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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Triptaa Surve
Department of Health and Social Services

FROM: April Simpson, Office of the Lieutenant Governor
465.4081

A handwritten signature in blue ink, likely belonging to April Simpson, the sender of the memorandum.

DATE: July 31, 2019

RE: Filed Permanent Regulations: Department of Health and Social Services

Department of Health and Social Services Regulation re: Alaska Pioneers' Homes: Rates and Levels of Service (7 AAC 74.010 - .990)

| | |
|------------------------|-------------------|
| Attorney General File: | 2019200185 |
| Regulation Filed: | 7/31/2019 |
| Effective Date: | 8/30/2019 |
| Print: | 231, October 2019 |

cc with enclosures: Linda Miller, Department of Law
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS
OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

The attached six pages of regulations, dealing with 7 AAC 74. AK Pioneers' Homes, Rates & Levels of Service, are adopted and certified to be a correct copy of the regulation changes that the Department of Health & Social Services adopts under the authority of AS 47.55.010, AS 47.55.020, AS 47.55.030, AS 47.55.035, AS 47.55.070, and AS 47.55.095, and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Health & Social Services paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: July 30, 2019

Sana Efirid
Sana Efirid
Assistant Commissioner,
Department of Health & Social Services

FILING CERTIFICATION

April Simpson for Kevin Meyer

I, [name of lieutenant governor], Lieutenant Governor for the State of Alaska, certify that on

July 31, 2019, at 11:59pm., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

April Simpson (for)
Lieutenant Governor Kevin Meyer

Effective: August 30, 2019.

Register: 231, October 2019.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, KEVIN MEYER, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

**Josh Applebee, Chief of Staff
Kady Levale, Notary Administrator
April Simpson, Regulations and Initiatives Specialist**

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on December 11th, 2018.



K. Meyer

**KEVIN MEYER
LIEUTENANT GOVERNOR**



THE STATE
of **ALASKA**
GOVERNOR MICHAEL J. DUNLEAVY

**Department of
Health and Social Services**

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**LIMITED DELEGATION OF AUTHORITY
FOR ADOPTING REGULATIONS**

I, Adam Crum, Commissioner of the Alaska Department of Health and Social Services, under AS 44.17.010, delegate the authority and responsibility for adopting regulations of the Department of Health and Social Services under the Alaska Administrative Procedure Act dealing with the Alaska Pioneers' Home, 7 AAC 74, during the period from today, July 30, 2019, through 5:00 p.m. on August 2, 2019, to Sana Efird, Assistant Commissioner of the Alaska Department of Health and Social Services.

Date: 07/30/2019



Adam Crum, Commissioner

7 AAC 74.010(c) is repealed and readopted to read:

(c) The service levels provided at a pioneers' home are as follows:

(1) level I services include housing, meals, emergency assistance, opportunities for recreation, and required transportation for recreation;

(2) level II services include level I services, medication management, and assistance with up to two activities of daily living; for assistance with activities of daily living, the resident performs the majority of the effort; during the night shift, the resident is independent in performing activities of daily living and capable of self-supervision;

(3) level III services are services where the resident provides the majority of the effort for assistance with activities of daily living; during the night shift, the resident is generally independent, with occasional assistance with activities of daily living, limited to an average of two times per week. ³ The level III services include level I services, medication management, and any one of the following:

(A) assistance with up to four activities of daily living;

(B) level II and behavior management, excluding complex behaviors; or

(C) level II and nursing services as described in AS 47.33.020;

(4) level IV services are services in which assistance provided by a staff member includes hands-on assistance, with the staff member performing the majority of the effort; services will be provided 24 hours a day. ³ The level IV services include level I services, assistance with five or more activities of daily living, medication management, and one of the following:

(A) behavior management, excluding complex behaviors; or

(B) nursing services as described in AS 47.33.020;

(5) level V services include all services that exceed level IV services;

(6) day services include services provided in a pioneers' home to a recipient who requires level III or IV services for up to eight hours a day between 6:00 a.m. and 6:00 p.m., including meals scheduled during the period the recipient is receiving day services;

(7) respite services include room and board provided in a pioneers' home to a recipient who requires level III or level IV services for up to 14 consecutive days, 24 hours a day.

(Eff. 8/1/2004, Register 171; am 8 / 30 / 2019, Register 231)

Authority: AS 47.55.010 AS 47.55.020

7 AAC 74.025 ^(a) is amended to read:

~~7 AAC 74.025. Rates.~~ (a) To [PARTIALLY] compensate the state for the cost of services, the monthly rate charged a resident, in addition to ancillary charges as prescribed by the department, for the appropriate level of service described in 7 AAC 74.010(c)(1) - (5) [7 AAC 74.010(c)(1) - (3)] is as follows:

- (1) level I services: \$3,623 [\$2,588];
- (2) level II services: \$6,569 [\$4,692];
- (3) level III services: \$11,185 [\$6,795];
- (4) level IV services: \$13,333;**
- (5) level V services: 15,000.**

7 AAC 74.025(b) is amended to read:

(b) To [EFFECTIVE JULY 1, 1997, TO PARTIALLY] compensate the state for the cost of day services described in 7 AAC 74.010(c)(6) [7 AAC 74.010(c)(4)], or respite services

described in 7 AAC 74.010(c)(7) [7 AAC 74.010(c)(5)], that are provided under 7 AAC 74.020, the daily rates are as follows:

(1) day services: \$161 [\$70];

(2) respite services: \$322 [\$100]. (Eff. 8/1/2004, Register 171; am 7/1/2009,

Register 190; am 3/8/2012, Register 201; am 2/1/2016, Register 217; am 4/1/2017, Register 221;

am 8 / 30 / 2019, Register 231)

Authority: AS 47.55.010 AS 47.55.020 AS 47.55.030

7 AAC 74.040(a) is amended to read:

(a) Every resident and recipient shall pay the appropriate monthly or daily rate if financially able to do so. **Every applicant and resident shall provide income and resource verification to the department before admission, annually while residing in a pioneers' home, and if there is a change in the level of service. The department will use the income and resource verification to determine the ability of the applicant and resident to pay and evaluate eligibility for other assistance.**

7 AAC 74.040(e) is amended to read:

(e) To meet the requirement of (d) of this section, the person shall complete any forms necessary to **apply for** [MAKE APPLICATION UNDER] the programs specified in (d)(1) - (4) of this section **within 60 days of a request from the ^{department} Division.** If the person is unable to complete those forms, the department may designate staff to complete the forms on the person's behalf. (Eff. 8/1/2004, Register 171; Register 171; am 12/31/2005, Register 176; am 8 / 30 / 2019, Register 231)

Authority: AS 47.55.010 AS 47.55.030 AS 47.55.070
AS 47.55.020

7 AAC 74.045(c)(1)(D)(iv) is amended to read:

(iv) notwithstanding (ii) of this subparagraph, the department will consider the following to be disregarded personal property: the portion of the resident's or recipient's income that will bring the income of the resident's or recipient's spouse up to **the maximum community spouse monthly maintenance allowance authorized under 7 AAC 100.560(a), without exceeding that allowance**, [\$2,000 A MONTH], if that portion is accumulated as personal property in an account to pay for expenses related to the home or real property described in (i) of this subparagraph and if the spouse's income would otherwise be less than **the maximum community spouse monthly maintenance allowance** [\$2,000] a month; and

(Eff. 8/1/2004, Register 171; am 10/15/2004, Register 172; am 12/31/2005, Register 176; am 3/8/2012, Register 201; am 8 / 30 / 2019, Register 231)

Authority: AS 47.55.010 AS 47.55.020 AS 47.55.030

7 AAC 74.060(f)(7) is amended to read:

(7) require an applicant who is transferred to the inactive waiting list under (6) of this subsection to remain on that list for at least **180** [90] days before applying for a transfer to the active waiting list under (5) of this subsection.

(Eff. 8/1/2004, Register 171; am 3/8/2012, Register 201; am 8 / 30 / 2019, Register 231)

Authority: AS 47.55.010 AS 47.55.020

7 AAC 74.990(a) is amended by adding new paragraphs to read:

(21) “behavior management” means non-pharmacological staffing assistance to structure the environment, increase safety, and decrease triggers of maladaptive behavior for a person who can no longer regulate their own behavior due to the dementia-disease process, but excludes complex behaviors.

(22) “complex behaviors” means those behaviors exhibited by a resident of Alaska that is sixty-five years old or older with a primary diagnosis of dementia and related disorders, with the level of severity described in this paragraph. st The dementia must significantly affect the person’s orientation to time and place, and the person’s ability to start or finish activities of daily living. st The person must have difficulty articulating their basic needs and must display behavior that includes neglect of self or harm to self or others that is not purposeful or planned, but is reactive to the environment and caused by the dementia disease process;

(23) “level IV services” means services described in 7 AAC 74.010(c)(4);

(24) “level V services” means services described in 7 AAC 74.010(c)(5);

(25) “maximum community spouse monthly maintenance allowance” has the meaning given in 7 AAC 100.560(a);

(26) “nursing services” means nursing duties under 12 AAC 44.970 that require the exercise of professional nursing knowledge or judgment, or complex nursing skills that must not be delegated. (Eff. 8/1/2004, Register 171; am 3/8/2012, Register 201; am 8 / 30 / 2019, Register 231)

Authority: AS 47.55.010 AS 47.55.030 AS 47.55.095

AS 47.55.020

AS 47.55.070