

DEPARTMENT OF HEALTH & SOCIAL SERVICES



PROPOSED CHANGES TO REGULATIONS

7 AAC 41. Child Care Assistance Program.



PUBLIC REVIEW DRAFT
May 10, 2019

COMMENT PERIOD ENDS: July 12, 2019

***Please see the public notice for details about how to
comment on these proposed changes.***

Notes to reader:

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paragraph, or subparagraph is being added, or that an existing section, subsection, paragraph, or subparagraph is being repealed and readopted (replaced), *the new or replaced text is not bolded or underlined*.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

**Title 7 Health and Social Services.
Chapter 41. Child Care Assistance Program.**

7 AAC 41.015. Responsibilities of designees.

7 AAC 41.015(b) is amended to read:

(13) ensure all actions for family and provider participation are maintained in a state-provided data system, as applicable;

(14) provide information resources to families and providers regarding developmental screening for children; and

(15) provide information to families and providers regarding program participation and resources for families experiencing homelessness;

(16) provide a child care provider consumer statement to families including information on how to find a child care provider, review a provider’s compliance, access information regarding a provider’s participation in a voluntary quality recognition and improvement system, how to file a complaint against a child care provider, and the program’s established reimbursement rate.

(Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181; am 1/5/2017, Register 221; am _____/_____/_____, Register_____)

Authority: AS 47.05.300 AS 47.05.340 AS 47.25.001
AS 47.05.310

7 AAC 41.025. Program rates.

7 AAC 41.025(a) is amended to read:

(a) For purposes of calculating a family's program benefits under 7 AAC 41.345, the program rate for each category of care authorized for a child is established in the department's Child Care Assistance Program Rate Schedule, revised as of **February 12, 2019**, [JUNE 13, 2017], and adopted by reference. The rates in the schedule are set out by type of facility licensed under 7 AAC 57 or approved under this chapter, category of care, and geographic area.

7 AAC 41.025(b)(1)(d) is amended to read:

(D) school-age child: five years of age through **13** [12] years of age;
(Eff. 6/23/2006, Register 178; am 8/31/2008, Register 187; am 2/31/2010, Register 193; am 1/5/2017, Register 221; am 9/11/2017, Register 223; am _____/_____/_____, Register_____)

Authority: AS 47.25.001 AS 47.25.041

7 AAC 41.210. Provider responsibilities.

7 AAC 41.210(13) is amended to read:

Except for a provider subject to 7 AAC 41.370, a participating provider

(13) shall **ensure each provider approved for participation as an approved relative provider under 7AAC 41.201(d), obtain annually at least 12 hours of ongoing training pertaining to health and safety, early childhood and development, of which at least one hour must be on one of the health and safety topics listed in 7 AAC 41.210 (12)(A)-(G) or an approved refresher training course under 7 AAC 57, and complete and maintain certification for the required training.** [OR BOTH].

(Eff. 6/23/2006, Register 178; am 2/9/2007, Register 181; am 1/5/2017, Register 221; am _____/_____/_____, Register_____)

Authority: AS 47.05.300 AS 47.05.310 AS 47.25.001

Editor's note: A copy of the approved list of training courses may be obtained from the Department of Health and Social Services, Child Care Program Office, Division of Public Assistance, Frontier Building, 3601 C St., Suite 140, Anchorage, AK 99503; telephone number (907) 269-4500, or may be viewed at that office or on the internet at <http://dhss.alaska.gov/dpa/Pages/ccare/default.aspx> .

7 AAC 41.211. Ratios and program requirements.

7 AAC 41.211(b) is amended to read:

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

provider's home. **A child who reaches 13 years of age while receiving authorized care, must be counted in the number of children receiving care, not to exceed five.**

(Eff. 1/5/2017, Register 221; am ____/____/____, Register____)

Authority: AS 47.25.001

7 AAC 41.213. Behavior guidance.

7 AAC 41.213(d) is amended to read:

(d) When a child has a pattern of out-of-control behavior, a provider described in 7 AAC 41.200(a)(5) or (6) may remove the child from the company of other children until the child's behavior has stabilized. **Exclusionary practices must only to be used as a last resort in extraordinary circumstances where there is a serious safety concern that cannot be reduced or eliminated with reasonable accommodations.** In addition, the child care provider shall develop a plan with the child's parent to **provide individualized social and emotional intervention support for the child while the child is in care. The plan must include methods for understanding the child's behavior, and developing, adopting, and implementing a team-based positive behavior support plan with the intent to reduce challenging behavior and prevent suspensions and expulsions** [ADDRESS THE BEHAVIOR ISSUES].

(Eff. 1/5/2017, Register 221; am ____/____/____, Register____)

Authority: AS 47.25.001

7 AAC 41.222. Life and fire safety.

7 AAC 41.222(d)(4) is amended to read:

(4) includes procedures for relocating services and reunifying the child and family when the child care premises are inaccessible; [AND]

7 AAC 41.222(d)(5) is amended to read:

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

7 AAC 41.222 is amended by adding a new paragraph to read:

(6) includes procedures for lock-down and sheltering the children in place for emergency situations when evacuation is not possible.

(Eff. 1/5/2017, Register 221; am ____/____/____, Register____)

Authority: AS 47.25.001

7 AAC 41.245. Provider charges.

7 AAC 41.245(a) is repealed and readopted to read:

(a) Except for a provider subject to 7 AAC 41.370, a participating provider shall ensure that a rate charged by a provider to a family participating in the program must be a rate submitted under 7 AAC 41.201(c)(3) or (e)(14), or as amended under 7 AAC 41.210(4).

(Eff. 6/23/2006, Register 178; am 1/5/2017, Register 221; am ____/____/____, Register____)

Authority: AS 47.25.001

7 AAC 41.260. Reports.

7 AAC 41.260(c) is amended to read:

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

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

(2) a serious injury or illness of a child while in care that requires attention by medical personnel outside of the premises; [AND]

(3) a fire or other emergency situation that affects the child care premises, reported as described in 7 AAC 10.1010(i); **and**

(4) the suspension or expulsion of a child in care for challenging or out of control behavior.

(Eff. 6/23/2006, Register 178; am 1/5/2017, Register 221; am ____/____/____, Register____)

Authority: AS 47.25.001 AS 47.25.051

7 AAC 41.265. Compliance and other reviews.

7 AAC 41.265(b) is amended to read:

(b) In addition to compliance and monitoring reviews described in (a) of this section, the department will inspect and investigate the provider for purposes of health and safety compliance within 90 days after receiving a complete application or participation approval. **The department will conduct annual unannounced inspections during subsequent years of a provider's program participation.**

(Eff. 1/5/2017, Register 221; am ____/____/____, Register____)

Authority: AS 47.05.010 AS 47.25.001

The heading of 7 AAC 41.300 is amended to read:

7 AAC 41.300. **Eligible** [ELIGIBLE] family.

7 AAC 41.300(a)(2) is amended to read:

(2) the family's monthly income is at or below the maximum allowed under 7 AAC 41.335(b); [AND]

7 AAC 41.300(a)(3) is amended to read:

(3) the family has at least one eligible child as specified in 7 AAC 41.350; **and**

7 AAC 41.300 is amended by adding a paragraph to read:

(4) the family's children are physically present and living in the state.

(Eff. 6/23/2006, Register 178; am 1/5/2017, Register 221; am ____/____/____, Register____)

Authority: AS 47.05.010 AS 47.25.021 AS 47.25.031
AS 47.25.001

7 AAC 41.305. Family eligibility determination.

7 AAC 41.305(a) is amended to read:

(a) The department will or a designee shall determine family eligibility to participate in the child care assistance program under AS 47.25.021, 47.25.031, and this chapter. After a determination of eligibility **for a 12 month period**, the department will not and a designee may not re-determine family eligibility for **that 12 month period** [MONTHS], if the family's average monthly income as described in 7 AAC 41.325(b) does not exceed 85 percent of the state median income as described in 7 AAC 41.335(b) for a family of the same size. The department will or

the designee shall provide written notice to a family regarding eligibility to participate in the program. **The department will and a designee may re-determine family eligibility up to 60 days before the end of the family's current 12 month period for a new 12 month eligibility period. The new 12 month eligibility period must begin no sooner than the last day of the current 12 month eligibility period.**

(Eff. 6/23/2006, Register 178; am 1/5/2017, Register 221; am ____/____/____, Register____)

Authority: AS 47.05.010 AS 47.25.021 AS 47.25.031
AS 47.25.001

7 AAC 41.335. Family income and contribution schedule.

7 AAC 41.335(a) is amended to read:

(a) To determine the amount the family must contribute toward the eligible cost of care, the department will or a designee shall use the department's Family Income and Contribution Schedule, revised as of **August 31, 2018**, [FEBRUARY 1, 2017], and adopted by reference. This amount will be based on family size and income level, and on a sliding fee scale.

7 AAC 41.335(b) is repealed and readopted to read:

(b) The maximum family monthly income allowed for participation in the program appears in the Family Income and Contribution Schedule, adopted by reference in (a) of this section. The maximum family monthly income may not exceed 85 percent of the state's median income (SMI) level developed by the federal government for this state, as periodically published in the federal register, and adjusted by family size

7 AAC 41.335(c) is amended to read:

(c) The department will review and revise the family income and contribution schedule **annually, based on the state's median income (SMI) published in the federal register and may consider additional revisions** based on one or more of the following factors:

7 AAC 41.335(c)(2) is amended to read:

(2) the state's median income (SMI) level as described in (b)(1) of this section
[AND ADJUSTED BY AMOUNTS PAYABLE TO A FAMILY UNDER AS 43.23
(PERMANENT FUND DIVIDENDS)] for the current year;

7 AAC 41.335 is amended by adding a new sub-section to read:

(e) If the family's monthly income or family size needs to be adjusted during its eligible period, the department or its designee may use the *Family Income and Contribution Schedule* in effect at the time of the family's initial eligibility to determine the adjustment of their contribution, and adopted by reference in (a) of this section. The department or its designee may use the *Family Income and Contribution Schedule* in effect at the time of the family's application for continued program participation to determine the family's continued eligibility.

(Eff. 6/23/2006, Register 178; am 11/1/2010, Register 196; am 1/5/2017, Register 221; am

9/11/2017, Register 223; am ____/____/____, Register____)

Authority: AS 47.05.010 AS 47.25.041 AS 47.25.051

AS 47.25.001

7 AAC 41.350. Eligible child.

The introductory language of 7 AAC 41.350(a) is amended to read:

(a) Subject to (b) **and (c)** of this section, a child eligible to participate in the child care assistance program under this chapter is an individual

7 AAC 41.350 is amended by adding a new sub-section to read:

(c) A child described in (a) of this section is eligible to participate in the program through the end of the family's current eligibility period, if the participating child turns 13 years of age during the family's current eligibility period.

(Eff. 6/23/2006, Register 178; am 1/5/2017, Register 221; am ____/____/____, Register ____)

Authority: AS 47.05.010 AS 47.25.001 AS 47.25.095

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

7 AAC 41.370(b)(2)(J) is amended to read:

(J) a completed child care provider disaster preparedness and emergency evacuation plan, on a form prescribed by the department **must include**

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

(2) a detailed description of the procedures that will be followed for the complete evacuation of the child care premises, including specific procedures, as applicable, for

(A) children younger than 30 months of age;

(B) children with limited mobility; and

(C) children who otherwise may need assistance in an emergency, including a child who is mentally, visually, or hearing impaired;

(3) procedures for other emergency situations or natural disasters that may affect the child care premises, including, active shooter, tsunami, flooding, and earthquake emergencies;

(4) procedures for relocating services and reunifying the child and family when the child care premises are inaccessible;

(5) emergency evacuation drills to be conducted and documented once each month unless postponed due to severe weather; the caregiver shall document the reason for any postponement; and

(6) lock-down procedures for sheltering the children in place for emergency situations when evacuation is not possible;