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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

**DATE:** May 21, 2020

**RE:** Filed Emergency Regulations: Department of Health and Social Services

Department of Health and Social Services emergency regulations re: Behavioral Health Services; Alaska Substance Use Disorder and Behavioral Health Program; Substance Use Disorder Waiver Services; Behavioral Health 1115 Demonstration Waiver Services, and Medicaid program; general services (7 AAC 70; 7 AAC 136; 7 AAC 138; 7 AAC 139; 7 AAC 160)

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|                        |  |
|------------------------|--|
| Attorney General File: | Emergency Regulations  |
| Regulation Filed:      | 5/21/2020  |
| Effective Date:        | 5/21/2020  |
| Expiration Date:       | September 17, 2020 unless made permanent<br>by the adopting agency |
| Print:                 | 234, July 2020   |

cc with enclosures: Harry Hale, Department of Law  
Judy Herndon, LexisNexis

## **FINDING OF EMERGENCY**

The Department of Health and Social Services (DHSS) finds that an emergency exists because the COVID-19 pandemic has created a glaring lack of services available for psychiatric crises at the time that those services are most in need. DHSS also finds that the attached regulations are necessary for the immediate preservation of public peace, health, safety or general welfare under AS 44.62.250. Moreover, DHSS finds that waiting for the normal 30-day public comment period is too lengthy given the unpredictable characteristics of the pandemic and the possibility of a second wave of infections as the state gradually reopens. The facts constituting the emergency include the following:

1. The onset of the COVID-19 pandemic has caused stress and anxiety in the general public. This increased stress and anxiety has resulted in more individuals seeking care for their mental and emotional health. The negative mental health effects of the pandemic are magnified in those who already suffer from mental illness or poor emotional health.

Specifically, the emergency the state is experiencing is impeding the hospitals' ability to manage mental health crises. The COVID-19 pandemic has forced hospitals to reallocate resources to expand capacity to manage the number of COVID-19 cases in each hospital's community and in the state. Therefore, emergency departments no longer have the capacity to serve individuals who present with a primary diagnosis of behavioral health. These individuals are quickly triaged, discharged and asked to follow up with their local community behavioral health provider.

The community behavioral health providers, however, are unable to provide the type of pre-crisis services designed to prevent individuals from seeking hospital care, and crisis services instead of hospital care. Suddenly, individuals in crisis have neither the safety of the emergency room nor the availability of traditional walk-in behavioral health services. *Therefore, the individuals experiencing a crisis have no system of care available to intercept subacute symptomatic behavior before they escalate into harm to self or others.*

The increased service demands on community behavioral health providers has forced most of those providers to maintain long wait lists. Under the current system of care, in an attempt to meet recipient need, many behavioral health services providers are already extending non-reimbursed care to recipients. As a result, providers are asking DHSS to expedite the regulations to enable them to provide the services and be reimbursed.

2. The crisis services available through the waiver provide the necessary intercept services (i.e. mobile crisis outreach and response, 23-hour crisis observation and stabilization) to reduce the burden on hospitals and community health providers and intervene as early as possible in the least restrictive manner.

3. While DHSS was pursuing this 1115 Waiver, it attempted to strengthen the behavioral health system through Medicaid rate increases and grant program awards. Notwithstanding DHSS's efforts, significant gaps remain in the continuum of care. The gaps in the continuum of care have been further exposed and exacerbated by the pandemic and created an emergency.

### **Background**

4. Following the above, the most notable gap is the lack of adequate psychiatric emergency services, including the availability of acute hospital care. These services are required to support persons who have been found by a judicial officer to be gravely disabled such that they cannot care for themselves or are a threat to others or themselves (AS 47.30.900).

5. DHSS funds many of these services through the Designated Evaluation and Treatment (DES/DET) system of care that is contemplated in AS 47.30. The current facilities under this program are the Alaska Psychiatric Institute ("API"), Fairbanks Memorial Hospital, Bartlett Regional Hospital, and Mat-Su Regional Health Center.

6. The DES/ DET system of care was in crisis in 2018 and 2019 because of a variety of factors. This crisis led to the Disability Law Center ("DLC") and the Public Defender Agency ("PDA") separately suing the State of Alaska. The PDA alleged that the state had illegally placed in a Department of Corrections ("DOC") facility two individuals who had been subject to ex parte mental health holds. The DLC alleged that the state's inability to accept people subject to ex parte mental health holds at the Alaska Psychiatric Institute ("API"), or other facilities besides those run by DOC or hospital emergency rooms, violated the state and federal constitutions.

a. After the parties presented evidence and filed written arguments, the superior court ordered DHSS to draft a plan to comply with what it determined were the requirements set forth by the Alaska Supreme Court in the case *In re Gabriel C.*, 324 P.3d 835 (Alaska 2014).

b. The superior court directed that DHSS's plan meet seven enumerated criteria. On January 21, 2020, DHSS filed its plan, *Addressing Gaps in the Crisis Psychiatric Response System* ("Plan").

c. A copy of the state's multifaceted plan to the court's order can be found at:

<http://dhss.alaska.gov/Commissioner/Documents/PDF/addressingGaps.PDF>

7. This current system of care is not sustainable, and has led to the erosion of health care needed by this vulnerable population.

### **ADOPTION ORDER**

Under the authority of AS 47.05.010, AS 47.05.012, AS 47.05.270, AS 47.07.030, AS 47.07.036, AS 47.07.040, AS 47.30.470, AS 47.30.475, AS 47.30.477, AS 47.30.530, AS 47.30.540, AS 47.30.570, AS 47.32.010, and AS 47.37.140, the attached 21 pages of regulation changes are therefore adopted as an emergency regulation to take effect immediately upon filing by the lieutenant governor, as provided in AS 44.62.180(3).

It is estimated that this action will require increased appropriations as shown on the attached fiscal note.

**Adam Crum**

Digitally signed by Adam Crum  
Date: 2020.05.20 12:22:49  
-08'00'

Adam Crum, Commissioner  
Department of Health & Social Services

*April Simpson for*

### **FILING CERTIFICATION**

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on

May 21, 2020, at 2:00 p.m., I filed the attached regulation according to the provisions of AS 44.62.

*Kevin Meyer*

Lieutenant Governor *Kevin Meyer*

Effective:

May 21, 2020.

Register:

234, July 2020.

**Expires September 17, 2020  
unless made "permanent"  
by the adopting agency**

**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**

## EMERGENCY REGULATIONS

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#### 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.

7 AAC 70.030(a)(4) is amended to read:

(a) The department will approve an organization to provide behavioral health services in this state only if that organization meets the requirements for a community behavioral health services provider under 7 AAC 70.100 or 7 AAC 70.130 and provides one or more of the following:

...

(4) **1115 waiver services under 7 AAC 136.020** [1115 SUBSTANCE USE

DISORDER WAIVER SERVICES UNDER 7 AAC 138];

(Eff. 10/1/2011, Register 199; am 4/9/2017, Register 222; am 7/1/2018, Register 226; am

5 / 21 / 2020, Register 234)

|                   |              |              |              |
|-------------------|--------------|--------------|--------------|
| <b>Authority:</b> | AS 47.05.010 | AS 47.30.477 | AS 47.30.570 |
|                   | AS 47.30.470 | AS 47.30.530 | AS 47.37.140 |
|                   | AS 47.30.475 | AS 47.30.540 |              |

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7 AAC 136.010(3) is amended to read:

(3) ensure that all 1115 waiver services are provided according to the *Special Terms and Conditions for Section 1115(a) Demonstration: Alaska Substance Use Disorder and Behavioral Health Program*, adopted by reference in 7 AAC 160.900, and according to service criteria established under 7 AAC 138 **and 7 AAC 139**;

(Eff. 7/1/2019, Register 231; am 5 /21 /2020, Register 234 )

**Authority:** AS 47.05.010 AS 47.07.030

7 AAC 136.020(1) is amended to read:

(1) obtain department certification as an 1115 waiver services provider **and** **identify the 1115 waiver services the provider will provide** before delivering 1115 waiver services if the provider is a community behavioral health services provider;

7 AAC 136.020(3) is repealed and readopted to read:

(3) comply with the additional requirements listed in the

(A) *Alaska Behavioral Health Providers Service Standards & Administrative Procedures for SUD Provider Services*, adopted by reference in 7 AAC 160.900, for SUD providers, including the documentation guidelines for 1115 waiver services; and

(B) *Alaska Behavioral Health Providers Service Standards & Administrative Procedures for Behavioral Health Provider Services*, adopted by reference in 7 AAC 160.900, for behavioral health providers, including the documentation guidelines for 1115 waiver services. (Eff. 7/1/2019, Register 231; am 5 /21 /2020, Register 234 )

**Authority:** AS 47.05.010 AS 47.07.030

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The section list in Article 2 of 7 AAC 138 is amended by adding a new section to read:

**Article 2. Medicaid Substance Use Disorder 1115 Waiver Services.**

Section

100. Assessment and treatment plan services

200. Prevention and engagement services

250. Outpatient substance use disorder treatment services

300. Inpatient residential substance use disorder treatment services

350. Alcohol and drug withdrawal management services

400. Community-based support services and payment conditions

410. Requirement to pay substance use disorder care coordination services

**450. Crisis response services**

7 AAC 138.040(b) is amended to read:

(b) The department will not pay for substance use disorder 1115 waiver services beyond the limits listed in the *Alaska Behavioral Health Providers Service Standards & Administrative Procedures for SUD Provider Services* [ALASKA BEHAVIORAL HEALTH PROVIDERS SERVICE STANDARDS AND ADMINISTRATIVE PROCEDURE], adopted by reference in 7 AAC 160.900, without prior authorization from the department.

(Eff. 7/1/2019, Register 231; am 11/10/2019, Register 232; am 5 / 21 /2020, Register 234 )

**Authority:** AS 47.05.010 AS 47.07.030

7 AAC 138.200(a)(1) is amended to read:



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(1) one of the department-approved screening tools listed in the Alaska Behavioral Health Providers Service Standards & Administrative Procedures for SUD Provider Services [ALASKA BEHAVIORAL HEALTH PROVIDERS SERVICE STANDARDS AND ADMINISTRATIVE PROCEDURES], adopted by reference in 7 AAC 160.900; and (Eff. 7/1/2019, Register 231; am 11/10/2019, Register 232; am 5 / 21 /2020; Register 234).

Authority: AS 47.05.010 AS 47.07.030

7 AAC 138.250(a) is amended by adding a new paragraph to read:

(a) The department will pay for the following outpatient substance use disorder treatment services under the 1115 waiver if the service is provided according to this chapter:

- (1) intensive outpatient services;
- (2) partial hospitalization services;
- (3) outpatient services.**

(Eff. 7/1/2019, Register 231; am 11/10/2019, Register 232; am 5 / 21 /2020, Register 234)

Authority: AS 47.05.010 AS 47.07.030

7 AAC 138 is amended by adding a new section to read:

**7 AAC 138.450. Crisis response services.** (a) The following services may be provided to an eligible recipient under this chapter in any appropriate community setting:

- (1) peer-based crisis services, provided by a peer support specialist under 7 AAC

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138.400, to help an individual avoid the need for hospital emergency department services or the need for psychiatric hospitalization through services identified in a crisis plan by a mental health professional clinician that may include

(A) a summary of crisis intervention needs;

(B) facilitation of transition to other community-based resources or natural supports; and

(C) advocacy for client needs with other service providers;

(2) mobile outreach and crisis response services must be provided by a mental health professional clinician in conjunction with at least one other qualified professional, as defined in *Alaska Behavioral Health Providers Services and Administrative Procedures for SUD Provider Services*, adopted by reference in 7 AAC 160.900, to

(A) prevent a substance use disorder or mental health crisis from escalating;

(B) stabilize an individual during or after a mental health crisis or crisis involving a substance use disorder; or

(C) refer and connect to other appropriate services that may be needed to resolve the crisis;

(3) 23-hour crisis observation and stabilization services, that are provided for up to 23 hours and 59 minutes in a secure environment to an individual presenting with acute symptoms of mental or emotional distress, that must

(A) be provided by medical staff supervised by a physician, a physician assistant, or an advanced practice registered nurse;

(B) result in prompt evaluation and stabilization of the individual's

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condition; and

(C) ensure the individual is safe from self-harm, including suicidal behavior.

(b) The crisis residential and stabilization services provided to an eligible individual under this chapter presenting with acute mental or emotional disorders requiring psychiatric stabilization and care may be provided in a licensed general acute care hospital, psychiatric hospital, Indian Health Service facility, licensed critical access hospital, a community behavioral health services provider approved by the department under 7 AAC 136.020, or a crisis stabilization center under AS 47.32.900(22). The crisis residential and stabilization services must be provided

(1) as a short-term residential program with 16 or fewer beds;

(2) as a medically monitored stabilization service designed to restore the individual to a level of functioning that does not require inpatient hospitalization; and

(3) to assess the need for medication services and other post-discharge treatment and support services.

(c) A peer support specialist in this section is subject to the qualifications listed in 7 AAC 138.400(a) and (e).

(d) In this section, "short term" means no more than seven days, and may be extended through a service authorization. (Eff. 5 / 21 /2020, Register 234)

**Authority:** AS 47.05.010 AS 47.07.030 AS 47.32.010  
AS 47.05.270 AS 47.07.036

7 AAC is amended by adding a new chapter to read:

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**7 AAC 139. Behavioral Health 1115 Waiver Services.**

**Article**

1. Scope; Eligibility; Service Provision, Rates, and Authorization (7AAC 139.010 – 7 AAC 139.040)
2. Medicaid Behavioral Health 1115 Waiver Services (7AAC 139.100 – 7 AAC 139.400)
3. General Provisions (7AAC 139.900)

**Article 1. Scope; Eligibility; Service Provision, Rates, and Authorization.**

**Section**

010. Recipient eligibility
020. Provision of behavioral health 1115 waiver services
030. Provision of Medicaid state plan services
040. Service rates, limits, and authorization

**7 AAC 139.010. Recipient eligibility.** The following individuals may receive services under this chapter:

- (1) a youth under age 21 who
  - (A) is diagnosed with a mental health or substance use disorder;
  - (B) is at risk of developing a mental health or substance use disorder based upon a screening conducted under 7 AAC 135.100;
  - (C) is at risk of out-of-home placement;
  - (D) is currently in the custody of the state; or
  - (E) has been detained in a juvenile justice facility or treated in a residential

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treatment program or psychiatric hospital within the past year;

(2) an individual who meets the criteria under 7 AAC 135.055 for an adult experiencing a serious mental illness;

(3) an adult who is experiencing a mental disorder who meets the diagnostic criteria in the *Diagnostic and Statistical Manual of Mental Disorders*, adopted by reference in 7 AAC 70.910, or the *International Classification of Diseases - 10th Revision, Clinical Modification, (ICD-10-CM)*, adopted by reference in 7 AAC 70.910. (Eff. 5 / 21 /2020, Register 234)

**Authority:** AS 47.05.010                      AS 47.07.030                      AS 47.07.036  
AS 47.05.270

**7 AAC 139.020. Provision of behavioral health 1115 waiver services.** The department will pay for behavioral health 1115 waiver services if the

- (1) recipient is eligible under 7 AAC 139.010;
- (2) provider meets the requirements in 7 AAC 136.020;
- (3) services are provided under this chapter; and
- (4) services are based upon an assessment conducted under 7 AAC 135.110, except for youth described in 7 AAC 139.150(a)(1). (Eff. 5 / 21 /2020, Register 234)

**Authority:** AS 47.05.010                      AS 47.07.030                      AS 47.07.036  
AS 47.05.270

**7 AAC 139.030. Provision of Medicaid state plan services.** (a) Except as provided in (b) of this section the department will pay for a behavioral health Medicaid state plan service

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provided to an eligible individual even if the individual is also receiving services under this chapter.

(b) A provider may only provide a behavioral health clinic service listed in 7 AAC 135.010(b) and a rehabilitation service listed in 7 AAC 135.010(c) concurrently with services under this chapter if the provider first obtains authorization from the department for a service listed in 7 AAC 135.010(b) or 7 AAC 135.010(c).

(c) A provider may conduct an assessment under 7 AAC 135.110 for an eligible individual under this chapter without prior authorization from the department.

(Eff. 5 / 21 /2020, Register 234)

|                   |              |              |              |
|-------------------|--------------|--------------|--------------|
| <b>Authority:</b> | AS 47.05.010 | AS 47.07.030 | AS 47.07.040 |
|                   | AS 47.05.270 | AS 47.07.036 |              |

**7 AAC 139.040. Service rates, limits, and authorization.** (a) The behavioral health 1115 waiver services rates in the department's *Chart of 1115 Medicaid Waiver Services*, adopted by reference in 7 AAC 160.900.

(b) The department will not pay for a behavioral health 1115 waiver service beyond the limits listed in *Alaska Behavioral Health Providers Service Standards & Administrative Procedures for Behavioral Health Provider Services*, adopted by reference in 7 AAC 160.900, without prior authorization from the department.

(c) A provider of behavioral health 1115 waiver services must file a request for prior authorization of an extension for a behavioral health 1115 waiver service beyond service limits under (b) of this section using a form approved by the department. The request must

(1) be documented in the clinical record;

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(2) include the expected duration of the service; and

(3) include an explanation for the need to extend the service.

(d) A provider that meets the requirements of 7 AAC 136.020 may provide any behavioral health 1115 waiver service without prior authorization from the department.

(e) The department may review a provider's clinical record to confirm the need for an extension of a behavioral health 1115 waiver service. (Eff. 5 / 21 /2020, Register 234)

**Authority:** AS 47.05.010 AS 47.07.030 AS 47.07.036  
AS 47.05.270

### Article 2. Medicaid Behavioral Health 1115 Waiver Services.

#### Section

100. Assessment and treatment plan services

150. Home-based family treatment services

200. Community-based care management services

250. Structured treatment services

300. Behavioral health residential treatment services

350. Crisis response services

400. Therapeutic treatment home services

**7 AAC 139.100. Assessment and treatment plan services.** The department will pay a provider to

(1) conduct an assessment according to 7 AAC 135.110 for each recipient receiving services under this chapter;

(2) develop an initial treatment plan for each recipient under 7 AAC 135.120; and

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(3) review the treatment plan and revise the plan as necessary at least every 90 days; document the results of the treatment plan review in the clinical record; and include the name, signature, and credentials of the individual who conducted the review.

(Eff. 5 / 21 /2020, Register 234)

**Authority:** AS 47.05.010 AS 47.07.030

**7 AAC 139.150. Home-based family treatment services.** (a) The department will pay for home-based family treatment services according to the following criteria to prevent inpatient hospitalization and residential services for a youth listed in 7 AAC 139.010(1) if a combination of less intensive outpatient services under 7 AAC 135 has not been effective or is deemed likely to not be effective:

(1) level 1: for a youth at risk of out-of-home placement or diagnosed with or at risk to develop a mental health or substance use disorder as determined by a screening conducted under 7 AAC 135.100;

(2) level 2: for a youth at high risk of out-of-home placement;

(3) level 3: for a youth who is at imminent risk of out-of-home placement or who has been discharged from residential or psychiatric hospital treatment or from a juvenile detention facility.

(b) A provider may only provide level 1 home-based family treatment services if the screening is conducted under 7 AAC 135.100 using a screening tool listed in *Alaska Behavioral Health Provider Standards and Administrative Procedures*, adopted by reference in 7 AAC 160.900, that is designed to identify recipient problems with one or more social determinants of health.



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(c) A provider must provide level 1 home-based family treatment services according to a family services plan developed by the provider in collaboration with the family.

(d) A provider may only provide level 2 and level 3 home-based family treatment services if the assessment is conducted under 7 AAC 139.100 and also addresses how family relationships and family dynamics affect the recipient's identified problems.

(e) All levels of home-based family treatment services must include direct access to the component services described in *Alaska Behavioral Health Provider Standards & Administrative Procedures for Behavioral Health Provider Services*, adopted by reference in 7 AAC 160.900. A provider that cannot provide one or more of the component services under this subsection must arrange for another provider to provide those services.

(f) In this section

(1) "high risk" means a person with a score of four or more on the *Adverse Childhood Experiences Questionnaires*, adopted by reference in 7 AAC 160.900; and

(2) "imminent risk" means a person who has been in contact with the division in the department responsible for child protection regarding issues that could lead to out-of-home placement. (Eff. 5 / 21 /2020, Register 234)

**Authority:** AS 47.05.010                      AS 47.07.030                      AS 47.07.036  
AS 47.05.270

**7 AAC 139.200. Community-based care management services.** (a) The following community-based care management services may be provided to any eligible recipient under this chapter:

(1) intensive case management services, that must be provided according to the

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criteria listed in 7 AAC 138.400(a)(3);

(2) community recovery support services, that must be provided according to the criteria listed in 7 AAC 138.400(a)(1).

(b) The assertive community treatment services may be provided to an individual listed in 7 AAC 139.010(2) who meets admission criteria defined in the *Alaska Behavioral Health Provider Standards & Administrative Procedures for Behavioral Health Provider Services*, adopted by reference in 7 AAC 160.900, and whose needs have not otherwise been adequately met through behavioral health services offered under 7 AAC 135. The assertive community treatment services must be

(1) available 24-hours a day, seven days a week, according to recipient need;

(2) provided according to the evidence-based practice criteria established for assertive community treatment documented in the *Alaska Behavioral Health Provider Standards & Administrative Procedures for Behavioral Health Provider Services*, adopted by reference in 7 AAC 160.900; and

(3) provided in accordance with the component services outlined in the *Alaska Behavioral Health Providers Service Standards and Administrative Procedures*, adopted by reference in 7 AAC 160.900. (Eff. 5 / 21 /2020, Register 234)

**Authority:** AS 47.05.010                      AS 47.07.030                      AS 47.07.036  
AS 47.05.270

**7 AAC 139.250. Structured treatment services.** (a) The structured treatment services may be provided to a recipient listed in 7 AAC 139.010 if the service is provided according to the following criteria:

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(1) partial hospitalization program services provided to treat a recipient's assessed psychiatric disorder to prevent relapse or the need for higher level of hospitalized care; partial hospitalization program services must

(A) be provided in a therapeutic environment that maintains daily scheduled treatment activities by providers qualified to treat individuals with significant mental health and co-occurring disorders;

(B) include direct access to psychiatric and medical consultation and treatment, including medication services; and

(C) provide a range of component services identified for partial hospitalization program services in the *Alaska Behavioral Health Providers Service Standards & Administrative Procedures for Behavioral Health Provider Services*, adopted by reference in 7 AAC 160.900;

(2) intensive outpatient services provided to a recipient experiencing significant functional impairment that interferes with the individual's ability to participate in one or more life domains, including home, work, school, and community; the intensive outpatient services must

(A) be provided as a therapeutic outpatient program that maintains daily scheduled treatment activities;

(B) address the clinical issues that affect the recipient's ability to cope with activities of daily living; and

(C) provide the range of component services identified for intensive outpatient services in *Alaska Behavioral Health Providers Service Standards & Administrative Procedures for Behavioral Health Provider Services*, adopted by reference in 7 AAC 160.900.

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(b) In this section, “activities of daily living” means

- (1) bed mobility;
- (2) transferring;
- (3) walking;
- (4) dressing;
- (5) eating and drinking;
- (6) toileting;
- (7) personal hygiene; and
- (8) bathing. (Eff. 5 / 21 /2020, Register 234)

**Authority:** AS 47.05.010                      AS 47.07.030                      AS 47.07.036  
AS 47.05.270

**7 AAC 139.300. Behavioral health residential treatment services.** (a) The adult behavioral health residential treatment services must be provided in a facility approved by the department, and maintain a therapeutically structured and supervised environment according to the criteria listed in *Alaska Behavioral Health Providers Service Standards and Administrative Procedures*, adopted by reference in 7 AAC 160.900.

(b) The adult behavioral health residential treatment services must be provided in a facility with 16 or fewer beds by an interdisciplinary treatment team for an individual under 7 AAC 139.010(2) according to the following criteria:

- (1) level 1 for an adult diagnosed with a mental health or co-occurring mental health and substance use disorder with a prior history of continuous high service needs;

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(2) level 2 for an adult diagnosed with a mental health or substance use disorder who presents with behaviors or symptoms that require a level of care, supervision, or monitoring that is higher than that required for other adult residents in assisted living home care according to AS 47.33 and 7 AAC 75, and who have

(A) not responded to outpatient treatment; and

(B) a history of treatment needs for chronic mental health or substance use disorders that cannot be met in a less restrictive setting.

(c) A psychiatric assessment must be conducted for an adult receiving behavioral health residential treatment services before the department will approve a provider request for a service authorization to exceed one year.

(d) In this section, “high service needs” means using the same or a combination of three or more of the following in the past calendar year: acute psychiatric hospitalization, psychiatric emergency services, or involvement with the criminal justice system. (Eff. 5 / 21 /2020, Register 234)

**Authority:** AS 47.05.010      AS 47.07.030      AS 47.07.036  
AS 47.05.270

**7 AAC 139.350. Crisis response services.** (a) The following services may be provided to an eligible recipient under this chapter in any appropriate community setting:

(1) peer-based crisis services, provided by a peer support specialist under 7 AAC 138.400 to help an individual avoid the need for hospital emergency department services or the need for psychiatric hospitalization through

(A) a summary of crisis intervention needs;

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(B) facilitation of transition to other community-based resources or natural supports; and

(C) advocacy for client needs with other service providers;

(2) mobile outreach and crisis response services must be provided by a mental health professional clinician in conjunction with at least one other qualified professional, as defined in the *Alaska Behavioral Health Providers Service Standards & Administrative Procedures for Behavioral Health Provider Services*, to

(A) prevent a substance use disorder or mental health crisis from escalating;

(B) stabilize an individual during or after a mental health crisis or a substance use disorder crisis; and

(C) refer and connect the individual to other appropriate services that may be needed to resolve the crisis;

(3) 23-hour crisis observation and stabilization services, provided to an individual presenting with acute symptoms of mental or emotional distress for up to 23 hours and 59 minutes in a secure environment, that must

(A) be provided by medical staff supervised by a physician, a physician assistant, or an advanced practice registered nurse;

(B) result in prompt evaluation and stabilization of the individual's condition; and

(C) ensure the individual is safe from self-harm, including suicidal behavior.

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(b) The crisis residential and stabilization services provided to an eligible individual presenting with acute mental or emotional disorders requiring psychiatric stabilization and care may be provided in a licensed general acute care hospital, psychiatric hospital, Indian Health Service facility, licensed critical access hospital, by a community behavioral health services provider approved by the department under 7 AAC 136.020, or a crisis stabilization center under AS 47.32.900(22). The crisis residential and stabilization services must be provided

(1) as a short-term residential program with 16 or fewer beds;

(2) as a medically monitored stabilization service designed to restore the individual to a level of functioning that does not require inpatient hospitalization; and

(3) to assess the need for medication services and other post-discharge treatment and support services.

(c) A peer support specialist in this section is subject to the qualifications listed in 7 AAC 138.400(a) and (e).

(d) In this section, “short term” means no more than seven days, and may be extended through a service authorization. (Eff. 5 / 21 /2020, Register 234)

**Authority:** AS 47.05.010                      AS 47.07.030                      AS 47.07.036  
AS 47.05.270

**7 AAC 139.400. Therapeutic treatment homes services.** The department will pay for therapeutic treatment home services that are provided to an eligible youth under 7 AAC 139.010(1), who experiences severe mental, emotional, or behavioral health needs that cannot be stabilized in a less intensive home setting and that must

(1) be provided in a licensed foster home under 7 AAC 50 by at least one licensed

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foster parent;

(2) include trauma-informed care by licensed foster parents and other providers listed in *Alaska Behavioral Health Providers Service Standards & Administrative Procedures for Behavioral Health Provider Services*, adopted by reference in 7 AAC 160.900, who have received documented training or education in principles of trauma informed care;

(3) include the component services for therapeutic treatment homes listed in *Alaska Behavioral Health Providers Service Standards & Administrative Procedures for Behavioral Health Provider Services*, adopted by reference in 7 AAC 160.900; and

(4) be provided under the direction and supervision of a community behavioral health services provider approved under 7 AAC 136.020. (Eff. 5 / 21 /2020, Register 234 )

**Authority:** AS 47.05.010                      AS 47.07.030                      AS 47.07.036  
AS 47.05.270

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**7 AAC 139.900. Transition to behavioral health 1115 waiver services.** (a) A provider may only provide the 1115 waiver services listed in this chapter upon approval by the department under 7 AAC 136.020.

(b) A provider must update a recipient treatment plan under 7 AAC 135.130 before providing a new service listed in this chapter for a recipient who is currently receiving services under 7 AAC 70 and 7 AAC 135. (Eff. 5 / 21 /2020, Register 234 )

**Authority:** AS 47.05.010                      AS 47.07.030                      AS 47.07.036  
AS 47.05.270



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7 AAC 160.900(d)(63) is repealed:

(63) repealed 5 / 21 /2020;

7 AAC 160.900(d)(65) is amended to read:

(65) *Chart of 1115 Medicaid Waiver Services, dated May 27, 2020*; [CHART OF 1115 WAIVER SERVICES, JUNE 2019 EDITION]

7 AAC 160.900(d) is amended by adding new paragraphs to read:

(66) the *Adverse Childhood Experiences Questionnaires*, dated May 27, 2020.

(67) the *Alaska Behavioral Health Providers Service Standards & Administrative Procedures for SUD Provider Services*, dated May 27, 2020;

(68) the *Alaska Behavioral Health Providers Service Standards & Administrative Procedures for Behavioral Health Provider Services*, dated May 27, 2020.

(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,

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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 6/2/2019, Register 230; am 6/13/2019, Register 230; am 7/1/2019, Register 231; am 10/25/2019, Register 232; am 11/10/2019, Register 232; am 5 / 21 /2020, Register 234)

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

AS 47.05.012