

DEPARTMENT OF HEALTH & SOCIAL SERVICES



PROPOSED CHANGES TO REGULATIONS

MEDICAID COST-OF-CARE & THIRD-LEVEL REVIEW

- 7 AAC 100. Medicaid Eligibility.
- 7 AAC 105. Medicaid Provider and Recipient Participation.
- 7 AAC 145. Medicaid Payment Rates.



PUBLIC REVIEW DRAFT
November 5, 2019

COMMENT PERIOD ENDS: December 23, 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paragraph, or subparagraph is being added, or that an existing section, subsection, paragraph, or subparagraph is being repealed and readopted (replaced), *the new or replaced text is not bolded or underlined.*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 100. Medicaid Eligibility.**

The heading of 7 AAC 100, Article 10, is amended to read:

Article 10. [LONG-TERM CARE MEDICAID] Post Eligibility and Cost of Care.

7 AAC 100.550(a) is amended to read:

7 AAC 100.550. Applicability to post-eligibility and cost-of-care liability.

(a) After establishing initial Medicaid eligibility, the department will determine if a recipient must pay a portion of the cost of the recipient's long-term care services **or home and community-based waiver services. If a recipient fails to pay the cost-of care liability, the department may terminate the recipient’s Medicaid waiver eligibility.**

(Eff. 7/20/2007, Register 183; am ____/____/____, Register ____)

Authority: AS 47.05.010 AS 47.07.020 AS 47.07.040

7 AAC 100.552 is repealed and readopted to read:

7 AAC 100.552. Payment of recipient's cost-of-care liability.

(a) A provider that is enrolled under 7 AAC 105.200 as a long-term care facility is responsible for collecting the cost-of-care amount determined under 7 AAC 100.554 from the recipient who resides in the long-term care facility; the department will reduce its payment to the provider by the amount of the recipient's cost-of-care, even if the recipient fails to pay the cost-of-care amount to the provider.

(b) The department is responsible for collecting the cost-of-care amount determined under 7 AAC 100.554 from a recipient who is eligible for home and community-based waiver services under 7 AAC 130.200 – 7 AAC 130.319 and who resides in the community; the department will not reduce its payment to the provider by the amount of the recipient's cost-of-care.

(c) Effective February 1, 2020, a provider that is enrolled under 7 AAC 105.200 as an assisted living home provider, licensed under AS 47.32, is responsible for collecting the cost-of-care amount determined under 7 AAC 100.554 from the recipient who is eligible for home and community-based waiver services under 7 AAC 130.200 – 7 AAC 130.319 and who resides in an assisted living home; the department will reduce its payment to the provider by the amount of the recipient's cost-of-care, even if the recipient fails to pay the cost-of-care amount to the provider.

(d) In this section, "resides in the community" means that the recipient lives in a setting other than a long-term care facility or an assisted living home.

(Eff. 7/20/2007, Register 183; am 1/1/2011, Register 196; am ____/____/____, Register ____)

Authority: AS 47.05.010 AS 47.07.020 AS 47.07.040

The heading of 7 AAC 100.554, Article 10, is amended to read:

7 AAC 100.554. Cost-of-care liability [;] determination

7 AAC 100.554(e) is amended to read:

(e) A recipient does not have a cost-of-care liability in the month of admission to, or discharge from, a **long-term care facility or assisted living home licensed under AS 47.32** [MEDICAL INSTITUTION].

7 AAC 100.554(f) is amended to read:

(f) A recipient may make advance payments to a **long-term care facility or assisted living home licensed under AS 47.32** [MEDICAL INSTITUTION] for a future month's cost-of-care liability.

(Eff. 7/20/2007, Register 183; am 1/1/2011, Register 196; am ____/____/____, Register ____)

Authority: AS 47.05.010 AS 47.07.020 AS 47.07.040

Article 11. Medicaid Treatment of Trusts.

7 AAC 100.604. Recognized Medicaid trusts.

7 AAC 100.604(c)(6) is amended to read:

(6) the applicant or recipient has a cost-of-care liability under 7 AAC 100.550 **7 AAC 100.579**, but the trustee fails to make payments toward the cost-of-care liability;

Title 7 Health and Social Services.

(Eff. 7/20/2007, Register 183; am ____/____/____, Register ____)

Authority: AS 47.05.010 AS 47.07.020 AS 47.07.040

Chapter 105. Medicaid Provider and Recipient Participation.

7 AAC 105.280. Second-level provider appeal.

7 AAC 105.280(g) is repealed:

(g) Repealed____/____/____. (Eff. 2/1/2010, Register 193; am 10/1/2011, Register 199; am____/____/____, Register____)

Authority: AS 44.77.015 AS 47.05.010 AS 47.07.040

Chapter 145. Medicaid Payment Rates.

7 AAC 145.005. Conditions for payment.

7 AAC 145.005(b) is amended to read:

(b) The payment rate established by the department for a given service, less the amount of cost-sharing required under 7 AAC 105.610, constitutes full payment from the department for that service. Except as provided in 7 AAC 110.145, a provider may not charge a recipient or recipient's [,] relative, friend, or representative, any amount to supplement payment by the department for services to which the recipient is entitled under 7 AAC 105 - 7 AAC 160.

(Eff. 2/1/2010, Register 193; am 5/1/2016, Register 218; am____/____/____, Register____)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.042

7 AAC 145.520. Home and community-based waiver services payment rates.

7 AAC 145.520(i) is repealed and readopted to read:

(i) If a recipient has been determined eligible for Medicaid coverage under 7 AAC 100.002(d)(8), the recipient's income, exclusive of the personal needs allowance and other deductions described in 7 AAC 100.550 - 7 AAC 100.579 is a prior resource for home and

community-based waiver services. Once the department has determined the recipient's monthly cost-of-care amount under 7 AAC 100.554, the recipient shall pay that liability under 7 AAC 100.552.

(Eff. 2/1/2010, Register 193; am 3/1/2011, Register 197; am 4/1/2012, Register 201; am 7/1/2013, Register 206; am 1/1/2014, Register 208; am 7/1/2015, Register 214; am 8/18/2015, Register 215; am 10/1/2017, Register 223; am 3/1/2018, Register 225; am 10/1/2018, Register 227; am ____/____/____, Register ____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040