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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:** September 19, 2024  
**RE:** Filed Permanent Regulations: Department of Health

Department of Health, Senior & Disabilities Services regulations re: Community First  
Choice Personal Care Services (7 AAC 127)

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Attorney General File:	2024200065
Regulation Filed:	9/19/2024
Effective Date:	10/19/2024
Print:	252, January 2025

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



THE STATE  
*of* **ALASKA**  
GOVERNOR MIKE DUNLEAVY

**Department of Law**

CIVIL DIVISION

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September 17, 2024

The Honorable Nancy Dahlstrom  
Lieutenant Governor  
State of Alaska  
P.O. Box 110015  
Juneau, AK 99811-0015

Re: *7 AAC 127: DOH-SDS - Community First Choice Personal Care Services*  
Our file: 2024200065

Dear Lieutenant Governor Dahlstrom:

The Department of Law has reviewed the attached regulations of the Department of Health against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This letter 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 after the close of the public comment period.

These Medicaid regulations address the provision of Community First Choice personal care services and include regulations to allow—to the extent allowed under federal law—legally responsible individuals to provide personal care services under the home and community-based waiver system through new AS 47.07.045(d), enacted by ch. 22, SLA 2023 (HCS CSSB 57(FIN) am H).

The April 17, 2024 public notice and the September 10, 2024 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.060 is not required.

No technical corrections were necessary to conform the regulations in accordance with AS 44.62.060.

Sincerely,

TREG TAYLOR  
ATTORNEY GENERAL

By: Rebecca C. Polizzotto  
Digitally signed by  
Rebecca C. Polizzotto  
Date: 2024.09.17  
09:17:11 -08'00'  
Rebecca C. Polizzotto  
Chief Assistant Attorney General  
Legislation, Regulations, and  
Legislative Research Section

RCP/scw

CC w/enclosure: Triptaa Surve, Program Coordinator  
Department of Health

Paul Peterson, Assistant Attorney General  
Department of Law

Steven C. Weaver, Assistant Attorney General  
Department of Law

ORDER ADOPTING CHANGES TO REGULATIONS  
OF THE DEPARTMENT OF HEALTH

The attached eight pages of regulations, dealing with Community First Choice Personal Care Services, 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 47.07.030, AS 47.07.036, AS 47.07.040, and AS 47.40.045, 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.

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.

**Heidi Hedberg**  
Digitally signed by  
Heidi Hedberg  
Date: 2024.09.10  
08:10:45 -08'00'

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Heidi Hedberg, Commissioner  
Department of Health

FILING CERTIFICATION

*April Simpson for*

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on September 19, 2024, at 12:05pm., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

*April Simpson*  
for Lieutenant Governor Nancy Dahlstrom

Effective: October 19, 2024.

Register: 252, January 2025.

**FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY**

**I, NANCY DAHLSTROM, 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:**

**April Simpson, Regulations and Initiatives Specialist**

**IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.**



A handwritten signature in blue ink, reading "Nancy Dahlstrom", is written over a horizontal dotted line.

**NANCY DAHLSTROM  
LIEUTENANT GOVERNOR**

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) The individual, who is a court-appointed legal guardian, shall appoint, on a form provided by the department, a designee to act on the guardian's behalf, who

(1) shall meet the standards under 7 AAC 127.115(c)(2); and

(2) shall act in accordance with the requirements of 7 AAC 127.125.

(c) 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 10 / 19 / 2024, Register 252)

**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(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

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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 10 / 19 / 2024, Register 252)

**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(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 10 / 19 / 2024, Register 252)

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

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 10 / 19 / 2024, Register 252)

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

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 10 / 19 / 2024, Register 252)

**Authority:** AS 47.05.010 AS 47.07.036 AS 47.07.040  
AS 47.07.030

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

...

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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 10 / 19 / 2024, Register 252)

**Authority:** AS 47.05.010 AS 47.07.036 AS 47.07.040  
AS 47.07.030

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

...

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(Eff. 10/1/2018, Register 227; am 10 / 19 / 2024, Register 252)

**Authority:** AS 47.05.010 AS 47.07.036 AS 47.07.040  
AS 47.07.030

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 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 10 / 19 / 2024, Register 252)

**Authority:** AS 47.05.010 AS 47.07.036 AS 47.07.040  
AS 47.07.030