

DEPARTMENT OF HEALTH & SOCIAL SERVICES



PROPOSED CHANGES TO REGULATIONS

MEDICAID COVERAGE, WAIVER SERVICES, COVID FLEXIBILITIES MADE PERMANENT

7 AAC 110. Medicaid Coverage; Professional Services.

7 AAC 125. Medicaid Coverage; Personal Care Services and Home Health Care Services.

7 AAC 130. Medicaid Coverage; Home and Community-Based Waiver Services.

7 AAC 160.900. Medicaid Program; General Provisions. Requirements adopted by reference.



PUBLIC REVIEW DRAFT December 8, 2021.

COMMENT PERIOD ENDS: January 31, 2022.

**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paragraph, or subparagraph is being added, or that an existing section, subsection, paragraph, or subparagraph is being repealed and readopted (replaced), *the new or replaced text is not bolded or underlined*.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.

7 AAC 110. Medicaid Coverage; Professional Services.**7 AAC 110.635. Exclusions.**

7 AAC 110.635(a)(1) is repealed and readopted to read:

(a) The department will not pay for the following services provided by telemedicine application:

(1) home and community-based waiver services except for

(A) case management services provided under long term services and supports targeted case management under 7 AAC 128.010(b)(2);

(B) care coordination services at 7 AAC 130.240;

(C) day habilitation services at 7 AAC 130.260;

(D) supported employment services under 7 AAC 130.270;

(E) intensive active treatment services under 7 AAC 130.275. (Eff.

2/1/2010, Register 193; am_____/_____/_____, Register____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 125. Medicaid Coverage; Personal Care Services and Home Health Care Services.**7 AAC 125.090. Employment of personal care assistants; qualifications.**

7 AAC 125.090(d) is repealed and readopted to read:

(d) A personal care services agency that provides agency-based services or manages a consumer-directed program must have on file, for each personal care assistant, certification documents showing successful completion of

(1) cardiopulmonary resuscitation (CPR) training, certified by the American Heart Association or the American Red Cross; evidence of CPR training must be documented at least every two years;

(2) first aid training, certified by the American Heart Association or the American Red Cross; evidence of first aid training must be documented at least every two years;

(3) assistance with self-administration of medication training that addresses the activities set out in the definition of "assisting a recipient with self-administration of prescribed oral medication, eye drops, and skin ointments" in 7 AAC 125.030(g); and

(4) use of restrictive intervention training in accordance with 7 AAC 125.104.
(Eff. 2/1/2010, Register 193; am 10/1/2011, Register 199; am 6/29/2017, Register 222; am 7/22/2017, Register 223; am_____/_____/_____, Register____)

Authority:	AS 47.05.010	AS 47.05.310	AS 47.05.340
	AS 47.05.017	AS 47.05.320	AS 47.07.030
	AS 47.05.300	AS 47.05.330	

7 AAC 125.090(e) is repealed:

(e) Repealed_____/_____/_____. (Eff. 2/1/2010, Register 193; am 10/1/2011, Register 199; am 6/29/2017, Register 222; am 7/22/2017, Register 223; am_____/_____/_____, Register_____))

Authority:	AS 47.05.010	AS 47.05.310	AS 47.05.340
	AS 47.05.017	AS 47.05.320	AS 47.07.030
	AS 47.05.300	AS 47.05.330	

7 AAC 125.090(f) is repealed:

(f) Repealed_____/_____/_____. (Eff. 2/1/2010, Register 193; am 10/1/2011, Register 199; am 6/29/2017, Register 222; am 7/22/2017, Register 223; am_____/_____/_____, Register_____))

Authority:	AS 47.05.010	AS 47.05.310	AS 47.05.340
	AS 47.05.017	AS 47.05.320	AS 47.07.030
	AS 47.05.300	AS 47.05.330	

Chapter 130. Medicaid Coverage; Home and Community-Based Waiver Services.

7 AAC 130.217. Support plan development and amendment.

7 AAC 130.217(a) is amended to read:

(a) Not less than once every 12 months, the care coordinator shall submit a support plan, based on the current needs of the recipient, the most recent assessment **or** [,] interim level-of-care review [, OR REASSESSMENT] conducted under 7 AAC 130.213, and the level-of-care determination made in accordance with 7 AAC 130.215. After an assessment **or** [,] interim level-of-care review [, OR REASSESSMENT] under 7 AAC 130.213, and after receiving the department's notice that the recipient meets the level-of-care requirement under 7 AAC 130.215, the care coordinator shall

...

7 AAC 130.217(a)(4) is amended to read:

(4) secure the **handwritten or electronic** signature of

(Eff. 7/1/2013, Register 206; am 7/1/2015, Register 214; 11/5/2017, Register 224; am 10/1/2018, Register 227; am 3/31/2021, Register 238; am____/____/____, Register____)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.045
AS 47.07.030

7 AAC 130.218. Person-centered practice.

7 AAC 130.218(b)(1) is amended to read:

(b) The planning process must

(1) recognize and support the recipient as central to the process with the authority to specify goals and needs, to request meetings at times and locations convenient to the recipient, **including distance delivery if requested by the recipient,** and to revise the support plan when necessary;

(Eff. 11/5/2017, Register 224; am 3/31/2021, Register 238; am____/____/____, Register____)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.045
AS 47.07.030

7 AAC 130.218(c)(4)(C)(ii) is amended to read:

(ii) an analysis of whether the service and amount of that service is consistent with the assessment **or** [,] interim level-of-care review [, OR

REASSESSMENT] conducted under 7 AAC 130.213, the level-of-care-
determination made in accordance with 7 AAC 130.215, and any treatment plans
developed for the recipient;

7 AAC 130.218(d)(2) is amended to read:

(2) the settings in which home and community-based services are rendered **are
integrated in and support access to the greater community, including distance delivery
when requested and authorized** [ARE INTEGRATED IN, AND SUPPORT FULL ACCESS
TO, THE GREATER COMMUNITY.]

(Eff. 11/5/2017, Register 224; am 3/31/2021, Register 238; am ____/____/____, Register ____)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.045

AS 47.07.030

7 AAC 130.240. Care coordination services.

7 AAC 130.240(b)(1)(A) is amended to read:

(A) makes one in-person contact at least once every **six** [THREE] months,
and one telephone **or distance delivery** contact in each of the subsequent **five** [TWO]
months;

7 AAC 130.240(b)(1)(B) is amended to read:

(B) monitors service delivery in **at least two** [EACH] service
environments, [ENVIRONMENT] **including the recipient's home**, at least once
during the plan year by arranging for the in-person contacts required in (A) of this

paragraph to occur in one of the settings where individualized supports waiver services are provided; and

7 AAC 130.240(b)(2)(A) is repealed and readopted to read:

(A) remains in contact with the recipient or the recipient's representative in a manner and with a frequency appropriate to the needs and the communication abilities of the recipient, but at a minimum makes two contacts each month with the recipient or the recipient's representative; every six months one of the monthly contacts must be in person; the remainder can be by telephone or distance delivery; (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 3/31/2021, Register 238; am ____/____/____, Register ____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 130.240(b)(2)(B) is repealed and readopted to read:

(B) monitors service delivery by meeting in person with the recipient in at least two service environments, including the recipient's home, at least once during the plan year; by arranging for the in-person contacts required in (A) of this paragraph to occur in one of the settings where waiver services are provided; and

... (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 3/31/2021, Register 238; am ____/____/____, Register ____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 130.240(d) is repealed:

(d) 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 10/1/2018, Register 227; am 3/31/2021, Register 238; am ____/____/____, Register ____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 130.260. Day habilitation services.

7 AAC 130.260(b)(1) is repealed and readopted to read:

(b) The department will consider habilitation services to be day habilitation services if the services

(1) are provided in a residential or community-based setting, to a recipient individually or as a member of a group, if the day habilitation service does not duplicate services provided in residential settings that bill for daily rate services; (Eff. 2/1/2010, Register 193; am 7/1/2013, Register 206; am 10/1/2017, Register 223; am 11/5/2017, Register 224; am 10/1/2020, Register 235; am ____/____/____, Register ____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 130.260(b)(6)(C) is amended to read:

(C) the least restrictive [COMMUNITY-BASED] environment appropriate for that recipient, **including in the recipient's home or in another private residence; the day habilitation services provided in all residential settings combined must be no more than 10% of the total units of service approved for a plan year and must be justified and approved in the recipient's support plan;** and

7 AAC 130.260(b)(6)(D) is amended to read:

(D) opportunities that promote connections to natural supports or the greater community, **including distance delivery; the day habilitation services provided by distance delivery must be no more than 10% of the total units of service approved for a plan year, must be justified and approved in the recipient's support plan.**

(Eff. 2/1/2010, Register 193; am 7/1/2013, Register 206; am 10/1/2017, Register 223; am 11/5/2017, Register 224; am 10/1/2020, Register 235; am ____/____/____, Register____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 130.270. Supported-employment services.

7 AAC 130.270(a)(3) is amended to read:

(3) are provided **in person or using distance delivery that is justified and approved in a support plan** to a recipient individually or as a member of a group; **the units of service requested for distance delivery must be no more than 10 % of the total units of supported employment approved for a plan year, and must be justified and approved in the recipient's support plan.**

(Eff. 2/1/2010, Register 193; am 7/1/2013, Register 206; am 7/1/2015, Register 214; am 10/1/2017, Register 223; am 11/5/2017, Register 224; am 3/31/2021, Register 238; am ____/____/____, Register____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 130.275. Intensive active treatment services.

7 AAC 130.275(a)(4)(B) is amended to read:

(B) develops a written plan for time-limited treatment or therapy that addresses that problem or disorder **including an estimated number of units of service, if any, reserved for distance delivery; distance delivery must be no more than 10% of the total authorized units of service;** and

(Eff. 2/1/2010, Register 193; am 3/1/2011, Register 197; am 7/1/2013, Register 206; am 7/1/2015, Register 214; am 11/5/2017, Register 224; am 7/1/2018, Register 226; am 3/31/2021, Register 238; am____/____/____, Register____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 130.280. Respite care services.

7 AAC 130.280(d)(3) is repealed and readopted to read:

(3) the department will not pay for respite care services to

(A) relieve paid providers of Medicaid services, except providers of family home habilitation services under 7 AAC 130.265(b); or

(B) provide oversight for minor children, other than a recipient of home and community-based waiver services, in the home; for purposes of this subparagraph, "minor children" means unemancipated individuals under 18 years of age; (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; am 3/31/2021, Register 238; am____/____/____, Register____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 130.319. Definitions.

7 AAC 130.319 is amended by adding a new paragraph to read:

(22) “distance delivery” means a face-to-face interaction between a recipient and a provider, using a secure HIPAA compliant web-based platform; use of telephone without a video component is not included in the definition of distance delivery;

(Eff. 2/1/2010, Register 193; am 11/3/2012, Register 204; 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 10/1/2020, Register 235; am 3/31/2021, Register 238; am____/____/____, Register____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

Chapter 160. Medicaid Program; General Provisions.

7 AAC 160.900. Requirements adopted by reference.

7 AAC 160.900(d)(34) is amended to read:

(34) the *Care Coordination Services and Long Term Services and Supports Targeted Case Management Conditions of Participation*, dated **November _____, 2021** [AUGUST 2, 2018];

7 AAC 160.900(d)(36) is amended to read:

(36) the *Day Habilitation Services Conditions of Participation*, dated **November _____, 2021** [JANUARY 8, 2020];

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

(44) the *Provider Conditions of Participation for Home and Community-Based Waiver Services and Community First Choice Chore Services*, dated November _____, 2021 [JANUARY 1, 2021];

7 AAC 160.900(d)(48) is amended to read:

(48) the *Respite Care Services Conditions of Participation*, dated November _____, 2021 [SEPTEMBER 5, 2017];

7 AAC 160.900(d)(49) is amended to read:

(49) the *Supported Employment Services Conditions of Participation*, dated November _____, 2021 [SEPTEMBER 5, 2017];

7 AAC 160.900(d)(55) is amended to read:

(55) the *Personal Care Services and Community First Choice Personal Care Services Provider Conditions of Participation*, dated November _____, 2021 [AUGUST 2, 2018]; (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 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 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; am 3/31/2021, Register 238; am 6/30/2021, Register 238; am____/____/____, Register____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040
AS 47.05.012