance under 7 AAC 47.300 - 7 AAC 47.525 for financial assistance received that is intended to cover any portion of the same care that the assistance under 7 AAC 47.300 - 7 AAC 47.525 covered for that resident.

Authority: AS 47.05.010, AS 47.25.120, AS 47.33.920

7 AAC 47.380. Alternative financial assistance

(a) An individual who is eligible for one or more of the following programs is not eligible for assistance under 7 AAC 47.300 - 7 AAC 47.525 until available benefits under each program have been exhausted:

(1) a 24-hour care or treatment program for alcoholism or drug abuse financed by the department under AS 47.37; and

(2) an inpatient mental health program for the mentally ill financed by the department under AS 47.30.

(b) An individual who is eligible for assisted living care or a training program for the developmentally disabled under AS 47.80, is eligible for assistance under 7 AAC 47.300 - 7 AAC 47.525 only if there is space available in an assisted living home after placement of individuals who are not eligible for that type of program.

(c) An individual must apply for each program specified in (a) and (b) of this section for which the department believes the individual is eligible. The department, or a responsible person acting on the individual's behalf, may assist the individual in submitting an application. An individual who fails to apply for each program, after being given 30 days written notice of the requirement, will be denied assistance under 7 AAC 47.300 - 7 AAC 47.525. A copy of the written notice will also be provided to the assisted living home if the individual is a resident when notice is given. An assisted living home that receives a notice under this subsection may choose to immediately issue a notice under 7 AAC 47.490, advising that the individual may be subject to involuntary discharge from the home if the individual fails to apply for each program as requested by the department.

Authority: AS 47.05.010, AS 47.25.120, AS 47.25.140, AS 47.33.920

7 AAC 47.390. General relief assistance application

(a) A person described in 7 AAC 47.330 may apply for assistance under 7 AAC 47.300 - 7 AAC 47.525 on a form provided by the department. The department, or a responsible person acting on an applicant's behalf, may assist the applicant in completing the application.

(b) An applicant must be available for an interview at the department and must furnish evidence that shows eligibility for the assistance. The department may dispense with the personal interview requirement if distance, weather conditions, road access, available transportation, or the applicant's physical or mental condition would make the requirement unduly harsh, and if other reliable evidence is available to establish eligibility.

(c) Subject to (d) of this section, if the department determines that the applicant meets the eligibility criteria established in 7 AAC 47.330 - 7 AAC 47.380, the applicant must submit to a medical examination by a licensed physician chosen by the applicant from those physicians enrolled with the department under 7 AAC 105 - 7 AAC 160, or by a physician assistant or a nurse practitioner chosen by the applicant. The physician, physician assistant, or nurse practitioner shall furnish the department a written report on a form provided by the department. The department may pay the costs of the examination and necessary transportation to and from the place of examination if the applicant requires immediate protection and if funding is available.

(d) The department may dispense with the medical examination requirement in (c) of this section if a current medical report is available.

Authority: AS 47.05.010, AS 47.24.011, AS 47.24.017, AS 47.25.120, AS 47.25.150, AS 47.25.160

7 AAC 47.400. Eligibility determination and placement

(a) Except for an emergency placement under 7 AAC 47.510, within 30 days after the department receives an identifiable application for assistance under this chapter, the department will forward a written eligibility decision to the applicant. The time period may be extended by agreement of the applicant and the department when a decision cannot be rendered because of a factor that is beyond the control of the applicant or the department.

(b) After consulting with an eligible individual, available family members, a court-appointed representative, or a representative appointed by the individual, the department will assist in selecting an appropriate assisted living home that has available space and that accepts placements under this chapter. An individual who has applied for residential supported living services under 7 AAC 43.1000 - 7 AAC 43.1110, may not be placed in an assisted living home under 7 AAC 47.300 - 7 AAC 47.525 until residential supportive living services have been authorized under 7 AAC 43.1000 - 7 AAC 43.1110, unless care cannot be provided in the individual's home, or in a nursing facility, acute care hospital, or other appropriate facility. The division of vocational rehabilitation, in the Department of Labor and Workforce Development, will be consulted on the placement of a vocational rehabilitation client.

(c) The department will at least semiannually review the individual's placement to determine whether the individual continues to need assisted living care and whether the particular assisted living home continues to meet the individual's needs.

Authority: AS 47.05.010, AS 47.24.011, AS 47.24.017, AS 47.25.120, AS 47.25.160, AS 47.25.170, AS 47.25.200, AS 47.33.920

7 AAC 47.410. Availability of hearing

(a) An individual is entitled to a prompt hearing before a department representative, upon oral or written request directed to the department, if

(1) the individual's application is not acted upon within 30 days after receipt by the department;

(2) the individual's application is modified or denied; or

(3) the individual's assistance is reduced or discontinued.

(b) The hearing will be conducted under the procedures established in 7 AAC 49.

Authority: AS 47.05.010, AS 47.24.011, AS 47.24.017, AS 47.25.180, AS 47.33.920

7 AAC 47.420. Report of change

An individual receiving financial assistance under 7 AAC 47.300 - 7 AAC 47.525 must report to the department any change in circumstances that could affect eligibility or the amount of

assistance under this chapter. A report of change must be made within 10 working days after the event occurs, and may be made by a responsible person acting on behalf of the individual.

Authority: AS 47.05.010, AS 47.24.011, AS 47.24.017, AS 47.25.200, AS 47.33.920

7 AAC 47.430. Review of eligibility

(a) Upon receiving information indicating a change in an individual's situation that could affect eligibility or the amount of assistance under 7 AAC 47.300 - 7 AAC 47.525, the department will investigate and, if necessary, adjust, suspend, or terminate the assistance.

(b) An individual who receives assistance under 7 AAC 47.300 - 7 AAC 47.525, or a responsible person acting on the individual's behalf, must annually complete a review application. As a result of this review procedure, the department may continue, adjust, suspend, or terminate the assistance.

(c) Upon taking action under either (a) or (b) of this section, the department will provide notice as required by 7 AAC 49.060.

Authority: AS 47.05.010, AS 47.25.120, AS 47.25.200, AS 47.33.920

7 AAC 47.440. Assisted living home agreement for services

(a) Application for an assisted living home agreement for services must be made by an assisted living home on a form supplied by the department. The department will annually send an application form to each assisted living home licensed by the department under AS 47.33 and 7 AAC 75. The home must submit the application to the department within 30 days after receiving the form to be considered eligible for an agreement.

(b) An assisted living home agreement for services between the department and an assisted living home will

(1) include the appropriate minimum daily reimbursement rate under 7 AAC 47.470; and

(2) incorporate by reference each resident's residential service contract executed under AS 47.33.210 and assisted living plan prepared under AS 47.33.220 and 47.33.230, that describe the services the home must provide to the individual in accordance with AS 47.24, AS 47.33, 7 AAC 47.475, and 7 AAC 75.

(c) A home must agree to

(1) review the application of each individual who is referred by the department;

(2) comply with the standard established in 7 AAC 47.450(d) ; and

(3) report to the department any absence or discharge required to be reported by 7 AAC 47.490.

(d) The agreement may be terminated by either party upon 30 days' advance written notice to the other party. The agreement may be terminated by the department if the home's license is modified under AS 47.33.550 or 7 AAC 75.080, or if the home fails to comply with the terms contained in (b) and (c) of this section. The department may immediately terminate an agreement if the home's license is revoked.

Authority: AS 47.05.010, AS 47.25.120, AS 47.25.170, AS 47.33.920

7 AAC 47.450. Payment by individual

(a) The total monthly countable income considered available to an individual under 7 AAC 47.365, plus APA benefits and the Alaska longevity bonus payment, if applicable, and any other financial assistance for which the individual may be eligible and which is not excluded under 7 AAC 47.345, will be applied first toward the personal-needs allowance required by (b) of this section, and then toward the cost of the individual's assisted living care.

(b) An individual may retain the following amount of the total monthly countable income as a personal-needs allowance, which may be used for clothing, unreimbursable medical expenses, and personal incidentals:

(1) \$100 for an individual who is eligible for Medicaid or chronic and acute medical assistance coverage; and

(2) \$150 for an individual who is not eligible for Medicaid or chronic and acute medical assistance coverage.

(c) The department will inform the individual and the assisted living home of the amount of the individual's share of the cost of care. The home shall collect the amount directly from the individual.

(d) An assisted living home may not request or accept from or on behalf of an individual who receives assistance under 7 AAC 47.300 - 7 AAC 47.525 any payment in excess of the amount specified in (c) of this section.

Authority: AS 47.05.010, AS 47.25.120, AS 47.25.130, AS 47.25.170, AS 47.33.920

7 AAC 47.460. Payment by department

(a) For an individual who is placed in an assisted living home under 7 AAC 47.400, the department will pay the appropriate minimum daily reimbursement rate established by 7 AAC 47.470, multiplied by the number of days of actual residence, minus the individual's share of the cost of care as calculated under 7 AAC 47.450.

(b) Except for a placement under 7 AAC 47.510, payment will begin only after an eligibility determination has been made under 7 AAC 47.400. The department will make payment directly

to the home on a monthly basis for services provided under 7 AAC 47.475. Payment will cover the day of admission, but not the day of departure.

(c) The department's payment will not increase to compensate for the withholding of an individual's social security, SSI, or APA benefit when the withholding is due to an overpayment caused by fraud or failure to report a change, unless protection of the individual outweighs the issue of that fraud or failure to report.

(d) If an individual placed in an assisted living home under 7 AAC 47.400 has no income, the department may pay a personal-needs allowance of \$100 monthly to the home for that individual. The home shall give the personal-needs allowance to the individual, unless the home has obtained written authorization under 7 AAC 75.310 to manage the individual's personal-needs allowance, or management of the allowance is included in the individual's residential services contract executed under AS 47.33.210 and assisted living plan prepared under AS 47.33.220 and 47.33.230.

Authority: AS 47.05.010, AS 47.25.120, AS 47.25.130, AS 47.25.170, AS 47.25.195, AS 47.33.920

7 AAC 47.465. General relief assistance subject to appropriation

(a) When legislative appropriations are not adequate to meet the projected service needs for general relief assistance in a given fiscal year, the department will limit the number of individuals who will receive assistance to avoid having to suspend the program before the end of the fiscal year. To limit the number of participants, the department will establish a wait list for individuals who would be eligible to receive general relief assistance under 7 AAC 47.300 - 7 AAC 47.525 if adequate legislative appropriations were available.

(b) To select individuals from the wait list under (a) of this section, the department will use the following order of preference, based on the date of the letter approving a complete application:

(1) individuals who the department has determined are vulnerable and in need of protective placement under AS 47.24.017 (d);

(2) individuals who will be discharged directly from an institution for mental disease, a facility operated by the Department of Corrections, a hospital, or a long-term care facility;

(3) all other individuals.

(c) When the department selects an individual from the wait list, the individual has 20 days from the selection date to confirm whether the individual still wants to receive assistance. If a selected individual will have been on the wait list for 60 or more days by the time the general relief assistance would begin, the department may require the individual to submit a new medical examination report under 7 AAC 47.390, and new income and resource information described in 7 AAC 47.340 - 7 AAC 47.380.

Authority: AS 47.05.010, AS 47.24.011, AS 47.24.017, AS 47.25.120

7 AAC 47.470. Minimum daily reimbursement rates

(a) The minimum daily reimbursement rate set in this section is for each individual placed in an assisted living home under 7 AAC 47.400 and is to assist in payment for

(1) housing and food service; and

(2) the basic services described in 7 AAC 47.475.

(b) Subject to (c) and (d) of this section, the minimum daily reimbursement rate is

(1) \$50 from September 1, 2000 through June 30, 2001;

(2) \$60 from July 1, 2001 through June 30, 2002; and

(3) \$70 beginning July 1, 2002.

(c) The rate set in (b) of this section will be adjusted to reflect regional differences in the cost of doing business, based on the region in which the provider is located. The rate adjustments, listed by the designated planning regions described at Table 1 of the Alaska Commission on Aging State Plan for Services 2001 - 2003, issued by the Alaska Commission on Aging, and adopted by reference, are as follows:

(1) for Anchorage - no adjustment;

(2) for the southcentral region, not including Anchorage - 1.04;

(3) for the southeast region - no adjustment;

(4) for the interior region - 1.15;

(5) for the southwest region - 1.33;

(6) for the northwest region - 1.38.

(d) The department will annually review the minimum daily reimbursement rate in (b) of this section and the multiplying factor in (c) of this section and may adjust the rate to reflect changes in the United States Department of Labor consumer price index and the state cost-of-living differentials determined by the department and the Alaska Commission on Aging.

(e) The minimum daily reimbursement rate paid on behalf of a resident will be discontinued for any day that the resident is not living in the assisted living home unless the department approves a temporary absence from the home, not to exceed 30 days.

(f) For purposes of determining eligibility for financial assistance under this section and from other agencies, organizations, or programs, or from a family member, relative, or other person, the portion of the minimum daily rate in (b) of this section, before adjustment under (c) and (d) of this section, that is considered payment for housing and food service is equal to the SSI income standard under 20 C.F.R. 416.401 - 416.412 that would apply if the resident were eligible for SSI benefits divided by the number of days in the month, with the balance considered payment for services. If, in addition to receiving assistance under this section, a resident also receives financial assistance from another agency, organization, or program for the cost of services provided in the assisted living home, that resident will be eligible under this section for only that portion that is not paid by another agency, organization, or program.

Authority: AS 47.05.010, AS 47.25.120, AS 47.25.130, AS 47.25.170, AS 47.25.195, AS 47.33.920

Editor's note: A copy of the Alaska Commission on Aging State Plan for Services 2001 - 2003, issued by the Alaska Commission on Aging, Table 1 of which is adopted by reference in 7 AAC 47.470, may be reviewed at any office of the Division of Senior and Disabilities Services, or may be obtained from the Alaska Commission on Aging, P.O. Box 110693, Juneau, AK 99811-0693; telephone (907) 465-3250. The most recent version of the state plan is also available at <http://www.alaskaaging.org/>.

7 AAC 47.471. Augmented rates; general

(a) Except for a resident who also receives financial assistance under 7 AAC 47.472, or from another agency, organization, or program for the cost of services provided in an assisted living home, the department may augment the minimum daily reimbursement rate set in 7 AAC 47.470 if a resident requires assistance with four or more activities of daily living, or if a resident requires a level of care, monitoring, and protective service that is significantly higher than that required for other residents of the home, including other residents with an impairment described in this subsection, to protect the resident from abuse, neglect, or exploitation because of

(1) severe alcohol or drug dependency acting out behavior, including use of alcohol or drugs in or out of the home;

(2) severe mental health, mental impairment, or emotional disturbance issues resulting in disruptive acting out behaviors, including aggressive, violent, offensive, or assaultive behavior;

(3) a major health impairment; or

(4) other variables or factors that make the resident extremely difficult to place and protect in an assisted living home.

(b) An augmented rate will be paid for each resident described in (a) of this section if the department finds that the resident is eligible for an augmented rate. The amount of the augmented rate will be based on the number of activities of daily living provided, and the level of care, monitoring, and protective services required, as follows:

(1) for a resident who requires assistance with four or more activities of daily living, the augmented rate is \$7 a day for each additional activity of daily living, not to exceed \$22 a day;

(2) for a resident described in (a)(1), (2), (3) or (4) of this section, the augmented rate is \$15 a day;

(3) for a resident who requires assistance with four or more activities of daily living and who is described in (a)(1), (2), (3), or (4) of this section, the augmented rate is \$22 a day.

(c) For an emergency placement, an additional augmented rate of up to \$10 a day will be paid for a person described in (b)(1) or (2) of this section, not to exceed augmentation of \$22 a day. An augmented rate under this subsection will be paid for no more than 31 days, unless the department determines that additional payment is necessary to protect the resident.

(d) An augmented rate paid on behalf of a resident is discontinued for any day that the resident is not living in the assisted living home.

Authority: AS 47.05.010, AS 47.24.011, AS 47.24.017, AS 47.25.120, AS 47.25.130, AS 47.25.170, AS 47.33.195, AS 47.33.920

7 AAC 47.472. Augmented rates; restricted

(a) Except for a resident who also receives financial assistance under 7 AAC 47.471, or from another agency, organization, or program for the cost of services provided in an assisted living home, the department may augment the minimum daily reimbursement rate set in 7 AAC 47.470 for a resident of an assisted living home who

(1) is receiving community support services from the local community mental health center or another local service provider;

(2) has a primary diagnosis of severe and persistent mental illness; and

(3) qualifies for one or more of the categories in (d) of this section.

(b) An augmented rate approved under this section will not exceed \$35 per day. Augmented funding is restricted to very limited periods of time.

(c) The local community mental health center shall determine

(1) whether a resident of an assisted living home is eligible for an augmented rate under this section;

(2) the category of need under (d) of this section for which the resident is qualified; and

(3) the number of days that augmented funding should be provided.

(d) The department may approve an augmented rate for one or more of the following categories for a person described in (a) of this section, not to exceed \$35 a day for that person:

(1) Category I: \$7 a day, for each resident of an assisted living home with 16 or fewer beds that provides 24-hour a day awake staff supervision in the home; for a provider that operates more than one assisted living home in a community, financial assistance under this category is limited to no more than 16 residents, unless the department finds that exceptional circumstances exist;

(2) Category II: only one Category II rate may be applied to a resident who qualifies for Category II, as follows:

(A) emergency placement: \$15 a day, for a resident who must be placed in an assisted living home within 24 hours of referral; an augmented rate under this subparagraph may be approved for no more than 31 days, unless the department determines that payment for additional days is necessary to protect the resident;

(B) temporary placement: \$10 a day, for a resident who needs to be placed in an assisted living home for a short time until arrangements can be made for permanent placement elsewhere; an augmented rate under this subparagraph may be approved for up to 31 days unless the local community mental health center recommends an extension; any extension under this subparagraph may not exceed 90 days, unless the department determines that payment for additional days is necessary to protect the resident; or

(C) transitional services: \$10 a day, for a resident who is being placed in an assisted living home for the first time or after an absence from the home of six months or more; the local community mental health center may recommend the augmented rate under this subparagraph if the resident has been away from the home less than six months for a resident who is very unstable and needs significantly more staff attention or services than other residents in the home; an augmented rate under this subparagraph may be approved for up to 31 days unless the local community mental health center recommends an extension; any extension under this subparagraph may not exceed 90 days, unless the department determines that payment for additional days is necessary to protect the resident; and

(3) Category III: up to \$35 a day, for a resident who is without access to other sources of financial assistance and who has specific unusual circumstances or extremely special needs that require a significant increase in the level of services for continued community placement in the community; this category will be used only in the most extreme cases and is expected to be used very rarely; no more than four residents statewide will receive financial assistance under this category at the same time, unless the department finds that exceptional circumstances exist.

(e) If the local community mental health center finds that a resident is eligible for an augmented rate, the local community mental health center shall make a recommendation for an augmented rate to the department for its approval.

(f) If the department finds that a resident is eligible for an augmented rate and approves the local community mental health center's recommendation, at least once every three months the local

community mental health center shall re-evaluate each resident receiving financial assistance under Category III to determine whether there is a need to adjust, reduce, extend, or discontinue the resident's augmented rate. The local community mental health center shall discuss each resident's ongoing needs with staff of the assisted living home.

(g) An augmented rate paid on behalf of a resident is discontinued for any day that the resident is not living in the assisted living home.

Authority: AS 47.05.010, AS 47.24.011, AS 47.24.017, AS 47.25.120, AS 47.25.130, AS 47.25.170, AS 47.33.195, AS 47.33.920

7 AAC 47.475. Services required to be provided by licensed assisted living homes

(a) A licensed assisted living home must provide housing, food service, and all other services that are required to meet the purposes of 7 AAC 47.300 - 7 AAC 47.525, AS 47.24, AS 47.33, and 7 AAC 75. Housing, food service, and other services must be provided in a way that promotes each resident's safety, welfare, and independence and that assures protection of each resident's rights under AS 47.33.300 - 47.33.360.

(b) In addition to the housing and food service requirements of 7 AAC 75, the basic services required under this section, depending on each resident's needs as described in the resident's residential services contract executed under AS 47.33.210 and assisted living plan prepared under AS 47.33.220 and 47.33.230, include

- (1) the general range of care described in 7 AAC 47.310;
- (2) protective services;
- (3) personal assistance;
- (4) supportive services;
- (5) assistance with the activities of daily living and the instrumental activities of daily living as indicated in a resident's assisted living plan;
- (6) an organized program that encourages participation in activities within the home and the community;
- (7) general awareness of each resident's general whereabouts, in the home and in the community;
- (8) monitoring each resident's activities while on the premises; and
- (9) arranging for or providing transportation to and from appointments if a resident is unable to take public transportation, and arranging for or providing an escort, if needed.

(c) In addition to the basic services listed in (b) of this section, an assisted living home may provide the additional health-related services described in AS 47.33.020 (c) - (i).

(d) For a resident who, in addition to receiving assistance under 7 AAC 47.300 - 7 AAC 47.525, also receives financial assistance from another agency, organization, or program for the cost of services provided in the assisted living home, the provisions of 7 AAC 47.470(f), dealing with the percentage of the minimum daily rate that is considered payment for housing and food service, apply.

Authority: AS 47.05.010, AS 47.24.011, AS 47.24.017, AS 47.25.120, AS 47.25.130, AS 47.25.170, AS 47.25.195, AS 47.33.920

7 AAC 47.480. Services provided

Repealed.

7 AAC 47.490. Absence or discharge

(a) A home with which the department has entered into an assisted living home agreement for services under 7 AAC 47.440 shall immediately report to the department the death or voluntary discharge of a resident who receives assistance under 7 AAC 47.300 - 7 AAC 47.525. A home shall give the department, and, as required by AS 47.33.360, shall give the resident 30 days' advance written notice of an involuntary discharge by the home of a resident who receives assistance under 7 AAC 47.300 - 7 AAC 47.525, unless the discharge is for medical reasons or an emergency transfer out of the home is ordered by the resident's physician. This notice is not required for a resident subject to placement under 7 AAC 47.510 who was given notice by the department under 7 AAC 47.510(d) at the time of placement, although the home may choose to issue its own notice at the time of placement.

(b) A home shall immediately report to the department the absence of a resident who receives assistance under 7 AAC 47.300 - 7 AAC 47.525, unless the absence is for social reasons and will not exceed three days. No payment for assistance under 7 AAC 47.300 - 7 AAC 47.525 will be made by the department for a social absence exceeding three days, unless it is previously approved in writing by the department.

Authority: AS 47.05.010, AS 47.25.120, AS 47.25.170, AS 47.33.360, AS 47.33.920

7 AAC 47.500. Grant agreement

Repealed.

7 AAC 47.510. Emergency, temporary, or transitional placement

(a) A home with which the department has entered into an assisted living home agreement for services under 7 AAC 47.440 may admit an individual under an emergency placement without an earlier eligibility determination under 7 AAC 47.400, if the department determines that the

individual is immediately subject to, or at risk of, abuse, neglect, or exploitation, and has no immediately available residential care. For an emergency placement under this subsection, the department will pay for no more than 30 days of actual residence before the individual receives an eligibility determination under 7 AAC 47.400, unless the department determines that payment for additional days is necessary to protect the resident.

(b) A home with which the department has entered into an assisted living home agreement for services may admit an individual under a temporary placement if the department determines that a resident needs to be placed in an assisted living home for a short time until arrangements can be made for permanent placement elsewhere. For a temporary placement under this subsection, the department will pay for no more than 31 days, unless the department determines that an extension is necessary after consideration of any recommendation by the local community mental health center. Any extension under this subsection will not exceed 90 days, unless the department determines that additional days are necessary to protect the resident.

(c) A home with which the department has entered into an assisted living home agreement for services may admit an individual under a transitional placement if the department determines that a resident who is being placed in an assisted living home for the first time or after an absence from the home of six months or more would benefit from such placement. The department may approve transitional placement for a resident who has been away less than six months if the resident is very unstable and needs significantly more staff attention or services than other residents in the home. For a transitional placement under this subsection, the department will pay for no more than 31 days, unless the department determines that an extension is necessary after consideration of any recommendation by the local community mental health center. Any extension under this subsection will not exceed 90 days, unless the department determines that payment for additional days is necessary to protect the resident.

(d) At the time of an emergency, temporary, or transitional placement under this section, or an extension of such a placement, the department will provide written notice to the individual being placed in an assisted living home that the resident must vacate the home after the appropriate number of days allowed for that placement, unless the resident has been determined to be eligible for placement under 7 AAC 47.400, or unless the department notifies the resident of an extension. A copy of the notice will be provided to the home at the time of placement. The home may choose to issue its own notice at the time of placement, but is not required to do so.

Authority: AS 47.05.010, AS 47.25.120, AS 47.33.920

7 AAC 47.520. Fraud

Repealed.

7 AAC 47.525. Waiver of requirement of 7 AAC 47.300 - 7 AAC 47.510

The department may waive a requirement of 7 AAC 47.300 - 7 AAC 47.510 if necessary for the protection of an individual placed in an assisted living home under 7 AAC 47.400, unless the requirement is one imposed under AS 47.05, AS 47.24, AS 47.25, AS 47.32, AS 47.33, 7 AAC

10.1000 - 7 AAC 10.1095, or 7 AAC 75, and the home has not been granted a variance under 7 AAC 10.935, 7 AAC 10.9500 - 7 AAC 10.9535, or 7 AAC 75.405 - 7 AAC 75.415.

Authority: AS 47.05.010, AS 47.05.340, AS 47.24.011, AS 47.24.017, AS 47.25.120, AS 47.32.010, AS 47.32.030