

# DEPARTMENT OF HEALTH & SOCIAL SERVICES



## PROPOSED CHANGES TO REGULATIONS

### COMMUNITY FIRST CHOICE PERSONAL CARE SERVICES.

- 7 AAC 127.025. Eligibility and enrollment for Community First Choice services; level of care determination.
- 7 AAC 127.040. Community First Choice covered services.
- 7 AAC 127.050. Community First Choice services agency certification and enrollment.
- 7 AAC 127.087. Chore services. (*→Added*)

### MEDICAID COVERAGE; HOME & COMMUNITY-BASED WAIVER SERVICES.

- 7 AAC 130.206. Waiver options for the recipient category of individuals with intellectual and developmental disabilities.
- 7 AAC 130.220. Provider certification.
- 7 AAC 130.245. Chore services. (*→Repealed*)
- 7 AAC 130.255. Residential supported-living services.
- 7 AAC 130.265. Residential habilitation services.

### MEDICAID PROGRAM; GENERAL PROVISIONS.

- 7 AAC 160.900. Requirements adopted by reference.



**PUBLIC REVIEW DRAFT**  
**January 13, 2020**

**COMMENT PERIOD ENDS: March 9, 2020.**

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paragraph, or subparagraph is being added, or that an existing section, subsection, paragraph, or subparagraph is being repealed and readopted (replaced), *the new or replaced text is not bolded or underlined*.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 127. Community First Choice Personal Care Services.****7 AAC 127.025. Eligibility and enrollment for Community First Choice services; level of care determination.**

7 AAC 127.025(f) is amended to read:

(f) The department will consider the recipient to be enrolled under this section after the recipient has

(1) applied under 7 AAC 127.030 **or 7 AAC 130.207**;

(2) been assessed under 7 AAC 127.030(f) **or 7 AAC 130.213**;

(3) met the level-of-care requirement under (d) of this section **or 7 AAC 130.215**;

and

(4) received approval of the recipient's support plan under 7 AAC 127.039 **or 7**

**AAC 130.217**.

**Authority:** AS 47.05.010 AS 47.07.030 AS 47.07.040

(Eff. 10/1/2018, Register 227; am\_\_\_\_/\_\_\_\_/\_\_\_\_, Register\_\_\_\_)

**7 AAC 127.040. Community First Choice covered services.**

7 AAC 127.040(a)(2)(C) is amended to read:

(C) acquisition, maintenance, and enhancement of skills necessary for the recipient to accomplish the activities in 7 AAC 125.030(b) - (d); the recipient may request time for training to enable the recipient to perform independently the ADLs, IADLs, and other services identified in the recipient's Community First Choice service level authorization; **and**

7 AAC 127.040(a) is amended by adding a paragraph to read:

**(3) chore services, under 7 AAC 127.087.**

(Eff. 10/1/2018, Register 227; am\_\_\_\_/\_\_\_\_/\_\_\_\_, Register\_\_\_\_)

Authority: AS 47.05.010 AS 47.07.036 AS 47.07.040  
AS 47.07.030

**7 AAC 127.050. Community First Choice services agency certification and enrollment.**

7 AAC 127.050(a) is amended to read:

(a) **Except as specified in subsection (j) of this section, to** [TO] receive payment for Community First Choice services under 7 AAC 127.040, a provider must enroll in the Medicaid program under 7 AAC 105.210 and must be certified under this section. To be certified by the department, a provider must

...

7 AAC 127.050 is amended by adding a new subsection to read:

(j) A provider certified under 7 AAC 130.220 and enrolled in the Medicaid program under 7 AAC 105.210 may render and receive payment for services provided in accordance with 7 AAC 127.087.

(Eff. 10/1/2018, Register 227; am\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_, Register\_\_\_\_\_)

Authority: AS 47.05.010 AS 47.07.036 AS 47.07.040

AS 47.07.030

7 AAC 127 is amended by adding a new section to read:

**7 AAC 127.087. Chore services.**

(a) The department will pay for chore services that

(1) comply with the department's Community First Choice Chore Services Conditions of Participation, adopted by reference in 7 AAC 160.900;

(2) are approved under 7 AAC 127.039 or 7 AAC 130.217 as part of the recipient's support plan;

(3) receive prior authorization; and

(4) do not exceed 10 hours for each week during the period that a support plan is in effect, up to a maximum of 520 hours for a one-year support, except that if more than one recipient lives in the residence where services are to be provided, the department will limit the number of hours to that necessary to maintain a clean, sanitary, and safe environment for each recipient and will base the number of hours allowed on

(A) the degree to which the tasks listed in (b) of this section are necessary for each recipient or benefit all recipients in the residence;

(B) whether the services would duplicate services received by any recipient under this chapter, 7 AAC 125.010 - 7 AAC 125.199, or 7 AAC 130.200 - 7 AAC 130.319; and

(C) the justification for the number of hours provided in each recipient's support plan.

(b) The department will consider the following tasks to be chore services:

(1) routine cleaning within the recipient's residence;

(2) performing heavy household chores, including

(A) washing floors, windows, and walls;

(B) securing loose rugs and tiles;

(C) moving heavy items of furniture;

(D) snow removal sufficient to provide safe access and egress for the recipient;

(E) hauling water for use in the recipient's residence;

(F) disposing of human excreta;

(G) chopping or collecting firewood, if firewood is used as the primary source of energy for heating or cooking in the recipient's residence;

(3) food preparation and shopping;

(4) other tasks that the department determines necessary to maintain a clean, sanitary, and safe environment with respect to the recipient's residence.

(c) The department will either deny or limit the time authorized for chore services if

(1) an individual that lives in the recipient's home is responsible for performing the chores described in (b) of this section, and the individual is a member of the recipient's

immediate family, an individual with a duty to support the recipient under state law, or a caregiver for the recipient;

(2) a community or voluntary agency is willing to perform those chores for the recipient;

(3) a third party is responsible for paying for the performance of those chores for the recipient;

(4) the recipient's residence is a rental property, and the department determines those services to be the responsibility of the landlord under the lease or applicable law;

(5) a provider certified under 7 AAC 130.220 to provide chore services designates an individual to provide chore services, and that individual resides in the same residence as the recipient of chore services; or

(6) the recipient's meals are home-delivered or provided in a congregate setting.

(d) If a recipient is eligible for chore services under this section and eligible for personal care services under 7 AAC 125.010 - 7 AAC 125.199, the recipient must choose to either receive the chore services described in this section or to have similar tasks performed as personal care services;

(e) The department will not pay or may reduce the time for chore services allowed under (a)(4) if

(i) a recipient's performance of a task is planned as habilitation; or

(ii) a recipient's meals are provided in a congregate setting or delivered to the recipient's residence.

**Authority:** AS 47.05.010

AS 47.07.030

AS 47.07.040

(Eff. 2/1/2010, Register 193; am 7/1/2013, Register 206; am 7/1/2015, Register 214; am 11/5/2017, Register 224; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register\_\_\_\_)

**7 AAC 130.206. Waiver options for the recipient category of individuals with intellectual and developmental disabilities.**

7 AAC 130.206(a) is amended to read:

(a) **An individual who submitted an application under 7 AAC 130.207(a)(2) and** [THE APPLICANT,] determined by the department to be a person with a developmental disability under AS 47.80.900, may request placement on a waiting list established under AS 47.80.130(d) for the individualized supports waiver, the individuals with intellectual and developmental disabilities waiver, or both waivers. If funding for waiver services is available, and if the applicant meets all eligibility requirements under 7 AAC 130.205 for the recipient category of individuals with intellectual and developmental disabilities, the applicant may be eligible for one of the following:

...

7 AAC 130.206(a)(1) is amended to read:

(1) individualized supports waiver benefits up to an individual cost limit of \$17,500 annually, adjusted for inflation using the CMS Home Health Agency Market Basket in the most recent quarterly publication of Global Insight's Healthcare Cost Review available 60 days before July 1, for the following services:

[(A) CHORE SERVICES UNDER 7 AAC 130.245;]

**(A)** [(B)] day habilitation services under 7 AAC 130.260;

(B) [(C)] residential habilitation services for recipients of either supported-living habilitation services under 7 AAC 130.265(d) and (e) or in-home support habilitation services under 7 AAC 130.265(h) and (i);

(C) [(D)] supported employment services under 7 AAC 130.270;

(D) [(E)] intensive active treatment services for recipients 21 years of age and older under 7 AAC 130.275;

(E) [(F)] respite care services under 7 AAC 130.280;

(F) [(G)] transportation services under 7 AAC 130.290; or

**Authority:** AS 47.05.010 AS 47.07.040 AS 47.07.045

AS 47.07.030

(Eff. 10/1/2018, Register 227; am\_\_\_\_\_/\_\_\_\_\_/\_\_\_\_\_, Register\_\_\_\_)

#### **7 AAC 130.220. Provider certification.**

7 AAC 130.220(a)(1) is amended to read:

(a) Unless the department grants an exception under (j) of this section, the department will certify a provider agency as either a provider of one or more home and community-based waiver services under (1) or (3) of this subsection or a provider of care coordination services under (2) of this subsection, as follows:

(1) the department will certify a provider agency as a home and community-based waiver services provider, for

(A) nursing oversight and care management services provided under 7 AAC 130.235;

[(B) CHORE SERVICES PROVIDED UNDER 7 AAC 130.245;]



(B) [(C)] adult day services provided under 7 AAC 130.250;

(C) [(D)] day habilitation services provided under 7 AAC 130.260;

(D) [(E)] residential habilitation services provided under 7 AAC 130.265;

(E) [(F)] supported employment services provided under 7 AAC 130.270;

(F) [(G)] intensive active treatment services provided under 7 AAC

130.275;

(G) [(H)] respite care services provided under 7 AAC 130.280;

(H) [(I)] transportation services provided under 7 AAC 130.290;

(I) [(J)] meal services provided under 7 AAC 130.295;

(J) [(K)] environmental modification services provided under 7 AAC

130.300;

(Eff. 2/1/2010, Register 193; am 7/1/2013, Register 206; am 7/1/2015, Register 214; am 7/1/2016, Register 218; am 11/5/2017, Register 224; am\_\_\_\_/\_\_\_\_/\_\_\_\_, Register\_\_\_\_)

**Authority:** AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 130.245 is repealed:

**7 AAC 130.245. Chore services.** Repealed. (Eff. 2/1/2010, Register 193; am 7/1/2013, Register 206; am 7/1/2015, Register 214; am 11/5/2017, Register 224; am\_\_\_\_/\_\_\_\_/\_\_\_\_, Register\_\_\_\_)

**7 AAC 130.255. Residential supported-living services.**

7 AAC 130.255(c) is amended to read:

(c) If a recipient is eligible for residential supported-living services, the department will not make separate payment for

[ (1) CHORE SERVICES UNDER 7 AAC 130.245;]

(1) [(2)] meals services under 7 AAC 130.295, unless the meals are provided in a congregate setting other than an assisted living home licensed under AS 47.32;

(2) [(3)] respite care services payable under 7 AAC 130.280;

(3) [(4)] the recipient's room and board;

(4) [(5)] the cost of facility maintenance, upkeep, or improvement; or

(5) [(6)] activities or supervision for which a source other than Medicaid makes payment.

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

(Eff. 2/1/2010, Register 193; am 7/1/2013, Register 206; am 11/5/2017, Register 224; am \_\_\_\_/\_\_\_\_/\_\_\_\_, Register\_\_\_\_)

#### **7 AAC 130.265. Residential habilitation services.**

7 AAC 130.265(c)(3) is amended to read:

(3) when family home habilitation services are authorized for a recipient, the department will not make separate payment for

[(A) CHORE SERVICES UNDER 7 AAC 130.245;]

(A) [(B)] family-directed respite care services under 7 AAC 130.280;

(B) [(C)] transportation services under 7 AAC 130.290;

(C) [(D)] meal services under 7 AAC 130.295; or

(D) [(E)] services provided by another resident of a family home habilitation service site;

7 AAC 130.265(e)(2) is amended to read:

(2) the department will approve other direct care services for a recipient under (d) of this section, if the recipient's care coordinator confirms in writing and the department is satisfied that those services do not supplant or duplicate services provided by natural supports; for purposes of this paragraph, "direct care services" includes

(A) personal care services under 7 AAC 125.010 - 7 AAC 125.199;

[(B) CHORE SERVICES UNDER 7 AAC 130.245;]

(B) [(C)] transportation services under 7 AAC 130.290; and

(C) [(D)] meal services under 7 AAC 130.295.

7 AAC 130.265(g)(3) is amended to read:

(3) if a recipient is eligible for group-home habilitation services, the department will not make separate payment for

[(A) CHORE SERVICES UNDER 7 AAC 130.245;]

(A) [(B)] respite services under 7 AAC 130.280;

(B) [(C)] transportation services under 7 AAC 130.290;

(C) [(D)] meal services under 7 AAC 130.295; or

(D) [(E)] services provided by another resident of the group home.

7 AAC 130.265(i)(2) is amended to read:

(2) when in-home support habilitation services are authorized for the recipient, the department will not make separate payment for

(A) personal care services under 7 AAC 125.010 - 7 AAC 125.199 or 7 AAC 127.090 - 7 AAC 127.140;

[(B) CHORE SERVICES UNDER 7 AAC 130.245;]

(B) [(C)] transportation services under 7 AAC 130.290;

(C) [(D)] meal services under 7 AAC 130.295; or

(D) [(E)] services provided by another resident of the home or by the primary unpaid caregiver.

**Authority:** AS 47.05.010 AS 47.07.036 AS 47.07.040  
AS 47.07.030

(Eff. 2/1/2010, Register 193; am 7/1/2013, Register 206; am 7/1/2015, Register 214; am 11/5/2017, Register 224; am 10/1/2018, Register 227; am\_\_\_\_/\_\_\_\_/\_\_\_\_, Register\_\_\_\_)

### **Chapter 160. Medicaid Program; General Provisions.**

#### **7 AAC 160.900. Requirements adopted by reference.**

7 AAC 160.900(d)(35) is amended to read:

(35) the **Community First Choice** *Chore Services Conditions of Participation*, dated \_\_\_\_\_, [SEPTEMBER 5, 2017];

7 AAC 160.900(d)(10) is amended to read:

(10) the *Chart of Personal Care Services* [,] **and** *Community First Choice Services [AND WAIVER SERVICES] Rates*, dated \_\_\_\_\_ [AUGUST 2, 2018], for

providers of personal care services under 7 AAC 125.010 - 7 AAC 125.199 [,] **and** Community First Choice personal care services under 7 AAC 127 [, AND HOME AND COMMUNITY-BASED WAIVER SERVICES UNDER 7 AAC 130];

7 AAC 160.900(d)(44) is amended is amended to read:

(44) the **Provider Conditions of Participation for Home and Community-Based Waiver Services and Community First Choice Chore Services** [PROVIDER CONDITIONS OF PARTICIPATION], dated \_\_\_\_\_, \_\_\_\_\_ [SEPTEMBER 5, 2017];

7 AAC 160.900 is amended by adding a new paragraph to read:

~~(XX)~~ the *Chart of Waiver Services Rates*, dated \_\_\_\_\_, for providers of home and community-based waiver services under 7 AAC 130;

**Authority:** AS 47.05.010 AS 47.07.030 AS 47.07.040  
AS 47.05.012

(Eff. 2/1/2010, Register 193; am 8/25/2010, Register 195; am 12/1/2010, Register 196; am 1/1/2011, Register 196; am 1/15/2011, Register 197; am 2/9/2011, Register 197; am 3/1/2011, Register 197; am 10/1/2011, Register 199; am 12/1/2011, Register 200; am 1/26/2012, Register 201; am 3/8/2012, Register 201; am 4/1/2012, Register 201; add'l am 4/1/2012, Register 201; am 5/11/2012, Register 202; am 10/16/2012, Register 204; am 11/3/2012, Register 204; am 12/1/2012, Register 204; am 12/2/2012, Register 204; am 1/1/2013, Register 204; am 1/16/2013, Register 205; am 7/1/2013, Register 206; add'l am 7/1/2013, Register 206; am 11/3/2013, Register 208; am 1/1/2014, Register 208; am 2/2/2014, Register 209; am 3/19/2014, Register 209; am 3/22/2014, Register 209; am 5/18/2014, Register 210; am 2/26/2015, Register 213; am

3/15/2015, Register 213; am 7/1/2015, Register 214; am 5/1/2016, Register 218; am 6/16/2016, Register 218; am 6/16/2016, Register 218; am 7/22/2017, Register 223; am 11/5/2017, Register 224; am 3/1/2018, Register 225; am 10/1/2018, Register 227; am 1/1/2019, Register 228; am 3/24/2019, Register 229; am\_\_\_\_/\_\_\_\_/\_\_\_\_, Register\_\_\_\_)