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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Triptaa Surve
Department of Health

FROM: April Simpson, Office of the Lieutenant Governor
465.4081

DATE: August 19, 2022

RE: Filed Permanent Regulations: Department of Health

Department of Health regulations re: Division of Senior and Disabilities Services -
Medicaid Coverage, Waiver Services, COVID Flexibilities Made Permanent (7 AAC 110,
125, 130, 160)

Attorney General File:	2021200495
Regulation Filed:	8/19/2022
Effective Date:	9/18/2022
Print:	243, October 2022

cc with enclosures: Colleen Bailey, Department of Law
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS
OF THE DEPARTMENT OF HEALTH

The attached 11 pages of regulations, dealing with the Medicaid Coverage, Waiver Services, COVID Flexibilities Made Permanent (7 AAC 110, 125, 130, 160), are adopted and certified to be a correct copy of the regulation changes that the Department of Health adopts under the authority of AS 47.05.010, AS 47.05.012, AS 47.05.017, AS 47.05.300, AS 47.05.310, AS 47.05.320, AS 47.05.330, AS 47.05.340, AS 47.07.030, AS 47.07.040, AS 47.07.045, and AS 47.07.085, 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.

In considering public comments, the Department of Health 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 the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Adam Crum

Digitally signed by Adam
Crum
Date: 2022.08.01 13:53:11
-08'00'

Adam Crum, Commissioner
Department of Health

April Simpson for
↑

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that¹ on August 19,
2022, at 2:24 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 -
44.62.120.

April Simpson
for Lieutenant Governor Kevin Meyer

Effective: September 18, 2022.

Register: 243, October 2022.

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**

7 AAC 110.635(a)(1) is repealed and readopted to read:

- (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 under 7 AAC 130.240;
 - (C) day habilitation services under 7 AAC 130.260;
 - (D) supported employment services under 7 AAC 130.270; or
 - (E) intensive active treatment services under 7 AAC 130.275;

(Eff. 2/1/2010, Register 193; am 9 / 13 / 2022, Register 243)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

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 that meets the standards of 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 that meets the standards of 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

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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 under 7 AAC 125.104.

7 AAC 125.090(e) is repealed:

(e) Repealed 9 / 18 / 2022.

7 AAC 125.090(f) is repealed:

(f) Repealed 9 / 18 / 2022.

(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 9 / 18 / 2022, Register 243)

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	

The introductory language of 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,

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the care coordinator shall

...

The introductory language of 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 9 / 18 / 2022, Register 243)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.045

AS 47.07.030

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

(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 the recipient requests it, and to revise the support plan when necessary;

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

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determination [LEVEL-OF-CARE-DETERMINATION] made in accordance with 7 AAC 130.215, and **the** [ANY] treatment plans, **if any**, 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 [FULL] access to [,] the greater community, **including distance delivery when requested and authorized**. (Eff. 11/5/2017, Register 224; am 3/31/2021, Register 238; am 9 / 19 / 2022, Register 243)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.045
AS 47.07.030

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

(b) The department will pay a monthly care coordination service rate, established in accordance with 7 AAC 145.520, if the care coordinator,

(1) for a recipient of services under the individualized supports waiver described in 7 AAC 130.206, makes one in-person contact with the recipient or the recipient's representative at least once every six months, and one telephone contact or distance delivery contact in each of the subsequent five months;

(2) for a recipient enrolled in other home and community-based waivers, including the individuals with intellectual and developmental disabilities waiver described in 7 AAC 130.206, 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 may be done by telephone or distance delivery;

(3) monitors service delivery by

(A) meeting in person with the recipient in at least two service environments, including the recipient's home, at least once during the plan year; and

(B) arranging for the in-person contacts required in (1) or (2) of this subsection to occur in one of the settings where home and community-based waiver services are provided; and

(4) after each visit with the recipient, completes and retains as documentation of each visit, a recipient contact report in accordance with the department's *Care Coordination Services and Long Term Services and Supports Targeted Case Management Conditions of Participation*, adopted by reference in 7 AAC 160.900.

7 AAC 130.240(d) is repealed:

(d) Repealed 9 / 18 / 2022.

7 AAC 130.240(j)(4) is repealed:

(4) repealed 9 / 18 / 2022. (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 9 / 18 / 2022, Register 243)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

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

(1) are provided in a residential or community-based setting, to a recipient individually or as a member of a group; a day habilitation service may not duplicate a service provided in residential settings that bill for daily rate services;

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

(i) may not be more than 10 percent of the total units of service approved for a plan year; and

(ii) 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

(i) may not be more than 10 percent of the total units of service approved for a plan year; and

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(ii) 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 9 / 18 / 2022, Register 243)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

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**

(A) may not be more than 10 percent of the total units of employment services approved for a plan year; and

(B) 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 9/9/2021, Register 239; am 9 / 18 / 2022, Register 243)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

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 may not be more than 10**

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percent 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 9 / 18 / 2022, Register 243)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

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 9 / 18 / 2022, Register 243)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

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

(22) "distance delivery"

(A) means a face-to-face interaction between a recipient and a provider, using a secure web-based platform that is compliant with P.L. 104-191 (Health Insurance

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Portability and Accountability Act of 1996 (HIPAA));

(B) does not include the use of a telephone without a video component.

(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 9 / 18 / 2022, Register 243)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

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 July 1, 2022 [AUGUST 2, 2018];

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

(36) the *Day Habilitation Services Conditions of Participation*, dated July 1,

2022 [SEPTEMBER 5, 2017];

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 July 1, 2022 [EFFECTIVE JANUARY 1, 2021];

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

(48) the *Respite Care Services Conditions of Participation*, dated July 1, 2022
[SEPTEMBER 5, 2017];

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

(49) the *Employment Services Conditions of Participation*, dated July 1, 2022
[AUGUST 3, 2021];

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 July 1, 2022 [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,

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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 8/27/2021, Register 239; [ADD'L] am 9/9/2021, Register 239; am 10/9/2021, Register 240; [ADD'L] am 11/1/2021, Register 240; am 5/25/2022, Register 242; am 9/4/2022, Register 243; am 9 / 18 / 2022, Register 243)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.085
AS 47.05.012 AS 47.07.040