

## 7 AAC 75- Assisted Living Homes

### Article 1

#### Licensing of Assisted Living Homes

##### **7 AAC 75.010. Applicability**

(a) The requirements of this chapter apply to the licensure and operation of assisted living homes as follows:

- (1) an assisted living home licensed on or after April 6, 2002 is subject to all applicable requirements of this chapter;
- (2) an assisted living home licensed before April 6, 2002 is subject to all applicable requirements of this chapter, except that the home is exempt from
  - (A) those training and experience requirements of [7 AAC 75.230\(c\)](#), that an administrator of a home on April 6, 2002 does not already meet; that administrator shall comply with the continuing education requirements of [7 AAC 75.220\(e\)](#); however, an administrator hired after April 6, 2002 is subject to all requirements of [7 AAC 75.230](#) in addition to all other requirements for administrators in this chapter; and
  - (B) the requirements of [7 AAC 75.260\(a\)\(7\)](#), dealing with bedroom standards. (b) A home licensed under [7 AAC 50](#) or [7 AAC 57](#) is exempt from licensing under [AS 47.33](#) and this chapter.

##### **7 AAC 75.020. Types of license; duration; licensing responsibility**

(a) There are two types of assisted living home licenses, as follows:

- (1) probationary, for homes
    - (A) that have not previously been licensed under [AS 47.33](#) and this chapter; or
    - (B) for which a standard license has been converted to probationary status because of noncompliance with [AS 47.33](#) or this chapter;
  - (2) standard, for homes that have passed the probationary period.
- (b) Subject to the possibility of suspension or revocation under [AS 47.33](#) and this chapter, a license is valid for the following periods:
- (1) probationary: a period set by the department, not to exceed two consecutive years, with a possible one-year extension; and
  - (2) standard: two years, except as stated in [7 AAC 75.090](#).
- (c) Repealed 4/6/2002.
- (d) A license will be issued to a home providing care
- (1) primarily to persons with a mental or developmental disability;
  - (2) primarily to persons who have a physical disability, who are elderly, or who suffer from dementia, but who are not diagnosed as chronically mentally ill; and
  - (3) to approximately equal numbers of persons described in both (1) and (2) of this subsection, or to a home seeking its probationary license and for which the administrator has not yet decided which specific category of persons to serve; in such a case the department will consider the purposes of [AS 47.33](#), the service features of the particular home, and, if any, the preference of the home, and decide whether to issue that home a license entitling the home to serve persons described in both (1) and (2) of this subsection.

### **7 AAC 75.030. Powers and duties of the department**

(a) The department will

- (1) license assisted living homes in accordance with [AS 47.33](#) and this chapter;
- (2) investigate license applicants, licensees, and homes that are required to be licensed for compliance with [AS 47.33](#) and this chapter;
- (3) enforce the standards established by [AS 47.33](#) and this chapter; and
- (4) inspect and investigate complaints of abandonment, abuse, exploitation, neglect, or self-neglect in assisted living homes.

(b) The department may designate by a written agreement conforming to (c) of this section a state, municipal, or private agency to investigate and make recommendations to the department for the licensing of assisted living homes under procedures and standards of operation established by the department.

(c) An agreement executed under (b) of this section must include

- (1) a description of the respective regulatory responsibilities of the department and the other agency;
- (2) procedures for processing variance requests;
- (3) procedures for record maintenance and sharing; and
- (4) procedures for appealing the investigative findings and recommendations made by the designated agency for and to the department.

### **7 AAC 75.040. Conversion of other licenses** Repealed.

### **7 AAC 75.050. Voluntary licensure**

The department may, as time permits, issue a license to an assisted living home that serves one or two adult residents whether or not the residents are related to the owner by blood or marriage, and that is not required by [AS 47.33.010](#) and 47.33.400 to be licensed, but that wishes to become licensed voluntarily. All provisions of this chapter apply to this type of licensure.

### **7 AAC 75.060. Probationary license**

(a) The department will issue a probationary license to operate an assisted living home if the department finds that the application and the home's plan for operation comply with [AS 47.33](#) and this chapter. In determining compliance with [AS 47.33](#) and this chapter, the department will consider the nature, size, and character of the home and its residents, and whether the prevailing residential standards of the community and neighborhood in which the home is located are protective of life, health, and safety.

(b) At any time before the expiration of a probationary license, but after the assisted living home is operating, the department may convert a probationary license to a standard license.

### **7 AAC 75.070. Standard license**

(a) The department will issue a standard license to operate an assisted living home if, upon completion of the probationary period, and after inspection or investigation, the department finds that the home is operating in compliance with [AS 47.33](#) and this chapter.

(b) In determining compliance with [AS 47.33](#) and this chapter, the department will consider the nature, size, and character of the home and its residents, and whether the prevailing residential standards of the community and neighborhood in which the home is located are protective of life, health, and safety.

**7 AAC 75.080. Application for license; modification**

(a) A person may not begin operation of an assisted living home until that person has obtained a probationary or standard license from the department. A person may not move the location or make a major modification of a licensed assisted living home, or increase the number of residents the home is licensed to serve until that person has obtained approval for a modification of its license from the department. An application under this section must be made on a form supplied by the department. A person may not apply for a license to operate one or more additional homes until each current home has passed the probationary period and been issued a standard license. For purposes of this subsection, "major modification" means a change to the home that, during construction of the modification, would adversely affect the residents, services to the residents, or emergency evacuation of the residents.

(b) An application for a license to operate an assisted living home must be notarized and must contain

(1) the name, title, address, telephone number, and, if available, electronic mail address and facsimile number of

(A) the applicant;

(B) each person who has an ownership interest in the home;

(C) the chief executive officer of the unit or subunit of government, if the applicant is a government entity;

(D) the owner of the premises in which the home will be located, if the applicant is not the owner of the premises; and

(E) the administrator of the home;

(2) the name of the assisted living home, if known by a name;

(3) the address of the assisted living home or the proposed new location of the assisted living home;

(4) evidence that the administrator meets the requirements of [7 AAC 75.215](#), [7 AAC 75.220](#), and [7 AAC 75.230](#);

(5) repealed 4/6/2002;

(6) the number of individuals within the maximum occupancy number established by the fire safety inspection required under [7 AAC 10.1010](#) that a home intends to serve;

(7) the number of residents the home intends to serve who are expected to be persons who

(A) have a primary diagnosis of mental illness or physical or developmental disability; or

(B) are elderly or suffering from dementia, but who are not mentally ill;

(8) the services the home proposes to offer;

(9) copies of all permits and approvals required by state or local government agencies, other than the department, for construction or operation of the home;

(10) any request for a general variance from a provision of [AS 47.32](#), [7 AAC 10.1000](#) - [7 AAC 10.1095](#), or this chapter, as provided in [7 AAC 10.9500](#) - [7 AAC 10.9535](#) and [7 AAC 75.405](#);

(11) a staff plan that describes the number of employees that will be employed by the home and each employee's responsibilities; the application must indicate that the home is prepared to modify the

proposed staff plan to meet the terms of an individual residential services contract executed under [AS 47.33.210](#) or an assisted living plan prepared under [AS 47.33.220](#) and 47.33.230;

(12) a disaster preparedness and emergency evacuation plan that complies with [7 AAC 10.1010](#) to protect the residents of the home from a disaster or other emergency;

(13) a business plan, if applying to operate a home licensed for 11 or more residents or to operate multiple homes; the plan must include a description of the plan, services offered, the location of the business, a management and personnel plan, and projected detail of anticipated monthly expenses for six months; and

(14) information concerning any denial of a prior application, voluntary termination of a license during an investigation, or termination of an administrator or care provider for cause.

(c) An application to modify a license must contain the applicant's name, title, address, telephone number, and, if available, electronic mail address and facsimile number. The application must also describe the modification sought. If the modification is to increase the number of residents served to 11 or more, the application must also include the business plan described in (b)(13) of this section.

#### **7 AAC 75.085. Inspection of financial records**

Before the department will approve an application under [7 AAC 75.080](#), the applicant must demonstrate that the home has sufficient financial resources to operate for a minimum of three months without considering resident income. If requested by the department, the home shall allow the department to inspect the home's financial records to determine whether the home has sufficient financial resources to meet the requirements of this section.

#### **7 AAC 75.090. Renewal; staggered renewal; extension**

(a) Before a license expires, the department will notify the licensee that the license is due for renewal.

(b) The department may inspect an assisted living home at any time before a license expires, to determine compliance with [AS 47.33](#) and this chapter and eligibility for renewal.

(c) If the department finds that the home is not in compliance with [AS 47.33](#) or this chapter, the home, in coordination with the department, shall develop a plan of correction with a date for achieving compliance with each provision found to be in noncompliance. If the home is in substantial compliance by each applicable date set out in the plan of correction, the department will issue a probationary license. If the home is in compliance, the department will issue a standard license.

(d) If the department finds that the home is in compliance with [AS 47.33](#) and this chapter, has provided services to residents in accordance with its contracts and plans of care, has maintained the home in good repair, and is in compliance with all applicable local and state building code, fire code, and sanitation code requirements, the department will renew the home's standard license for two years.

(e) If several licensees apply for renewal within a short time, the department may stagger the license renewal dates to facilitate handling the renewals. The department may adjust renewal dates to facilitate the licensing of each assisted living home located in the same geographic area at the same time. The department will not extend or adjust a renewal date for an assisted living home that, during the licensing period, has had more than one complaint filed against it for which the department

(1) and the home have developed a plan of correction; or

(2) has issued a notice of violation.

- (f) Repealed 4/6/2002.
- (g) Repealed 4/6/2002.
- (h) Repealed 4/6/2002.
- (i) The department will promptly notify the licensee in writing of any rescheduled renewal date.

**7 AAC 75.100. Fees**

(a) An application for a license, or renewal of a license, must be accompanied by the appropriate fee, as follows:

- (1) voluntary license .....\$ 25
- (2) probationary or standard license for homes with capacity to serve three to five residents ..... 75
- (3) probationary or standard license for homes with capacity to serve six or more residents .....150.

(b) In addition to the base license application fee, set out in (a) of this section, an application under (a)(2) of this section must be accompanied by a fee of \$25 for each resident accommodation beyond three that the home seeks licensure to provide, and an application under (a)(3) of this section must be accompanied by a fee of \$25 for each resident accommodation beyond six that the home seeks licensure to provide.

(c) An assisted living home that applies for a license modification to move its location or make some other major modification, or to expand its capacity to serve additional residents, at any time other than at the time of license renewal, shall (1) in the case of a modification not involving additional resident capacity, pay a fee of \$25; (2) in the case of a modification seeking only to add to the home's resident capacity, pay \$25 for each additional resident accommodation, regardless of the amount of time left in the current license period; (3) in the case of a home seeking modifications described in both (1) and (2) of this subsection, pay the fees stated in both (1) and (2).

(d) After the first two onsite visits following an inspection that reveals noncompliance with [AS 47.33](#) or this chapter, the licensee shall pay a fee of \$150 for each additional onsite visit by the department that results from failure of the licensee to achieve and maintain compliance within a reasonable time set by the department.

(e) Fees due under this section are nonrefundable.

**7 AAC 75.110. Content of license; posting**

- (a) A license to operate an assisted living home will state
  - (1) whether it is a probationary or standard license;
  - (2) the effective date of the license;
  - (3) the name of the licensee;
  - (4) the location and mailing address of the home to which the license applies;
  - (5) the number of residents the home is licensed to serve;
  - (6) the expiration date of the license;
  - (7) the special conditions, waivers, or variances that have been approved by the department; and
  - (8) the department's address and phone number.

(b) An assisted living home shall post the license in the home or otherwise make it readily accessible to residents, prospective residents, or resident representatives, service providers, staff, and the public.

**7 AAC 75.120. Denial of license**

(a) If the department denies an application for a license, or a license renewal, the department will deliver to the applicant by hand or certified mail a notice of denial containing a summary of the reasons for denial of the application.

(b) If an application is denied, the applicant may reapply or may contest the denial as provided in the Administrative Procedure Act, [AS 44.62](#).

(c) If the applicant decides to contest the denial, the applicant must appeal to the department, in writing, within 30 days after receiving the denial. In the appeal petition, the applicant may request an oral hearing. If an oral hearing is not requested, the appeal will be decided on the basis of review of the original record and whatever additional documents and written argument the applicant presents with the appeal petition. The denial under (a) of this section serves as the statement of issues under [AS 44.62.370](#).

**7 AAC 75.130. License not transferable**

Unless modified under [7 AAC 75.080](#), a license issued under this chapter is limited to the location, individuals, and organizations named in the application and may not be transferred to a different location, individual, or organization.

**7 AAC 75.140. Access and inspection**

(a) An applicant for a license and a licensee shall permit representatives of the department to inspect a home when necessary to implement [AS 47.33](#) and this chapter.

(b) If an applicant for a license refuses to permit an inspection, the department may seek a judicial order allowing access and inspection under [AS 47.33.520](#).

(c) A licensee that refuses to allow access and inspection is in violation of [AS 47.33](#). The department may prepare a notice of violation under [AS 47.33.530](#), impose administrative sanctions under [AS 47.33.550](#) and [7 AAC 75.570](#), and seek a judicial order allowing access and inspection under [AS 47.33.520](#).

(d) If the department has reason to believe that a home is operating as an assisted living home and has not applied for a license or refuses to permit an inspection, the department may prepare a notice of violation under [AS 47.33.530](#) and seek a judicial order allowing access and inspection under [AS 47.33.520](#).

Article 2

**Operation of Assisted Living Homes**

**7 AAC 75.210. Organization; administration; staff**

(a) An assisted living home shall

(1) provide the department with

(A) the name, address, telephone number, and, if available, electronic mail address and facsimile transmission number of the individual or entity ultimately responsible for operation of the home or proposed home; and

(B) if the home is operated by an association, corporation, or other entity, the name, address, telephone number, and, if available, electronic mail address and facsimile transmission

number of each member of its board or governing body and the executive director of the board or governing body; the home may provide information under this subparagraph with its application for a license, and annually thereafter;

(2) appoint an administrator who meets the requirements of [7 AAC 75.230](#) and an administrator designee to act on the administrator's behalf for any period during which the administrator is on vacation, is ill, or is otherwise unable to perform regular duties for 24 hours or more; if the administrator designee will be required to manage the daily operation of the home for

(A) less than 90 consecutive days, the designee must meet the requirements of [7 AAC 75.215](#) and [7 AAC 75.220](#); the administrator designee must be available and must receive proper orientation to manage the daily operation of the home in the administrator's absence; or

(B) 90 consecutive days or longer, the designee must have the same qualifications as an administrator under [7 AAC 75.230](#);

(3) adopt written personnel practices and, at the time of employment, inform each employee of the individual to whom the employee is responsible, the organization of the home and physical plant layout, the employee's duties and responsibilities, including those to be carried out in emergencies, and the policies, procedures, and equipment relevant to those duties and responsibilities;

(4) provide the department with a current master list, updated as necessary, that includes the name, address, and telephone number of each resident and the name, address, telephone number, and, if available, electronic mail address and facsimile transmission number of each resident's representative; a home that serves three or more residents shall maintain a current copy of the master list in at least one place that can be easily accessed if the home must be evacuated;

(5) ensure that recordkeeping complies with [AS 47.33.070](#) and uses forms prescribed or approved by the department for the preparation and protection of resident records; and

(6) establish policies and procedures for the completion of residential services contracts and involuntary termination of those contracts in compliance with [AS 47.33.210](#) and 47.33.360, respectively;

(7) repealed 6/24/2004;

(8) repealed 6/24/2004.

(b) The governing body of a home operated by an association, corporation, or other entity shall

(1) determine policy and provide for implementation of that policy by an administrator;

(2) select an administrator and evaluate the administrator's performance; and

(3) maintain minutes of meetings, relevant portions of which must be made available to the department to enable the department to carry out its responsibilities under [AS 47.33](#) and this chapter.

(c) An assisted living home shall employ the type and number of care providers and other employees necessary to operate the home in compliance with [AS 47.33](#) and this chapter. The home must have a sufficient number of care providers and other employees with adequate training to implement the home's general staffing plan and to meet the specific needs of residents as defined in the residents' residential services contracts and assisted living plans.

(d) Subject to (e) of this section, an assisted living home shall

(1) have on duty a care provider or another employee with documented proof of

(A) cardiopulmonary resuscitation (CPR) training provided within the previous two years by an instructor certified as required in [7 AAC 26.985](#); the training must be provided through the

(i) American Red Cross;

(ii) American Heart Association's CPR for Family and Friends Training Program or a more advanced program offered by the American Heart Association; or

(iii) an organization equivalent to those listed in (i) - (ii) of this subparagraph, as determined by the department; and

(B) first aid training provided within the previous three years by an instructor certified by the American Red Cross, the American Heart Association, or an equivalent organization as determined by the department; and (2) have the means and materials available to enable the home to implement the home's disaster preparedness and emergency evacuation plan required by [7 AAC 10.1010](#).

(e) If the training required by (d)(1) of this section is not regularly available within 100 miles of where the home is located, the administrator shall ensure that care providers and other employees obtain this training not less than every three years.

#### **7 AAC 75.215. Barrier crimes, criminal history checks, and centralized registry**

An assisted living home is subject to the applicable requirements of [AS 47.05.300](#) - 47.05.390 and [7 AAC 10.900](#) - [7 AAC 10.990](#) (Barrier Crimes, Criminal History Checks, and Centralized Registry).

#### **7 AAC 75.220. General requirements**

(a) An assisted living home shall provide safeguards to ensure that persons entering or living in the home, including employees, volunteers, contractors, and visitors do not abuse, neglect, or exploit a resident of the home. An assisted living home shall

(1) develop and implement written policies and procedures that prohibit the abuse, neglect, exploitation, and mistreatment of residents;

(2) report alleged or suspected abuse to a local, municipal, or state law enforcement agency;

(3) take any necessary action to remove the potential for further abuse, neglect, exploitation, or mistreatment of a resident or further misappropriation of a resident's property;

(4) document alleged or suspected incidents of abuse, neglect, exploitation, or mistreatment by an employee, a volunteer, a contractor, a visitor, or another resident;

(5) investigate alleged or suspected incidents of abuse, neglect, exploitation, or mistreatment by an employee, a volunteer, a contractor, a visitor, or another resident;

(6) document the result of the investigation and the corrective action taken; and

(7) submit the documentation prepared under this subsection to the department as required in [AS 47.32.200\(c\)](#).

(b) A person seeking to be associated with an assisted living home in a manner described in [7 AAC 10.900\(b\)](#) shall provide

(1) the names, addresses, and telephone numbers of at least three character references who are unrelated to the person seeking association with the assisted living home;

(2) at least two employment references; an employment reference may also serve as a character reference required under (1) of this subsection; and



(3) the signed release of information authorization and other items required to request a criminal history check under [7 AAC 10.910](#).

(c) A person who will be in direct contact with residents in an assisted living home shall provide evidence to the administrator that the person is free from active pulmonary tuberculosis before contact with a resident. This evidence must be provided annually and must be placed in the person's file for review by the department.

(d) Before hiring, the administrator shall ensure that each person who will be in direct, unsupervised contact with residents in an assisted living home has sufficient language skills to meet the needs of the residents of the home and the ability to access emergency services, including giving clear directions to emergency personnel of the home's location and describing the nature of the emergency in the primary language of the community. The administrator shall assess language skill level for employees, contractors, and volunteers. The department will assess the language skill level of the administrator.

(e) Each administrator, each administrator designee who will serve in that capacity for 90 consecutive days or longer, and each care provider who is an employee of an assisted living home shall participate in continuing education that is relevant to that person's primary job responsibilities and the ongoing care of residents. If courses for continuing education are not available within 100 miles of where the home is located or through correspondence or distance learning, the administrator shall ensure that the continuing education is obtained not less than every 18 months. Training requirements are as follows:

(1) each administrator shall complete 18 clock hours of continuing education annually;

(2) each care provider shall complete 12 clock hours of continuing education annually;

(3) a home may count in-service training as continuing education if that training increases the knowledge, abilities, or skills of care providers and is approved by the department;

(4) continuing education, whether in-service training or received from a state agency, a seminar, or a university, must be documented and placed in the employee's personnel file for review and approval by the department. An assisted living home is subject to the reporting requirements of [AS 47.24.010](#).

(f) An assisted living home is subject to the reporting requirements of [AS 47.24.010](#).

### **7 AAC 75.230. Administrator**

(a) An assisted living home shall have on staff an administrator who is at least 21 years of age and meets the requirements of [7 AAC 75.215](#), [7 AAC 75.220](#), and this section.

(b) If the administrator does not manage the daily operation of the home, the administrator, or the governing body of a larger organization responsible for the home, shall appoint a resident manager who meets the requirements for an administrator under this chapter.

(c) In addition to the other requirements of this chapter, an individual may not serve as an administrator of an assisted living home unless the individual meets the training and experience requirements of this subsection. The department will accept a baccalaureate or higher degree in gerontology, health administration, or another health-related field in place of all or part of the required experience, if the degree work serves, to the department's satisfaction, as an equivalent to the required experience. Training and experience requirements are as follows:

(1) for a home licensed to serve 1 - 10 residents, the individual must fulfill at least one of the following requirements:

(A) the individual must complete an approved management or administrator training course and have at least one year of documented experience, relevant to the population of residents to be served, as a care provider, if the administrator will be providing direct care in the home;

(B) the individual must

(i) complete a certified nurse aide training program that the Board of Nursing has approved under [12 AAC 44.830](#), or that is equivalent in content to the requirements of [12 AAC 44.835\(c\)](#); and

(ii) have at least one year of documented experience, relevant to the population of residents to be served, as a care provider;

(C) the individual must have at least two years of documented experience, relevant to the population of residents to be served, as a care provider, with documented skills or training relevant to the population of residents to be served;

(D) the individual must have sufficient documented experience in an out-of-home care facility, and sufficient training, education, or other similar experience to fulfill the duties of an administrator of the type and size of home where the individual is to be employed and to meet the needs of the population of residents to be served; an administrator under this subparagraph is subject to department approval on a case-by-case basis; for purposes of this subparagraph, an out-of-home care facility includes a foster care home, a board and care home, and a nursing home;

(2) for a home licensed to serve 11 or more residents, or if operating multiple homes with a total capacity of 11 or more residents, the administrator must fulfill at least one of the following requirements:

(A) the individual must complete an approved management or administrator training course and have at least two years of documented experience, relevant to the population of residents to be served, as a care provider, if the administrator will be providing direct care in the home;

(B) the individual must

(i) complete a certified nurse aide training program that the Board of Nursing has approved under [12 AAC 44.830](#), or that is equivalent in content to the requirements of [12 AAC 44.835\(c\)](#); and

(ii) have at least two years of documented experience, relevant to the population of residents to be served, as a care provider;

(C) the individual must have at least five years of documented experience, relevant to the population of residents to be served, as an administrator or staff supervisor of a home serving 10 or fewer residents;

(D) the individual must submit proof that the individual is a licensed practical nurse or a registered nurse with documented experience relevant to the population of residents to be served.

### **7 AAC 75.240. Care provider**

(a) An individual may not be hired or retained as a care provider in an assisted living home subject to [AS 47.33](#) and this chapter unless the person meets the requirements of [7 AAC 75.215](#) and [7 AAC 75.220](#) and is at least

- (1) 21 years of age if the individual will serve as a supervisor of other care providers;
- (2) 18 years of age if the individual will serve as a care provider working without direct supervision;

or

(3) 16 years of age if the individual will serve only as a care provider and has access to assistance from the administrator or another care provider who is at least 21 years of age.

(b) An administrator shall ensure and document that each care provider, within the first 14 days of employment, is oriented to the assisted living home's policies and procedures, including emergency procedures, fire safety, resident rights, prohibition against abuse, neglect, exploitation, and mistreatment of residents, recognition of abuse, neglect, exploitation, and mistreatment of residents, reporting requirements under [AS 47.24.010](#), universal precautions for infection control, biohazards, applicable state regulations and statutes, resident interaction, any house rules established under [AS 47.33.060](#), sanitation, duties and responsibilities, medication management and security, and physical plant layout. Before caring for a resident without direct supervision, a care provider shall receive the orientation required in this subsection and, unless the care provider has sufficient documented experience working with the population of residents to be served, shall work under the direct supervision of the administrator or an experienced care provider who is at least 21 years of age for not less than three complete work days. Direct supervision must be documented in the personnel file of the supervised care provider.

(c) For purposes of this section, "direct supervision" means that the administrator, or a care provider who is at least 21 years of age and has received the training required under this chapter, is present in the same building as the individual being supervised and available for consultation or assistance.

### **7 AAC 75.250. Advertising**

(a) An assisted living home may not advertise that it is a "nursing home" or that it provides "nursing care," unless it holds a license under [AS 18.20.020](#) - 18.20.130.

(b) A home may advertise that it provides housing, food service, personal assistance, assistance with the activities of daily living, or health-related services, as described in [AS 47.33.010](#) and 47.33.020, including intermittent nursing care or short-term skilled nursing care.

### **7 AAC 75.260. General environmental requirements**

(a) A home shall ensure that each resident has

- (1) room furniture that is typical for residents of homes in the community and neighborhood in which the assisted living home is located; the furniture may be provided by the resident;
- (2) storage space for clothing and personal possessions;
- (3) adequate linen, soap, and personal hygiene facilities necessary for cleanliness;
- (4) a signal device, as provided for in the assisted living plan of a resident who must use a device when verbal communication is not possible;
- (5) reasonable privacy when sharing a room; and
- (6) appropriate storage and work areas adjacent to the area of use to accommodate the following functions, if conducted on the premises:

- (A) food preparation and serving; and
  - (B) laundry;
- (7) a bedroom that meets the following standards, subject to [7 AAC 75.070](#)(b):
- (A) if the bedroom is for single occupancy, it must contain at least 80 square feet of open floor space, measured before furniture is placed in the room;
  - (B) if the bedroom is for double occupancy, it must contain at least 140 square feet of open floor space, measured before furniture is placed in the room;
  - (C) no more than two residents may be assigned to a bedroom.
- (b) A home must occupy a building that is used exclusively for assisted living, except that a home may be licensed in a building that has more than one occupancy if
- (1) the other occupancy is consistent with the health, safety, comfort, and well-being of the residents of the assisted living home; and
  - (2) the other users of the building comply with applicable state and municipal building and fire codes and environmental health codes.

#### **7 AAC 75.265. Food service**

- (a) An assisted living home shall offer three balanced, nutritious meals and at least one snack daily at consistent times. A home shall ensure that the meals and snacks offered include the recommended number of servings of each food type set out in the United States Department of Agriculture publication, The Food Guide Pyramid, as revised as of October 1996 and adopted by reference. The home shall offer a wide variety of food that includes fresh fruits and vegetables as often as possible.
- (b) The home shall consider each resident's health-related or religious restrictions, cultural or ethnic preferences in food preparation, and preference for smaller portions, as reflected 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](#). The home shall also consider a resident's decision, from time to time, to be served smaller portions even if that issue is not addressed in the contract or plan.
- (c) An assisted living home shall keep a written record of each day's menu, document whether the meals served were as described in those menus, and keep the documented menus on file for at least one year for review by the department.

#### **7 AAC 75.270. Life and fire safety**

An assisted living home must meet the applicable life and fire safety requirements of [7 AAC 10.1010](#).

#### **7 AAC 75.280. Sanitation and environmental protection**

An assisted living home must satisfy applicable standards for sanitation and environmental protection, including the applicable standards of [7 AAC 10.1000](#) - [7 AAC 10.1095](#). An assisted living home shall allow inspection by the department as required by [AS 47.32.100](#) and [7 AAC 10.9600](#) - [7 AAC 10.9620](#), and by any municipal authority responsible for ensuring that the home meets applicable municipal sanitation and environmental protection requirements. The home shall maintain a copy of each inspection report for at least two years and make any report from a municipal authority available for department review. The department may request an inspection by the municipal authority on the home's behalf. The home is responsible for any fee charged.

### **7 AAC 75.290. Emergency situations**

(a) If a resident experiences a medical emergency, serious injury, or accident, is involved in assaultive behavior that could injure the resident or another person or that requires police intervention, or is absent without prior notice to the home and could pose a risk of harm to the resident or others, the assisted living home shall

(1) access emergency services, if needed, and provide the emergency care that a reasonably prudent person would provide under the circumstances, including notice to the resident's physician and representative; and

(2) record the date, time, and circumstances of the accident, serious injury, medical emergency, or incident in the resident's file and in any general daily log kept by the home, and provide a copy of the report to the department as required under [7 AAC 75.340](#).

(b) An assisted living home shall maintain readily-available first aid supplies appropriate to its size, and post or make readily available the first aid procedures.

### **7 AAC 75.295. Use of intervention and physical restraint**

(a) An assisted living home must have a written procedure regarding the use of physical restraint. That procedure must be approved by the department under [AS 47.33.330](#).

(b) As provided in [AS 47.33.330\(a\)\(4\)](#), an assisted living home may use physical restraint if a resident's actions present an imminent danger to the resident or others, but only after other interventions, including the use of a time out, have failed. A time out or physical restraint may not be used as a punishment, as a substitute for a less restrictive form of intervention, or as a convenience for the home's staff. A time out or physical restraint must be terminated as soon as the resident no longer presents an imminent danger to that resident or others.

(c) At the time of a resident's admission to the home, the home shall

(1) explain its approved physical restraint procedures to the resident or resident's representative;

(2) perform an assessment, at the time of admission, regarding the potential need for the use of time outs or physical restraint asking for information

(A) about the resident's prior behavior that might indicate a need for the use of time outs or physical restraint; and

(B) that might help minimize use of time outs or physical restraint;

(3) address the need for using time outs or physical restraint in the resident's assisted living plan if the home has reason to believe that time outs or physical restraint may be necessary because the resident's prior behavior or medical condition indicates that the resident may occasionally present an imminent danger to the resident or others; the plan must include information regarding

(A) when time outs or physical restraint should be used;

(B) what forms of physical restraint should be used, based on recommendations from the resident's primary physician; and

(C) any prenotification procedures requested by the resident's representative in addition to the 24-hour notice required by (d)(1) of this section or the five-day written report required under (d)(2) of this section.

(d) If physical restraint is used, the assisted living home shall

(1) notify the resident's representative

(A) before physical restraint is used, if prenotification is made a part of the resident's assisted living plan under (c)(3)(C) of this section; and

(B) within 24 hours, unless the representative has agreed, as reflected in the resident's assisted living plan, that notification under (2) of this subsection is sufficient; and

(2) document any use of physical restraint in the written report required under [7 AAC 75.340\(a\)\(4\)](#) that includes

(A) the resident's name;

(B) a description of the incident that led to the decision to use physical restraint;

(C) a brief description of any other form of intervention used or attempted before the use of physical restraint;

(D) the type of physical restraint used;

(E) the time when physical restraint began; and

(F) the time when physical restraint ended.

(e) For purposes of this section, a time out is the restriction of a resident, with that resident's consent, to a quiet area or unlocked quiet room for a period not to exceed 30 minutes. A home may not require a resident to take a time out without that resident's consent, and may not use a time out that exceeds 30 minutes, with or without that resident's consent.

(f) For purposes of this section, physical restraint is a manual method that restricts body movement, or a physical or mechanical device, material, or piece of equipment that is attached or adjacent to the resident's body, that prevents the resident from easily removing it, and that restricts movement or normal access to the body. The use of the following safety equipment will not be considered physical restraint, if authorized in writing by the resident's primary physician, and if the necessity for its use is set out in the resident's assisted living plan:

(1) self-release safety belts;

(2) lap-top trays;

(3) wedge chair cushions;

(4) concave mattresses; and

(5) bedside rails if used for a resident who

(A) lacks independent mobility but has involuntary movement, including a seizure disorder, that could cause the resident to fall from bed; or

(B) needs the rails to assist in mobility.

### **7 AAC 75.300. Assisted living plan**

(a) Preparation of an assisted living plan in accordance with [AS 47.33.220](#), 47.33.230, and this chapter shall include a review of any other existing plan of care that may already be in place for the resident. A plan of care already in place for a resident may substitute for the assisted living plan required by [AS 47.33.220](#) and 47.33.230 if the existing plan incorporates substantially the same provisions and addresses the same requirements as would an assisted living plan.

(b) When an existing plan of care cannot be substituted for an assisted living plan, the assisted living plan required by [AS 47.33.220](#) and 47.33.230 must, insofar as possible, incorporate the provisions of the plan of care already in place for the resident.

(c) Evaluation of assisted living plans for residents will take into account the timelines established for evaluation of existing plans of care, and will, insofar as possible, set similar evaluation timelines to avoid duplicative evaluation efforts.

(d) Copies of existing plans of care for a resident shall be placed in the assisted living file, along with the assisted living plan.

#### **7 AAC 75.305. Determination regarding declarations for mental health treatment**

An assisted living home shall make a reasonable effort to determine whether a resident has made a declaration of preferences or instructions regarding mental health treatment under [AS 47.30.950](#) by consulting with the resident, the resident's primary physician, the resident's case manager, the resident's spouse, parent, or guardian, a person in the resident's household, a person designated by the resident, or the resident's representative.

#### **7 AAC 75.310. Acceptance and management of residents' money**

(a) Before an assisted living home accepts the money of a resident for safekeeping and management, the home shall obtain written authorization from the resident or the resident's representative or representative payee. The authorization must

(1) be attested to by a competent witness who has no pecuniary interest in the home or its operations, and who is not connected to the home or its operations in any manner;

(2) indicate exactly which or how much of the resident's money the assisted living home is authorized to manage; and

(3) provide for an amount not to exceed \$100 a month that the assisted living home may keep on hand for the resident to use to meet that resident's day-to-day needs, unless the resident has other sources of money for that purpose.

(b) A home shall establish a system for residents to request withdrawals from the daily-needs money that the home controls. The home shall advise the resident of the available balance of the daily-needs money at the time of each withdrawal and shall keep a record of all withdrawals and balances.

(c) After receiving authorization from the resident or resident's representative to manage the resident's money for the resident, the assisted living home shall

(1) promptly deposit all of the resident's money that the home is authorized to manage, except the money in the resident's daily needs fund, in an interest-bearing designated trust account in a bank, savings and loan association, or licensed escrow agent, insured by the Federal Deposit Insurance Corporation (FDIC), separate from other money and property of the home; and

(2) provide in writing to the resident, or the resident's representative, the account number and the name and address of the financial institution in which the resident's money has been deposited.

(d) An assisted living home that is authorized to manage the money of more than one resident may deposit it in a common designated residents' trust account only if the home has the capability of tracking the account activity specific to each resident, and then issuing a detailed statement of each resident's money to

those residents whose money is commingled in the same account. Those statements shall be provided at least quarterly.

(e) When managing the money of a resident, the assisted living home shall, in accordance with the resident's assisted living plan, spend money only to meet the needs of the resident.

(f) When managing the money of residents through deposits in separate trust accounts, the assisted living home shall

(1) provide each resident or the resident's representative with a copy of each written account statement from the financial institution in which the money has been deposited; and

(2) provide each resident or the resident's representative, without charge, a written, itemized statement, at least quarterly, of all financial transactions involving the resident's money being managed by the home.

(g) Upon a written request by the resident or the resident's representative, the assisted living home shall return to the resident or the resident's representative, within three business days, as much of the resident's money as requested, including any interest accrued from deposits. The money may be returned by means of a check.

(h) Upon a voluntary or involuntary termination of the resident's assisted living contract, the assisted living home shall, within three business days, return to the resident or the resident's representative at least 90 percent of the resident's money, less any accrued charges, whether the money is in a designated trust account or in the resident's daily-needs account. The home shall return all remaining money belonging to the resident within 60 calendar days after termination of the contract.

(i) An assisted living home shall provide a complete accounting of the resident's money to the personal representative, as defined in [AS 13.06.050](#), of a resident's estate within 30 days after the resident's death. In the absence of a personal representative, the home shall provide the accounting and the deceased resident's assets to the public administrator appointed under [AS 22.15.310](#).

(j) If a home or the entity operating the home is sold, the home shall provide the buyer with written verification of all resident money the home is authorized to manage and obtain a signed receipt for such money from the new owner.

#### **7 AAC 75.320. Annual monitoring report**

(a) At least once each year, the department will monitor an assisted living home or will require the home to submit a self-monitoring report to the department on a form supplied by the department. The annual report must contain the information requested by the department, to show that the home continues to comply with [AS 47.33](#) and this chapter.

(b) The failure to submit an annual report as required by the department, or the submission of a false report, is grounds for issuance of a notice of violation under [AS 47.33.530](#).

(c) The department may accept the report of a third-party, independent evaluation of an assisted living home, made on behalf of the home, if the report contains substantially the same information required by the department under this section.

#### **7 AAC 75.330. Refund of rent**

(a) A home's written policy for the refund of advance payments, established in compliance with [AS 47.33.030](#) (b), must conform to the following rules:



(1) if a resident terminates a residential services contract by giving notice at least one rental period before the termination is to be effective, the home shall refund an advance rent payment on a prorata basis;

(2) if a resident terminates the contract by giving notice less than one rental period before the termination is to be effective, the home need not refund a payment applicable to the current rental period, but shall prorate the refund of an advance rent payment for a subsequent period; if the home executes a new residential services contract with a new resident in place of the terminating resident, to become effective during the current rental period, the home shall refund the prorata amount of rent applicable to the days of the new contract;

(3) if a resident dies, the home need not refund a payment applicable to the current rental period, but shall prorate the refund of an advance rent payment for a subsequent period; if the home executes a new residential services contract with a new resident in place of the deceased resident, to become effective during the current rental period, the home shall refund the prorata amount of rent applicable to the days of the new contract;

(4) if a home terminates a residential services contract, in accordance with [AS 47.33.360](#), it shall refund an advance rent payment on a prorata basis.

(b) In implementing [AS 47.33.030](#), "advance payment," in the case of rent, does not mean the rent paid at the beginning of a rental period for that period. It means rent advanced for a subsequent rental period.

#### **7 AAC 75.340. Notification requirements**

(a) In addition to meeting the reporting requirements of [7 AAC 10.955](#)(c) for the centralized registry established under [7 AAC 10.955](#), an assisted living home shall provide, on a form supplied by the department, written notice to the department, to each affected resident or that resident's representative, and to any service coordinator, as follows:

(1) within 24 hours or on the next business day if

(A) an administrator, a care provider, or an individual who resides in the home, other than a resident receiving services, is charged with, convicted of, found not guilty by reason of insanity for, or adjudicated as a delinquent for, a barrier crime listed in [7 AAC 10.905](#); for purposes of notice under this subparagraph, a resident is an affected resident if the resident was a victim of the offense committed, or if the offense was committed on the premises of the assisted living home;

(B) unable to correct a violation constituting an emergency under [7 AAC 75.530](#) - [7 AAC 75.550](#);

(C) a resident dies of other than a natural cause; or

(D) physical restraint is used under [7 AAC 75.295](#); notification under this subparagraph shall be provided only to the resident's representative; notification under this subparagraph need not be made if the resident's assisted living plan indicates that notification under (4) of this subsection is sufficient as established under [7 AAC 75.295](#)(d)(1); notice must be given under this subparagraph or under (4) of this subsection even if prenotification is required under [7 AAC 75.295](#)(c)(3)(C);

(2) within 48 hours after a resident

(A) experiences a medical emergency, serious injury, or accident; notice under this subparagraph must include information as to whether the resident required more than 24 hours of hospitalization;

(B) is involved in assaultive behavior that resulted in the need for medical treatment for the resident or another individual, or that required police intervention; or

(C) is absent from the home for 24 hours or longer without prior notice to the home;

(3) within 72 hours, and not less than 24 hours, before the termination, under [AS 47.33.360\(a\)\(1\)](#) or (a)(4), of a resident's residential services contract with the home;

(4) within five days if physical restraint is used under [7 AAC 75.295](#) unless a shorter time is provided in a resident's assisted living plan in accordance with [7 AAC 75.295\(c\)](#); notice must be given as required under (1)(D) of this subsection or under this paragraph even if prenotification is required under [7 AAC 75.295\(c\)\(3\)\(C\)](#); the notice must include the information required by [7 AAC 75.295\(d\)](#);

(5) at least 14 days before a change in the home's mailing address;

(6) at least 30 days before

(A) a rate increase;

(B) termination, under [AS 47.33.360\(a\)\(2\)](#), (a)(3), (a)(5), or (a)(6), of a resident's residential services contract with the home; notice must be given in the manner required by [AS 47.33.360\(b\)](#); or

(C) amendment of a residential services contract to require an advance payment under [AS 47.33.030](#); and

(7) at least 90 days before

(A) a closure of the home; or

(B) a relocation of the home. (b) Repealed 6/24/2004.

(c) An assisted living home shall notify the department, in writing, before taking an action that requires

(1) a request for modification when the administrator, individual, or entity named in the current application changes;

(2) a request for department approval of a modification to increase resident capacity; or

(3) notification because the use of the home will change from exclusive occupancy as an assisted living home to shared use as a business or other enterprise; a notification under this paragraph must include information to show compliance with [7 AAC 75.260\(b\)](#).

### Article 3

#### **Variances**

#### **7 AAC 75.405. Request for variance**

(a) Subject to (b) of this section, an assisted living home may request a general variance under [7 AAC 10.9500](#) - [7 AAC 10.9535](#) if the home cannot meet an applicable requirement of [AS 47.32](#), [7 AAC 10.1000](#) - [7 AAC 10.1095](#), or this chapter.

(b) Variance requests regarding barrier crimes, criminal history checks, and the centralized registry are subject to the provisions of [7 AAC 10.930](#) - [7 AAC 10.935](#).

(c) If the department has approved a plan of correction under [7 AAC 10.9610](#) following a notice of violation under [AS 47.32.120](#), a home may operate under the plan without submitting an application for a general variance.

**7 AAC 75.410. Grounds for variance** Repealed.

**7 AAC 75.415. Temporary variance to admit a child for care in an assisted living home**

An assisted living home may apply for a temporary variance to admit a specific child by name for care if the home and a referring agency, in addition to meeting all other applicable requirements of [7 AAC 10.1000](#) - [7 AAC 10.1095](#), develop a plan of safety that

- (1) ensures the health and safety of the adults in the home;
- (2) ensures the health and safety of the child; and
- (3) is approved by the department, by the child's representative, and by each resident of the home or the representative for each resident.

**7 AAC 75.420. Application for variance, generally** Repealed.

**7 AAC 75.430. Application for temporary variance** Repealed.

**7 AAC 75.440. Evaluation of application for temporary variance** Repealed.

**7 AAC 75.450. Grant or denial of temporary variance** Repealed.

**7 AAC 75.460. Application for permanent variance** Repealed.

**7 AAC 75.470. Evaluation of application for permanent variance** Repealed.

**7 AAC 75.480. Grant or denial of permanent variance** Repealed.

**7 AAC 75.490. Appeal from denial of variance** Repealed.

Article 4  
**Violations**

**7 AAC 75.510. Violation conference**

(a) At any time after an assisted living home has received a notice of violation under [AS 47.33.530](#), the home or the department may request a conference to discuss the violation and the home's options for correcting the violation. A conference, conducted in person or by telephone, will be held no later than seven days after the request is made.

(b) A request for a conference does not extend any other time periods provided for in this chapter.

**7 AAC 75.520. Report of compliance in response to notice of violation**

(a) Upon correction of a violation described in a notice of violation, an assisted living home shall, within 10 days after correcting the violation, submit to the department a written report of compliance. The department

may provide a copy of the report or require the home to provide a copy of the report to each resident of the home or to each resident's representative. The report of compliance must be signed by the administrator of the home and must contain a statement in which the administrator attests to the truth of the contents of the report.

(b) A report of compliance must state how the home corrected each violation listed in the notice of violation.

(c) A report of compliance is a public record. The department will retain it with the notice of violation to which it refers.

(d) The department may reinspect the home within 30 days after receiving a report of compliance, upon consideration of the nature of the violation and the terms of correction.

#### **7 AAC 75.530. Violation constituting an emergency**

(a) Subject to (c) of this section, if the department determines that a violation cited by the department in a notice of violation issued under [AS 47.33.530](#) constitutes an emergency because of imminent danger to the health or safety of residents, the department will

(1) issue the notice of violation within 24 hours after determining that an emergency exists; the notice will state the nature of the emergency, the actions required to comply with [AS 47.33](#) and this chapter, and a specific date and time for the home to correct the violation; and

(2) determine whether the violation has been corrected within the date and time specified in the notice.

(b) An assisted living home subject to a notice of violation constituting an emergency shall post the notice in a conspicuous location at the home until the department has determined that the violation has been corrected.

(c) If the department determines that the nature of the emergency described in (a) of this section warrants immediate closure of the assisted living home, the department will issue a notice of administrative sanction as required under [AS 47.33.550](#)(c). The notice will

(1) state that the home must be closed immediately under authority of [AS 47.33.550](#)(e), pending the outcome of any hearing requested under [AS 47.33.550](#)(d); and

(2) be distributed as required by [AS 47.33.550](#)(h).

#### **7 AAC 75.540. Temporary inability to correct a violation constituting an emergency**

If an assisted living home is temporarily unable to correct a violation constituting an emergency, the home shall

(1) notify the department of the inability to correct the violation, submit a plan of correction indicating the time required to complete the correction, and submit a plan for alternative care arrangements to be used by the home until the violation is corrected; and

(2) provide notice as required by [7 AAC 75.340](#) that an emergency exists and that the violation cannot be corrected immediately to

(A) each resident of the home or the representative of each resident;

(B) the providers of services to or treatment of the residents; and

(C) the residents' service coordinators.

### **7 AAC 75.550. Refusal to correct a violation constituting an emergency**

If an assisted living home fails to correct a violation constituting an emergency within the date and time specified in the notice of violation, the department will

- (1) impose one or more of the administrative sanctions provided for in [AS 47.33.550](#) and [7 AAC 75.570](#); and
- (2) provide notice as required by [7 AAC 75.340](#) that an emergency exists and the violation has not been corrected to
  - (A) each resident of the home or the representative of the resident;
  - (B) the agencies that provide services or treatment to the residents;
  - (C) the resident's service coordinators; and
  - (D) the department's adult protective services program.

### **7 AAC 75.560. Sanctions based on conviction of administrator**

If the criminal conviction of an assisted living home administrator forms the basis of a possible administrative sanction against the home under [AS 47.33.550](#) and [7 AAC 75.570](#), the department will take into consideration whether the conviction poses a risk to residents or has an adverse effect on the safety or effective operation of the home.

### **7 AAC 75.570. Sanctions for noncompliance**

(a) The department will consider the following factors in determining an administrative sanction under [AS 47.33.550](#):

- (1) the nature and extent of the violation, and the extent to which the health or safety of residents is adversely affected, specifically considering whether the assisted living home's noncompliance
  - (A) is likely to have only a minor negative impact on a resident;
  - (B) results in minimal physical, mental, or psychosocial discomfort to a resident;
  - (C) results in actual harm to a resident as evidenced by compromising a resident's ability to maintain physical, mental, or psychosocial well-being; or
  - (D) results in a situation in which immediate corrective action is necessary because the noncompliance has caused, or is likely to cause, serious injury, harm, impairment, or death to a resident;
- (2) whether the violation substantially limits the home's ability to render adequate care;
- (3) whether the home has a history of violations, and, if so, the nature of the violations and whether the previous violations were corrected;
- (4) whether the home failed to provide records to the department upon request;
- (5) whether the home has submitted false or fraudulent information to the department.

(b) If the department imposes an administrative sanction, the administrator may appeal that action as described in [AS 47.33.550](#).

Article 5  
**General Provisions**

**7 AAC 75.990. Definitions**

In [AS 47.33](#) and this chapter, unless the context requires otherwise,

- (1) "activities of daily living" has the meaning given in [AS 47.33.990](#);
- (2) "administrator" has the meaning given in [AS 47.33.990](#);
- (3) "business day" means a day other than Saturday, Sunday, or a state holiday;
- (4) "care provider" means an employee of an assisted living home who provides direct care services to a resident of the home; "care provider" does not include an individual who is an employee of a care-providing entity that is not affiliated with the home;
- (5) "department" means the Department of Health and Social Services;
- (6) "direct care services" means assistance to a resident of an assisted living home with the activities of daily living and the instrumental activities of daily living;
- (7) "emergency shelter" means a home or facility for transient occupants whose occupancy is short-term in nature, not intended to exceed 30 days; "emergency shelter" includes a respite home or facility;
- (8) "food service" means the offering of food to residents of an assisted living home as required by [7 AAC 75.265](#);
- (9) "home" has the meaning given in [AS 47.33.990](#);
- (10) "imminent danger to the health or safety of residents" means a situation that is likely to cause serious injury, harm, impairment, or death to one or more residents of an assisted living home;
- (11) "instrumental activities of daily living" has the meaning given in [AS 47.33.990](#);
- (12) "provide" means to furnish, supply, or make available, whether by the owner or an employee of a home or by means of an independent contractor whose services are procured by the home;
- (13) "resident" has the meaning given in [AS 47.33.990](#);
- (14) "residential services contract" means an agreement to provide services in an assisted living home as described in AS 47.33.010(a); "residential services contract" does not include an agreement that is solely for rent or for rent and food service, or an agreement between an individual and a friend, personal care attendant, chore provider, or monitor who provides assistance to the individual;
- (15) "service coordinator" has the meaning given in [AS 47.33.990](#);
- (16) "universal precautions" means the infectious control precautions that are recommended by the United States Department of Health and Human Services, Centers for Disease Control and Prevention to be used to prevent the transmission of blood-borne germs such as human immunodeficiency virus and hepatitis B virus.

# 7 AAC 47.300 – 525- General Relief Assisted Living Home Care

## Article 2

### General Relief Assisted Living Home Care

#### **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.

(b) Repealed 6/24/2004.

#### **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.

#### **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.

#### **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\(a\)](#).

#### **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.

#### **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. I989b-4 and I989c-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.

### **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.

### **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.

#### **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.

#### **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.

#### **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.

#### **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 reputedly 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](#).

**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.

#### **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.

#### **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.

#### **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.

#### **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](#).

#### **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.

#### **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](#).

#### **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.

#### 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.

**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](#).

**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](#).

**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.

**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.

#### **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.

**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.

**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.

**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.

**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](#).