

Kevin Meyer
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520
WWW.LTGOV.ALASKA.GOV




530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Triptaa Surve
Department of Health and Social Services

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: September 4, 2020

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

Department of Health and Social Services regulations re: Medicaid coverage and payment and transfer of payment for chore services from home and community-based waiver services program to Community First Choice program (7 AAC 125.040; 7 AAC 127; 7 AAC 130; 7 AAC 145.500(a); 7 AAC 145.520(f); 7 AAC 145.525(a)(1); 7 AAC 145.531(a); 7 AAC 160.900(d))

Attorney General File:	2019200641
Regulation Filed:	9/4/2020
Effective Date:	1/1/2021
Print:	236, January 2021

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

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

The attached 20 pages of regulations, dealing with Medicaid coverage, home and community-based waiver services, and Community First Choice services, specifically, Community First Choice Personal Care Services (7 AAC 127); Medicaid Coverage; Home & Community-Based Waiver Services (7 AAC 130); Medicaid Program; General Provisions (7 AAC 160), are adopted and certified to be a correct copy of the regulation changes that the Department of Health and Social Services adopts under the authority of AS 47.05.010, AS 47.05.012, AS 47.07.030, AS 47.07.036, AS 47.07.040, AS 47.07.045, 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.

Although no public comments were received, 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 January 1, 2021, as provided in AS 44.62.180.

Adam Crum Digitally signed by Adam Crum
Date: 2020.09.02 08:27:40 -08'00'
Adam Crum, Commissioner
Department of Health & Social Services

FILING CERTIFICATION

April Simpson for

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that¹ on September 4th,
2020, at 1:33 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 -
44.62.120.

Kevin Meyer
for Lieutenant Governor *Kevin Meyer*

Effective: January 1, 2021.

Register: 236, January 2021.

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.



Kevin Meyer

**KEVIN MEYER
LIEUTENANT GOVERNOR**

Register 236, January 2021 HEALTH AND SOCIAL SERVICES

7 AAC 125.040(a)(14)(B) is amended to read:

(B) duplicates services that other recipients living in the same residence receive as assistance with IADLs under this section or similar services under 7 AAC 127.087 [7 AAC 130.245], and those services are sufficient to maintain a clean, sanitary, and safe environment for all recipients in that residence; however, the department may authorize assistance with an IADL that duplicates services if it is justified as necessary for the health, safety, and welfare of a recipient;

7 AAC 125.040(c) is amended to read:

(c) A recipient that is eligible for both Community First Choice [HOME AND COMMUNITY-BASED WAIVER] chore services under 7 AAC 127.087 [7 AAC 130.245] and personal care services under 7 AAC 125.030(c) must choose either to receive chore services or to have similar activities performed as personal care services. (Eff. 2/1/2010, Register 193; am 1/26/2012, Register 201; am 11/3/2012, Register 204; am 7/1/2015, Register 214; am 7/22/2017, Register 223; am 1 / 1 / 2021, Register 236)

Authority: AS 47.05.010 AS 47.07.030

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;

Register 236, January 2021 HEALTH AND SOCIAL SERVICES

(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.

(Eff. 10/1/2018, Register 227; am 1 / 1 / 2021, Register 236)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 127.040(a) is amended to read:

7 AAC 127.040. Community First Choice covered services. (a) The department will pay a Community First Choice provider agency for the following services for individuals eligible under 7 AAC 127.025, if those services are provided in accordance with this chapter:

(1) personal emergency response services under 7 AAC 127.085;

(2) Community First Choice personal care services, including

(A) physical assistance with services as specified in 7 AAC 125.030(b) -

(d);

(B) supervision and cueing assistance with the ADLs and IADLs

specified in 7 AAC 125.030(b) and (c) for a recipient who requires assistance based on

behavior or cognitive scoring on the CAT assessment as indicated in the *Community First*

Choice Personal Care Services: Service Level Computation, adopted by reference in

7 AAC 160.900(d); and

(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**

(3) chore services under 7 AAC 127.087.

7 AAC 127.040(c) is amended to read:

(c) A recipient that is eligible for both **Community First Choice** [HOME AND COMMUNITY-BASED WAIVER] chore services under **7 AAC 127.087** [7 AAC 130.245] and assistance with IADLs under (a)(2) of this section must choose either to receive chore services or to have similar activities performed as Community First Choice personal care services. (Eff.

10/1/2018, Register 227; am 1 / 1 / 2021, Register 236)

Authority: AS 47.05.010 AS 47.07.036 AS 47.07.040
AS 47.07.030

7 AAC 127.045(a)(12)(B) is amended to read:

(B) duplicates services that other recipients living in the same residence receive as assistance with IADLs under this section, 7 AAC 125, or similar services under **7 AAC 127.087** [7 AAC 130.245], and those services are sufficient to maintain a clean, sanitary, and safe environment for all recipients in that residence; however, the department may authorize assistance with an IADL that duplicates services if it is justified as necessary for the health, safety, and welfare of a recipient;

Register 236, January 2021 HEALTH AND SOCIAL SERVICES

7 AAC 127.045(c) is amended to read:

(c) A recipient that is eligible for both Community First Choice [HOME AND COMMUNITY-BASED WAIVER] chore services under 7 AAC 127.087 [7 AAC 130.245] and for Community First Choice personal care services under 7 AAC 127.040(a)(2) [7 AAC 127.040(a)(2)(A)] must choose to receive chore services or to have similar activities performed as Community First Choice personal care services. (Eff. 10/1/2018, Register 227; am 1/1/2021, Register 236)

Authority: AS 47.05.010 AS 47.07.036 AS 47.07.040
AS 47.07.030

The introductory language of 7 AAC 127.050(a) is amended to read:

(a) Except as specified in (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(a)(1) is amended to read:

(1) submit an application and meet and comply with the applicable certification criteria, including

(A) the provider qualifications and program standards [,] set out in the department's *Personal Care Services and Community First Choice Personal Care*

Register 236, January 2021 HEALTH AND SOCIAL SERVICES

Services Provider Conditions of Participation, adopted by reference in 7 AAC 160.900,

if the provider seeks certification to provide personal care services; or

(B) the provider qualifications and program standards applicable to chore services under 7 AAC 127.087 and set out in the department's *Provider*

Conditions of Participation for Home and Community-Based Waiver Services and

***Community First Choice Chore Services*, adopted by reference in 7 AAC 160.900, if**

the provider seeks certification to provide chore services; and

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

(j) A provider certified under 7 AAC 130.220(a)(1) and enrolled in the Medicaid program under 7 AAC 105.210 may render and receive payment for chore services provided in accordance with 7 AAC 127.087. (Eff. 10/1/2018, Register 227; am 1 / 1 / 2021, Register

236)

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 *Provider Conditions of Participation for Home and Community-Based Waiver Services and Community First Choice Chore Services*, 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 plan, except that if more than one recipient lives in the residence where services are to be provided, the department

(A) will limit the number of hours to that necessary to maintain a clean, sanitary, and safe environment for each recipient; and

(B) will base the number of hours allowed on

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

(ii) 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; and

(iii) 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; and

(G) chopping or collecting firewood, if firewood is used as the primary source of energy for heating, bathing, 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 127.050 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 provided in a congregate setting or delivered to the recipient's residence.

(d) If a recipient is eligible for chore services under this section and eligible for Community First Choice personal care services under this chapter, 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) of this section if

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

(2) a recipient's meals are provided in a congregate setting or delivered to the recipient's residence. (Eff. 1 / 1 / 2021, Register 236)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 130.206(a) is amended to read:

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

(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;

(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

(2) individuals with intellectual and developmental disabilities waiver benefits for all services offered in accordance with 7 AAC 130.235 - 7 AAC 130.305.

(Eff. 10/1/2018, Register 227; am 1 / 1 / 2021, Register 236)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.045

AS 47.07.030

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

(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 127.087** [7 AAC 130.245];
- (C) adult day services provided under 7 AAC 130.250;
- (D) day habilitation services provided under 7 AAC 130.260;
- (E) residential habilitation services provided under 7 AAC 130.265;
- (F) supported employment services provided under 7 AAC 130.270;
- (G) intensive active treatment services provided under 7 AAC 130.275;
- (H) respite care services provided under 7 AAC 130.280;
- (I) transportation services provided under 7 AAC 130.290;
- (J) meal services provided under 7 AAC 130.295;
- (K) environmental modification services provided under 7 AAC 130.300;

7 AAC 130.220(b)(1)(A) is amended to read:

(A) must meet the applicable certification criteria, including the provider qualifications and program standards, set out in the department's [HOME AND COMMUNITY-BASED WAIVER SERVICES] *Provider Conditions of Participation **for Home and Community-Based Waiver Services and Community First Choice Chore Services***, adopted by reference in 7 AAC 160.900; and

Register 236, January 2021 HEALTH AND SOCIAL SERVICES

(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 1 / 1 / 2021, Register 236)

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; repealed 1 / 1 / 2021, Register 236)

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 127.087** [7 AAC 130.245];
- (2) **meal** [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;
- (3) respite care services payable under 7 AAC 130.280;
- (4) the recipient's room and board;
- (5) the cost of facility maintenance, upkeep, or improvement; or
- (6) activities or supervision for which a source other than Medicaid makes payment.

(Eff. 2/1/2010, Register 193; am 7/1/2013, Register 206; am 11/5/2017, Register 224; am 1 / 1 / 2021, Register 236)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

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 127.087 [7 AAC 130.245];
- (B) family-directed respite care services under 7 AAC 130.280;
- (C) transportation services under 7 AAC 130.290;
- (D) meal services under 7 AAC 130.295; or
- (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 127.087 [7 AAC 130.245];
- (C) transportation services under 7 AAC 130.290; and
- (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 127.087 [7 AAC 130.245];
- (B) respite services under 7 AAC 130.280;
- (C) transportation services under 7 AAC 130.290;
- (D) meal services under 7 AAC 130.295; or
- (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 127.087 [7 AAC 130.245];
- (C) transportation services under 7 AAC 130.290;
- (D) meal services under 7 AAC 130.295; or
- (E) services provided by another resident of the home or by the primary unpaid caregiver.

(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 1 / 1 / 2021, Register 236)

Authority: AS 47.05.010 AS 47.07.036 AS 47.07.040

AS 47.07.030

7 AAC 130.280(d)(5) is amended to read:

(5) the department will pay for hourly respite care services provided at the same time as one or more of the following services, except that an individual may not provide another service identified in this paragraph while rendering respite care services:

(A) chore services under 7 AAC 127.087 [7 AAC 130.245];

(B) transportation services under 7 AAC 120.290;

(C) meal services under 7 AAC 130.295;

(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 1 / 1 / 2021, Register 236)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

The article heading for 7 AAC 145, Article 6, is changed to read:

Article 6. Payment Rates; Personal Care, Community First Choice, and Home Health Care.

The introductory language of 7 AAC 145.500(a) is amended to read:

7 AAC 145.500. Personal care and Community First Choice services payment rates.

(a) For providing personal care services under 7 AAC 125.010 - 7 AAC 125.199 and

Community First Choice services under 7 AAC 127, the department will pay a unit of service at the lesser of

Register 236, January 2021 HEALTH AND SOCIAL SERVICES

...

(Eff. 2/1/2010, Register 193; am 3/1/2011, Register 197; 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 7/1/2019, Register 231; am 1 / 1 / 2021, Register 236)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.520(f) is amended to read:

(f) For [CHORE SERVICES PROVIDED UNDER 7 AAC 130.245,] adult day services provided under 7 AAC 130.250, residential supported-living services provided under 7 AAC 130.255, day habilitation services provided under 7 AAC 130.260, residential habilitation services provided under 7 AAC 130.265, supported-employment services provided under 7 AAC 130.270, intensive active treatment services provided under 7 AAC 130.275, respite care services provided under 7 AAC 130.280, transportation services provided under 7 AAC 130.290(a), or meal services provided under 7 AAC 130.295, the department will pay a unit of service at the lesser of

(1) the amount charged by the provider in accordance with 7 AAC 145.020; or

(2) rates established in the department's *Chart of Waiver Services Rates*, adopted by reference in 7 AAC 160.900.

(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 7/1/2019, Register 231; am 1 / 1 / 2021, Register 236)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.525(a)(1) is amended to read:

(1) rates for personal care services provided under 7 AAC 125.010 - 7 AAC 125.199, Community First Choice [PERSONAL CARE] services provided under 7 AAC 127, [CHORE SERVICES PROVIDED UNDER 7 AAC 130.245,] adult day services provided under 7 AAC 130.250, day habilitation services provided under 7 AAC 130.260, residential habilitation services provided under 7 AAC 130.265, supported-employment services provided under 7 AAC 130.270, intensive active treatment services provided under 7 AAC 130.275, respite care services provided under 7 AAC 130.280, transportation services provided under 7 AAC 130.290(a), and meal services provided under 7 AAC 130.295 will be re-established using annual reports in 7 AAC 145.531, as described in the department's *Personal Care Assistant and Waiver Rate-Setting Methodology*, adopted by reference in 7 AAC 160.900; (Eff. 3/1/2018, Register 225; am 10/1/2018, Register 227; am 7/1/2019, Register 231; am 1/1/2021, Register 236)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.531(a) is amended to read:

(a) For personal care services provided under 7 AAC 125.010 - 7 AAC 125.199, Community First Choice [PERSONAL CARE] services provided under 7 AAC 127, [CHORE SERVICES PROVIDED UNDER 7 AAC 130.245,] adult day services provided under 7 AAC 130.250, day habilitation services provided under 7 AAC 130.260, residential habilitation

Register 236, January 2021 HEALTH AND SOCIAL SERVICES

services provided under 7 AAC 130.265, supported-employment services provided under 7 AAC 130.270, intensive active treatment services provided under 7 AAC 130.275, respite care services provided under 7 AAC 130.280, transportation services provided under 7 AAC 130.290(a), and meal services provided under 7 AAC 130.295, each target provider described in (b) of this section and in the department's *Personal Care Assistant and Waiver Rate-Setting Methodology*, adopted by reference in 7 AAC 160.900, shall complete and submit an annual report to the department in accordance with this section.

(Eff. 3/1/2011, Register 197; am 11/3/2012, Register 204; am 1/1/2014, Register 208; am 3/1/2018, Register 225; am 10/1/2018, Register 227; am 1 / 1 / 2021, Register 236)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

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

(10) the *Chart of Personal Care Services and Community First Choice Services Rates*, **effective January 1, 2021** [DATED JUNE 26, 2019], 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;

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

(35) the **Community First Choice** *Chore Services Conditions of Participation*, **effective January 1, 2021** [DATED SEPTEMBER 5, 2017];

Register 236, January 2021 HEALTH AND SOCIAL SERVICES

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

(44) the [HOME AND COMMUNITY-BASED WAIVER SERVICES] *Provider Conditions of Participation* *for Home and Community-Based Waiver Services and Community First Choice Chore Services*, effective January 1, 2021 [DATED JANUARY 25, 2019];

7 AAC 160.900(d)(62) is amended to read:

(62) the *Chart of Waiver Services Rates*, effective January 1, 2021 [DATED JUNE 26, 2019], for providers of home and community-based waiver services under 7 AAC 130; (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 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 4/24/2020, Register 234; am 5/21/2020, Register

Register 236, January 2021 HEALTH AND SOCIAL SERVICES

234; am 6/25/2020, Register 234; am 10/1/2020, Register 235; am 10 / 4 / 2020, Register 236;
am 1 / 1 / 2021, Register 236)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040
AS 47.05.012

The 37th paragraph of the editor's note following 7 AAC 160.900 is changed to read:

The *Application for ALI/APDD/ CCMC/CFC (New and Renewal), Adult Day Services Condition of Participation, Care Coordinator Certification Application, Care Coordination Services and Long Term Services and Supports Targeted Case Management Conditions of Participation, Community First Choice Chore Services Conditions of Participation, Day Habilitation Services Conditions of Participation, Developmental Disabilities (DD) Registration and Review form, Material Improvement Reporting for ALI/APDD Waivers, Material Improvement Reporting for CCMC Waivers, Material Improvement Reporting for IDD Participants Age Three or Over, Material Improvement Reporting for IDD Participants Under the Age of Three, Meal Services Conditions of Participation, Nursing Facility Level of Care Assessment Form for Children, [HOME AND COMMUNITY-BASED WAIVER SERVICES] Provider Conditions of Participation for Home and Community-Based Waiver Services and Community First Choice Chore Services, Residential Habilitation Services Conditions of Participation, Residential Supported-Living Services Conditions of Participation, Supported Employment Services Conditions of Participation, Transportation Services Conditions of Participation, Environmental Modification Services Conditions of Participation, and Nursing Oversight and Care Management Conditions of Participation*, adopted by reference in 7 AAC

Register 236, January 2021 HEALTH AND SOCIAL SERVICES

160.900(d), may be obtained by contacting the Department of Health and Social Services, Division of Senior and Disabilities Services, P.O. Box 110680, Juneau, Alaska, 99811-0680 and are posted on the Department of Health and Social Services, Division of Senior and Disabilities Services website at <http://dhss.alaska.gov/dsds>.

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: September 3, 2020

File No.: 2019200641

Thru: Susan R. Pollard *SRP*
Chief Assistant Attorney General
and Regulations Attorney
Legislation and Regulations Section

Tel. No.: 465-3600

From: Steven C. Weaver *SCW*
Senior Assistant Attorney General
Legislation and Regulations Section

Re: Department of Health and Social
Services regulations re: Medicaid
coverage and payment and transfer of
payment for chore services from
home and community-based waiver
services program to Community First
Choice program (7 AAC 125.040;
7 AAC 127; 7 AAC 130; 7 AAC
145.500(a); 7 AAC 145.520(f);
7 AAC 145.525(a)(1); 7 AAC
145.531(a); 7 AAC 160.900(d))

The Department of Law has reviewed the attached regulations of the Department of Health and Social Services against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations. The regulations were adopted by the Department of Health and Social Services after the close of the public comment period. The regulations transfer Medicaid coverage and payment for chore services from the home and community-based waiver services program to the Community First Choice program.

The January 22, 2020 public notice and the September 2, 2020 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

We note that the adoption order identifies a special effective date of January 1, 2021 for these regulations. As a result, the amendments made in these regulations will become effective after other amendments to 7 AAC 160.900(d): the permanent changes to the emergency regulations regarding behavioral health "1115" waiver services (Department of Law file number 2020200364). We have inserted two blank history notes at the end of the amendments to 7 AAC 160.900. In the first blank history note, please insert the effective date of the permanent changes

to the emergency regulations regarding behavioral health "1115" waiver services.

SCW

cc w/enc.: Hon. Adam Crum, Commissioner
Department of Health and Social Services

Triptaa Surve, Regulations Contact
Department of Health and Social Services

John Lee, Director
Division of Senior and Disabilities Services
Department of Health and Social Services

Jetta Whittaker
Division of Senior and Disabilities Services
Department of Health and Social Services

Russ Stevens
Division of Senior and Disabilities Services
Department of Health and Social Services

Anthony Newman
Division of Senior and Disabilities Services
Department of Health and Social Services

Stacie L. Kraly, Chief Assistant Attorney General
Human Services Section

Paul R. Peterson, Assistant Attorney General
Human Services Section

NOTICE OF PROPOSED CHANGES ON MEDICAID COVERAGE, HOME & COMMUNITY-BASED
WAIVER SERVICES, AMENDMENTS TO CHORE SERVICES
IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

BRIEF DESCRIPTION

The Department of Health & Social Services proposes to adopt regulations on Medicaid coverage, home and community-based waiver services, and Community First Choice services, related to chore services.

The Department of Health & Social Services proposes to adopt regulation changes in Title 7 of the Alaska Administrative Code, dealing with Medicaid coverage, home and community-based waiver services, and Community First Choice services, related to chore services, including the following:

- 7 AAC 127. Community First Choice Personal Care Services, is proposed to be amended to
 - Add chore services to the Community First Choice program.
 - Add definitions related to payment for chore services, provider qualifications, and the certification process.
- 7 AAC 130. Medicaid Coverage; Home & Community-Based Waiver Services, is proposed to be amended to
 - Repeal chore services from the list of waiver services.
- 7 AAC 160.900. Medicaid Program; General Provisions, is proposed to be amended to
 - Add new rate charts and conditions of participation.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Ms. Jetta Whittaker at the Department of Health & Social Services, Division of Senior & Disabilities Services, P.O. Box 110680, Juneau, AK 99811. Additionally, the Department of Health & Social Services will accept comments by facsimile at (907) 465-1170 and by electronic mail at jetta.whittaker@alaska.gov. The comments must be received not later than 5 p.m. on March 9, 2020.

You may submit written questions relevant to the proposed action to the Department of Health & Social Services by e-mail at jetta.whittaker@alaska.gov or at the Department of Health & Social Services, Division of Senior & Disabilities Services, P.O. Box 110680, Juneau, AK 99811. The questions must be received at least 10 days before the end of the public comment period. The Department of Health & Social Services will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Ms. Jetta Whittaker at jetta.whittaker@alaska.gov or at (907) 465-1605 not later than February 20, 2020, to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Ms. Jetta Whittaker at jetta.whittaker@alaska.gov or at (907) 465-1605.

A copy of material proposed for adoption by reference is available on the Alaska Online Public Notice System, and may be viewed at the agency's office at Department of Health & Social Services, Senior & Disabilities Services, 240 Main Street, Juneau, AK 99801.

After the public comment period ends, the Department of Health & Social Services will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected. Written comments received are public records and are subject to public inspection.

Statutory authority: AS 47.05.010; AS 47.05.012; AS 47.07.030; AS 47.07.036; AS 47.07.040; AS 47.07.045.

Statutes being implemented, interpreted, or made specific: AS 47.05.010; AS 47.05.012; AS 47.07.030; AS 47.07.036; AS 47.07.040; AS 47.07.045.

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

The Department of Health & Social Services, Division of Senior & Disabilities Services keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the Department of Health & Social Services/Division of Senior & Disabilities Services notices of proposed regulation changes. To be added to or removed from the list, send a request to the Department of Health & Social Services/Division of Senior & Disabilities Services at jetta.whittaker@alaska.gov, giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

DATE: January 16, 2020.

/s/Adam Crum

Commissioner,

Department of Health & Social Services

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))'

1. Adopting agency: Department of Health & Social Services (DHSS)
2. General subject of regulation: Moving chore services from Medicaid Coverage, Home & Community-Based Waiver Services, to Community First Choice Personal Care Services.
3. Citation of regulation (may be grouped): 7 AAC 127.025, .040, .050, .087; 7 AAC 130.206, .220, .245, .255, .265; 7 AAC 160.900.
4. Department of Law file number, if any: 2019200641
5. Reason for the proposed action:
 - Compliance with federal law or action (identify): _____
 - Compliance with new or changed state statute
 - Compliance with federal or state court decision (identify): _____
 - Development of program standards
 - Other (identify): DHSS/SOA cost reductions.
6. Appropriation/Allocation: Medicaid Services/Senior & Disabilities Services
7. Estimated annual cost to comply with the proposed action to:
 - A private person: \$0
 - Another state agency: \$0
 - A municipality: \$0
8. Cost of implementation to the state agency and available funding (in thousands of dollars): None.

	Initial Year FY 19_____	Subsequent Years
Operating Cost	\$0_____	\$0_____
Capital Cost	\$0_____	\$0_____
1002 Federal receipts	\$_____	\$_____
1003 General fund match	\$_____	\$_____
1004 General fund	\$_____	\$_____
1005 General fund/ program	\$_____	\$_____
Other (identify)	\$0_____	\$0_____

9. The name of the contact person for the regulation:
Name: Jetta Whittaker
Title: Health Program Manager III
Address: 240 Main Street, Suite 600, Juneau, AK 99801
Telephone: (907) 464-1605
E-mail address: jetta.whittaker@alaska.gov

10. The origin of the proposed action:
 Staff of state agency
 Federal government
 General public
 Petition for regulation change
 Other (identify): _____

11. Date: 1/10/20 Prepared by: Jetta Whittaker
[signature]
Name (printed): Jetta Whittaker
Title (printed): Health Program Manager III
Telephone: 465-11605

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Jetta Whittaker, Health Program Manager III, of the Department of Health & Social Services, under penalty of perjury, certify the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to CommunityFirst Choice Personal Care Services (7 AAC 127); Medicaid Coverage; Home & Community-Based Waiver Services (7 AAC 130); Medicaid Program; General Provisions (7 AAC 160), has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to every person who has filed a request for notice of proposed action with the state agency;
- (3) furnished to appropriate state officials;
- (4) furnished to interested persons;
- (5) furnished to the Department of Law, along with a copy of the proposed regulation;
- (6) furnished electronically to incumbent State of Alaska legislators;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1).

As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (2), (4) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

There is no notary public or other official empowered to administer oaths available to notarize this document as a result of social distancing requirements implemented statewide.

I certify under penalty of perjury that the foregoing is true.

Date: April 20, 2020



Digitally signed by Jetta Whittaker
Date: 2020.04.20 13:29:23 -08'00'

[original or password-protected electronic signature]
Jetta Whittaker, Health Program Manager III

State of Alaska
Juneau, AK 99801.

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 270229 ST OF AK/DHSS/COMMISSIONERS
3601 C STREET STE 902, ANCHORAGE, AK 99503

Order #: W0013144

Cost: \$483.1

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Lisi Misa being first duly sworn on oath deposes and says that she is a representative of the Anchorage Daily News, a daily newspaper. That said newspaper has been approved by the Third Judicial Court, Anchorage, Alaska, and it now and has been published in the English language continually as a daily newspaper in Anchorage, Alaska, and it is now and during all said time was printed in an office maintained at the afore-said place of publication of said newspaper. That the annexed is a copy of an advertisement as it was published in regular issues (and not in supplemental form) of said newspaper on

01/22/2020

and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is not in excess of the rate charged private individuals.

Signed _____



Subscribed and sworn to before me

this 22nd day of January 2020.

Notary Public in and for
The State of Alaska.
Third Division
Anchorage, Alaska

MY COMMISSION EXPIRES

7/14/2020

NOTICE OF PROPOSED CHANGES ON MEDICAID COVERAGE, HOME & COMMUNITY-BASED WAIVER SERVICES, AMENDMENTS TO CHORE SERVICES IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

The Department of Health & Social Services proposes to adopt regulation changes in Title 7 of the Alaska Administrative Code, dealing with Medicaid coverage, home and community-based waiver services, and Community First Choice services, related to chore services, including the following:

- 7 AAC 127. Community First Choice Personal Care Services, is proposed to be amended to:
 - o Add chore services to the Community First Choice program.
 - o Add definitions related to payment for chore services, provider qualifications, and the certification process.
- 7 AAC 130. Medicaid Coverage; Home & Community-Based Waiver Services, is proposed to be amended to:
 - o Repeal chore services from the list of waiver services.
- 7 AAC 160.900. Medicaid Program; General Provisions, is proposed to be amended to:
 - o Add new rate charts and conditions of participation.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Ms. Jetta Whittaker at the Department of Health & Social Services, Division of Senior & Disabilities Services, P.O. Box 110680, Juneau, AK 99811. Additionally, the Department of Health & Social Services will accept comments by facsimile at (907) 465-1170 and by electronic mail at jetta.whittaker@alaska.gov. The comments must be received not later than 5 p.m. on March 9, 2020.

You may submit written questions relevant to the proposed action to the Department of Health & Social Services by e-mail at jetta.whittaker@alaska.gov or at the Department of Health & Social Services, Division of Senior & Disabilities Services, P.O. Box 110680, Juneau, AK 99811. The questions must be received at least 10 days before the end of the public comment period. The Department of Health & Social Services will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Ms. Jetta Whittaker at jetta.whittaker@alaska.gov or at (907) 465-1605 not later than February 20, 2020, to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Ms. Jetta Whittaker at jetta.whittaker@alaska.gov or at (907) 465-1605.

A copy of material proposed for adoption by reference is available on the Alaska Online Public Notice System, and may be viewed at the agency's office at Department of Health & Social Services, Senior & Disabilities Services, 240 Main Street, Juneau, AK 99801.

After the public comment period ends, the Department of Health & Social Services will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or decide to take no action. The language of the final regulation may be different from that of the proposed regulation. You should comment during the time allowed if your interests could be affected. Written comments received are public records and are subject to public inspection.

Statutory authority: AS 47.05.010; AS 47.05.012; AS 47.07.030; AS 47.07.036; AS 47.07.040; AS 47.07.045.

Statutes being implemented, interpreted, or made specific: AS 47.05.010; AS 47.05.012; AS 47.07.030; AS 47.07.036; AS 47.07.040; AS 47.07.045.

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

The Department of Health & Social Services, Division of Senior & Disabilities Services keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the Department of Health & Social Services/Division of Senior & Disabilities Services notices of proposed regulation changes. To be added to or removed from the list, send a request to the Department of Health & Social Services/Division of Senior & Disabilities Services at jetta.whittaker@alaska.gov, giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

DATE: January 16, 2020.
/s/Adam Crum
Commissioner
Department of Health & Social Services

Published: January 22, 2020

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Jetta Whittaker, Health Program Manager III, of the Department of Health & Social Services, under penalty of perjury, state the following:

The Department of Health & Social Services did not receive any factual or other substantive information that was submitted in writing or orally as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Health & Social Services regulation on CommunityFirst Choice Personal Care Services (7 AAC 127); Medicaid Coverage; Home & Community-Based Waiver Services (7 AAC 130); Medicaid Program; General Provisions (7 AAC 160).

There is no notary public or other official empowered to administer oaths available to notarize this document as a result of social distancing requirements implemented statewide.

I certify under penalty of perjury that the foregoing is true.

Date: April 20, 2020



Digitally signed by Jetta Whittaker
Date: 2020.04.20 13:31:19 -08'00'

[original or password-protected electronic signature]

Jetta Whittaker, Health Program Manager III

State of Alaska
Juneau, AK 99801.