

DEPARTMENT OF HEALTH



PROPOSED CHANGES TO REGULATIONS. COMMUNITY FIRST CHOICE PERSONAL CARE SERVICES.

7 AAC 127. Community First Choice Services.



PUBLIC REVIEW DRAFT.
April 12, 2024.

COMMENT PERIOD ENDS: May 28, 2024.

Please see the public notice for details about how to
comment on these proposed changes.

Notes to reader:

1. Except as discussed in note 2, new text that amends an existing regulation is **bolded and underlined**.
2. If the lead-in line above the text of each section of the regulations states that a new section, subsection, paragraph, or subparagraph is being added, or that an existing section, subsection, paragraph, or subparagraph is being repealed and readopted (replaced), *the new or replaced text is not bolded or underlined*.
3. [ALL-CAPS TEXT WITHIN BRACKETS] indicates text that is to be deleted.
4. When the word “including” is used, Alaska Statutes provide that it means “including, but not limited to.”
5. Only the text that is being changed within a section of the current regulations is included in this draft. Refer to the text of that whole section, published in the current Alaska Administrative Code, to determine how a proposed change relates within the context of the whole section and the whole chapter.

Title 7. Health and Social Services.**Chapter 127. Community First Choice Services.**

7 AAC 127.015 is repealed and readopted to read:

7 AAC 127.015. Services provided by legally responsible individuals. (a) Community First Choice personal care services may be provided by a recipient's legally responsible individual under AS 47.07.045(d), including the recipient's spouse, the recipient's parent if the recipient is a minor child, or the recipient's court-appointed legal guardian, if

(1) the individual is qualified to provide personal care services;

(2) the individual is employed by a provider that is certified under 7 AAC

127.050; and

(3) the services that the individual provides do not exceed 40 paid hours within a seven-day period for any long-term services or supports under this chapter and 7 AAC 130 to the recipient for whom the individual is legally responsible.

(b) For purposes of this section, a foster parent is not a legally responsible individual for a recipient who was placed in the care of that foster parent by the Department of Family and Community Services. (Eff. 10/1/2018, Register 227; am ____/____/_____, Register _____)

Authority: AS 47.05.010 AS 47.07.036 AS 47.40.045
AS 47.07.030 AS 47.07.040

7 AAC 127.027. Disenrollment.

7 AAC 127.027(a)(2) is amended to read:

(2) the department is unable to determine the recipient's continued eligibility for Community First Choice services because the recipient, the recipient's representative, or the recipient's care coordinator did not submit the documentation required under 7 AAC 127.030(c) for assessment or interim level-of-care review to the department [UNDER 7 AAC 127.030(c)] at least 90 days before [EXPIRATION OF] the current level of care's expiration date [SUPPORT PLAN];

7 AAC 127.027(a)(5) is amended to read:

(5) the recipient or the recipient's representative misrepresents the recipient's physical, intellectual, developmental, or medical condition [IN AN EFFORT] to obtain services that are not medically necessary or for which the recipient does not qualify;

7 AAC 127.027(a)(7) is amended to read:

(7) the recipient or the recipient's representative fails to take a required [AN] action [OR TO SUBMIT DOCUMENTATION REQUIRED] under 7 AAC 127.025 - 7 AAC 127.165.

(Eff. 10/1/2018, Register 227; am 1/22/2023, Register 245; am ____/____/_____, Register _____)

Authority: AS 47.05.010 AS 47.07.036 AS 47.07.045

AS 47.07.030 AS 47.07.040

7 AAC 127.039. Support plan development and amendment.

7 AAC 127.039(a)(2)(B) is amended to read:

(B) **includes the recipient's family members or other persons that provide natural supports for the recipient,** at the request of the recipient or the recipient's representative [, INCLUDES THE RECIPIENT'S FAMILY MEMBERS AND OTHERS THAT PROVIDE INFORMAL SUPPORTS FOR THE RECIPIENT];

The introductory language of 7 AAC 127.039(a)(4)(A) is amended to read:

(A) the recipient or **the** recipient's representative **to indicate** [INDICATING] that the recipient or **the** recipient's representative

...

7 AAC 127.039(c) is amended to read:

(c) **The** [NOT LATER THAN 30 BUSINESS DAYS AFTER THE DEPARTMENT RECEIVES A RECIPIENT'S COMPLETE SUPPORT PLAN, THE] department will **provide notice to the** [NOTIFY THE] recipient, the recipient's representative, and the recipient's care coordinator **that includes** [OF] the department's approval or disapproval of specific services **not later than 30 business days after the department receives the recipient's complete support plan.**

7 AAC 127.039(d)(2)(A) is amended to read:

(A) the recipient or **the** recipient's representative **to indicate**
[INDICATING] that the recipient or **the** recipient's representative agrees to the support
plan amendment; and

...

7 AAC 127.039(e) is amended to read:

(e) **The** [NOT LATER THAN 30 BUSINESS DAYS AFTER THE DEPARTMENT
RECEIVES A COMPLETE SUPPORT PLAN AMENDMENT, THE] department will **provide**
notification to [NOTIFY] the recipient, the recipient's representative, and the recipient's care
coordinator **that includes** [OF] the department's approval or disapproval of specific services **not**
later than 30 business days after the department receives a complete support plan
amendment.

(Eff. 10/1/2018, Register 227; am 1/22/2023, Register 245; am ____/____/_____, Register
_____)

Authority: AS 47.05.010 AS 47.07.036 AS 47.07.045
AS 47.07.030 AS 47.07.040

**7 AAC 127.095. Amendments to service level authorization for Community First Choice
personal care services.**

The introductory language of 7 AAC 127.095(b) is amended to read:

(b) To request an amendment to a service level authorization before the end of the
recipient's current authorization period, the recipient's **personal care services agency shall**
[CARE COORDINATOR MUST]

...

7 AAC 127.095(c)(4) is amended to read:

(4) whether the recipient's representative, family members, or other natural supports provide assistance to the recipient;

7 AAC 127.095 is amended by adding a new subsection to read:

(e) The department will terminate a recipient's authorization to receive personal care services approved under 7 AAC 127.090 if the recipient

(1) fails to use the personal care services in the service level authorization within 90 consecutive days after approval by the department or during any 90 consecutive-day period authorized under 7 AAC 127.090(e); or

(2) has a documented history of failing to cooperate with the delivery of services identified in the service level authorization, or of placing a personal care assistant at risk of physical injury, and no other provider is willing to provide services for the recipient; for the purposes of this paragraph a documented history exists if a provider

(A) reports that a personal care assistant was unable to obtain cooperation with service delivery or to mitigate the risk of physical injury despite reasonable attempts; and

(B) maintains records to support that report and makes those records available to the department for inspection; the department will review those records and interview the recipient or the recipient's representative before making a decision to

terminate the recipient's authorization to receive personal care services. (Eff. 10/1/2018, Register 227; am ____/____/_____, Register _____)

Authority: AS 47.05.010 AS 47.07.036 AS 47.07.045
AS 47.07.030 AS 47.07.040

7 AAC 127.115. Consumer-directed and agency-based Community First Choice personal care services; safety of recipients; safety of employees.

The introductory language of 7 AAC 127.115(c) is amended to read:

(c) If the recipient's representative is unable to act on behalf of the recipient because the recipient's representative is not present in the recipient's community and involved in the day-to-day care of the recipient, the recipient's representative **shall** [MUST] designate [, ON A FORM PROVIDED BY THE DEPARTMENT,] an individual that **shall** [MUST] act in accordance with (b) of this section **on a form provided by the department**. In addition,

...

7 AAC 127.115 is amended by adding a new subsection to read:

(d) The recipient may select a recipient's representative to provide Community First Choice personal care services. The recipient's representative shall designate a designee under (c) of this section to carry out the responsibilities of (b) of this section. (Eff. 10/1/2018, Register 227; am ____/____/_____, Register _____)

Authority: AS 47.05.010 AS 47.07.036 AS 47.07.040
AS 47.07.030

7 AAC 127.125. Consumer-directed Community First Choice personal care services; recipient requirements.

The introductory language of 7 AAC 127.125(a) is amended to read:

(a) To qualify for Community First Choice personal care services through a consumer-directed program, a recipient, **the** recipient's representative, or **the** representative's designee, identified in accordance with (e)(2) of this section, must

...

7 AAC 127.125(c)(2) is amended to read:

(2) the name or the address of the recipient, the recipient's representative, or the **representative's** [RECIPIENT'S] designee changes.

The introductory language of 7 AAC 127.125(e)(2) is amended to read:

(2) the recipient submits [TO THE DEPARTMENT] a document **to the department** that identifies the recipient's representative's authority, and **shows** that **the** representative

...

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

Authority: AS 47.05.010 AS 47.07.036 AS 47.07.040
AS 47.07.030

7 AAC 127.130. Consumer-directed Community First Choice personal care services; provider agencies.

7 AAC 127.130(a)(3)(B) is amended to read:

(B) a copy of all personal care assistant timesheets, signed by the recipient, the recipient's representative, or the representative's designee, and all **personal care assistant** case notes; and

The introductory language of 7 AAC 127.130(d) is amended to read:

(d) A provider agency that administers a consumer-directed program shall work with the recipient, **the** recipient's representative, or **the** representative's designee, and with the care coordinator [,]to

...

(Eff. 10/1/2018, Register 227; am ____/____/_____, Register _____)

Authority: AS 47.05.010 AS 47.07.036 AS 47.07.040
AS 47.07.030

7 AAC 127.145. Reporting recipient changes.

The introductory language of 7 AAC 127.145(a) is amended to read:

(a) A recipient **or the recipient's representative** shall report **any of the following changes by telephone, by facsimile transmission, by electronic mail, in writing, or in person** to each of the recipient's Community First Choice services providers and the recipient's care coordinator [ANY OF THE FOLLOWING CHANGES BY TELEPHONE, BY FACSIMILE

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TRANSMISSION, BY ELECTRONIC MAIL, IN WRITING, OR IN PERSON] not later than
15 days after the recipient knows of the change:

...

(Eff. 10/1/2018, Register 227; am 3/31/2021, Register 238; am 1/22/2023, Register 245; am
____/____/_____, Register _____)

Authority: AS 47.05.010 AS 47.07.036 AS 47.07.040
AS 47.07.030