

Chapter 81 - Grant Services for Individuals

7 AAC 81.010. Scope of chapter.

Except as provided in [7 AAC 81.020](#), this chapter applies to grant program services that the department provides to an individual.

7 AAC 81.020. Limitation; waiver.

- (a) If a state or federal statute or regulation addresses a particular grant program and is inconsistent with a provision of this chapter, the state or federal statute or regulation supersedes the provision of this chapter.
- (b) The department may waive the requirements of this chapter for the purchase of services under [AS 47.27.030](#).
- (c) This chapter does not apply to payments made under
 - (1) [7 AAC 53.300](#) - [7 AAC 53.370](#) in connection with children in state custody or under supervision; or
 - (2) [7 AAC 39](#) in connection with the child care grant program.

7 AAC 81.030. Services on behalf of an individual.

The department may obtain grant program services from an individual, organization, or political subdivision of the state by means of a provider agreement if the services to be provided are restricted to an individual determined by the department to be eligible to receive services under the grant program from which the money will be paid.

7 AAC 81.040. Eligibility.

- (a) A provider may receive payment from the department for services provided under a provider agreement if
 - (1) the services are eligible for payment under the grant program;
 - (2) the department has determined that the individual on whose behalf payment is being requested is eligible for the services, based on the eligibility criteria for the grant program from which payment will be made;
 - (3) the department has authorized the amount of payment the provider can receive for services provided based on
 - (A) an individualized service plan;
 - (B) a schedule of fees specific to the grant program; or
 - (C) a periodic rate per individual;
 - (4) the provider meets applicable eligibility requirements for service providers under the grant program from which payment will be made;
 - (5) the provider has on file with the department a fully executed provider agreement for the grant program under which the provider wishes to provide services; and
 - (6) the commissioner determines that use of a provider agreement
 - (A) is in the best interest of the target population of the grant program;
 - (B) may increase the accessibility of services to the target population of the grant program; or
 - (C) may reduce the cost of services to the department.
- (b) A provider may not request payment for services under this section if the provider has a grant under [7 AAC 78](#) to provide the same service.

7 AAC 81.050. Notification of potential service providers.

- (a) At least once every two years, the department will give public notice to inform potential providers of grant services that the department may enter into provider agreements for the provision of those services by eligible providers.
- (b) The department will post a public notice under (a) of this section for at least 30 consecutive days on the Alaska Online Public Notice System established under [AS 44.62.175](#). The notice will include
 - (1) the name of the grant program for which a provider agreement may be issued;
 - (2) a description of the services to be purchased;
 - (3) eligibility requirements and the documentation required by the department to verify eligibility of the potential provider;
 - (4) the terms of the provider agreement for the specific grant program; and
 - (5) the department's address and the name of a contact person for the department.

7 AAC 81.060. Issuance of a provider agreement.

- (a) If a potential provider is interested in entering into a provider agreement with the department, the potential provider must send a letter to the department contact person identified in the public notice issued under [7 AAC 81.050](#), expressing interest, and must include the documentation required by the department to verify eligibility for a provider agreement. A potential provider may send a letter expressing interest to the department at any time.
- (b) The department will verify the eligibility of a potential provider for a provider agreement. If the department determines that a potential provider is eligible, the department will prepare a provider agreement and forward it to the provider for signature.
- (c) If the department determines that the potential provider is ineligible for a provider agreement, the department will notify the provider, in writing within 30 days, of the reasons the provider was determined to be ineligible. If the potential provider later becomes eligible for a provider agreement, the provider may resubmit a letter expressing interest at any time.
- (d) Unless the department determines approval to be necessary to protect public health and welfare, the department will disapprove an agreement regardless of eligibility if
 - (1) the potential provider has a history of noncompliance with grant requirements under [7 AAC 78](#) or this chapter; or
 - (2) monitoring and evaluation of the potential provider in the past has shown that the services provided did not meet applicable quality standards of the grant program.
- (e) The signed provider agreement is a contract between the department and the provider.

7 AAC 81.070. Provider agreements.

- (a) In addition to any requirements specific to a grant program, the department will address the following in a provider agreement:
 - (1) the services for which payment will be made;
 - (2) that failure to meet the terms of the agreement, at any time, may result in termination of the agreement by the

department;

(3) provider eligibility requirements;

(4) recipient eligibility requirements;

(5) terms and conditions of payment, including

(A) the basis for payment, as described in [7 AAC 81.040\(a\)\(3\)](#);

(B) that the provider must exercise reasonable efforts to obtain payment for the services provided to a recipient from other available sources of payment; and

(C) that the provider shall credit back to the department any other-source payments received by the provider for services for which the department has paid the provider;

(6) that the provider's provision of services to eligible recipients and billing the department for those services constitutes the provider's agreement

(A) to cooperate in reports, surveys, or audits conducted by the department; and

(B) to comply with applicable statutes and regulations applicable to the grant program from which the provider will be paid;

(7) retention by the provider of records necessary to disclose fully to the department the extent of services provided to recipient, with information regarding any specific payment to be made available to the department upon request;

(8) on-site inspection by authorized representatives of the department of facilities used to provide services under the agreement;

(9) that endorsement of a warrant received from the department by a provider or the provider's agent constitutes certification that the claim for which the warrant is issued is true and accurate, unless written notice of an error is sent by the provider to the department within 30 days after the date that the warrant is cashed;

(10) that, except for good cause shown for the delay, the department will not pay a cost of service unless the provider of the service submits a bill for the service to the department within 30 days after the service was provided;

(11) immediate notification by the provider to the department and automatic termination of the agreement if the provider is no longer eligible to provide services based on applicable provider eligibility requirements;

(12) termination of the agreement by the department without prior notice if the provider fails to comply with the terms of the agreement;

(13) except as otherwise provided in the agreement, termination of the agreement by the department at any time on 30 days prior notice;

(14) termination of the agreement by the provider at any time upon 30 days prior notice under [7 AAC 81.185](#) and assistance by the provider to the department in making arrangements for transfer of the recipients of services under the agreement to other providers, if appropriate; and

(15) the effective date of the agreement.

(b) A provider agreement remains in force until the provider or the department terminates the agreement or a material term of the agreement is changed. If a material term of a provider agreement is changed, a new agreement must be executed.

7 AAC 81.080. Selection of a provider.

(a) The department may refer eligible recipients to providers or may allow recipients to select providers.

(b) Repealed 6/24/2004.

(c) If a recipient chooses an individual, organization, or political subdivision to provide services for which the individual, organization, or political subdivision does not have a provider agreement to provide those services, that individual, organization, or political subdivision of the state must enter into a provider agreement before any costs incurred by the individual, organization, or political subdivision on behalf of the recipient are eligible for reimbursement.

7 AAC 81.090. Subcontracts.

(a) Subject to prior department approval, a provider may enter into a subcontract for the performance of a service covered by the provider agreement only if the provider

(1) remains administratively and financially responsible for the service and is responsible for the performance of the subcontractor;

(2) ensures that the subcontractor's records are protected, preserved, and retained as required by this chapter; and

(3) demonstrates that the method of procurement to be used to identify the subcontractor will be reasonably competitive.

(b) The provider shall ensure that a subcontract authorized under this section requires the subcontractor to provide the department, the provider, or a representative of the department or provider with reasonable access to the subcontractor's books, documents, papers, and records if the department or the provider determines that access to this information is necessary. The subcontract must state that the department may, at any time, obtain and retain the original of any records generated as a result of the provider agreement to which the subcontract applies.

7 AAC 81.100. Equal employment opportunity.

(a) The provider shall post in conspicuous places, accessible to employees and applicants for employment, at each location that services are provided under the provider agreement, notices setting out the provisions of [AS 18.80.220](#).

(b) The provider shall state, in solicitations or advertisements for employees to work under a provider agreement, that the provider is an equal opportunity employer and that all qualified applicants will be considered for employment without regard to race, religion, color, national origin, age, physical or mental disability, gender, or any other condition or status described in [AS 18.80.220\(a\)\(1\)](#).

(c) The provider shall send to each labor union or representative of workers with which the provider has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of the provider's commitments to equal employment opportunity and shall post copies of the notice in conspicuous places accessible to employees and applicants for employment, at each location that services are provided under the provider agreement.

(d) The provider shall include the requirements of this section in the provider's contracts that are paid, in whole or in part, with money from a grant program, and shall require compliance with the requirements of this section in contracts entered

into by the provider's subcontractors.

(e) The provider shall promptly comply with state directives necessary to insure compliance with federal and state statutes and regulations relating to the prevention of discriminatory employment practices.

7 AAC 81.110. Civil rights of recipients of services.

(a) The provider shall comply with the requirements of the following federal statutes:

- (1) 42 U.S.C. 2000d (Civil Rights Act of 1964);
- (2) 41 U.S.C. 701 - 707 (Drug Free Workplace Act of 1988);
- (3) 42 U.S.C. 12101 - 12213 (Americans with Disabilities Act of 1990).

(b) The provider shall establish procedures for processing complaints alleging discrimination on the basis of race, religion, national origin, age, gender, physical or mental disability, or other status or condition described in [AS 18.80.220\(a\)\(1\)](#).

(c) A provider may not exclude an eligible individual from receiving services under a provider agreement. However, with the department's concurrence, a provider may offer alternative services that meet the identified needs of a particular eligible individual if the health or safety of staff or other recipients of services may be endangered by inclusion of that individual.

7 AAC 81.120. Confidentiality.

(a) If a federal or state statute or regulation requires confidentiality in a grant program, the department will establish procedures for preserving confidentiality before the department awards the provider agreement. The department will include the procedures as part of the terms of the provider agreement.

(b) Personally identifiable information obtained from a provider by the department relating to a recipient of services paid for, in whole or part, by the department remains confidential under [AS 40.25.120\(a\)](#).

7 AAC 81.130. Administrative policies of providers.

(a) A provider shall establish written policies relating to employee salaries and overtime, employee leave, employee relocation costs, use of consultants and consultant fees, training, criminal background checks, if necessary for the protection of vulnerable or dependent recipients of services, and conflicts of interest. The provider shall apply these policies consistently in the administration of the provider agreement without regard to the source of the money used for the purposes to which the policies relate.

(b) A provider that is a nonprofit organization must establish and adhere to a written policy stating that an employee of the provider may not be a member of the provider's governing board.

7 AAC 81.140. Accounting requirements.

A provider shall maintain the financial records and accounts of the provider agreement using accounting principles generally accepted in the United States, in a manner that permits those records and accounts to be audited as prescribed in [7 AAC 81.160](#).

7 AAC 81.150. Reports.

To receive money under this chapter, the provider must, if requested by the department,

(1) furnish the department with confidential information about the recipients of services paid for, in whole or part, by the department and comply with applicable state or federal statutes and regulations regarding the submission of that information; and

(2) provide other information the department considers necessary to evaluate the efficacy of service delivery or compliance with applicable state or federal statutes and regulations.

7 AAC 81.160. Audit requirements.

(a) The department may conduct an audit of a provider's operations at any time that the department determines that an audit is needed. The auditor may be a representative of the department or an independent certified public accountant. If the provider agreement includes money provided by the federal government or a municipal government, and the federal or municipal government conducts an audit, the auditor may be a representative of the federal or municipal government or an independent certified public accountant. For an audit conducted under this subsection, the provider shall provide the auditor with reasonable access to the provider's books, documents, papers, and records.

(b) An audit referred to in this section must be conducted in accordance with auditing standards generally accepted in the United States and the standards applicable to financial audits contained in the most current version of Government Auditing Standards, issued by the Comptroller General of the United States.

(c) Within 30 days after a provider receives written notice of an audit report prepared under this section that questions a cost incurred by the provider or otherwise notes an audit exception, the provider shall furnish to the department a response to the question or exception. If the provider fails to respond, or if the department determines that the response does not adequately explain or justify the questioned cost or other audit exception, the department may require the provider to refund to the department the money paid on the questioned cost or other audit exception, as applicable. The provider shall refund the money as specified by the department.

7 AAC 81.170. Monitoring and evaluation.

(a) A representative of the department may monitor and evaluate the performance of providers.

(b) The department may enter into a contract with a third party to provide for monitoring and evaluation of provider performance under (a) of this section.

7 AAC 81.180. Retention of records.

(a) A provider shall ensure that its records, and the records of each subcontractor under [7 AAC 81.190](#), are protected and preserved as required by this chapter and other applicable state and federal law. The provider shall safeguard confidential information and ensure that any disclosure of that information is made in a manner that is permissible under applicable state and federal law.

(b) The provider shall retain and preserve financial and administrative provider records, including records of the receipt and disposition of other-source income, for at least three years, subject to the following

- (1) the provider shall retain the records as long as an audit is in progress or as long as audit findings, litigation, or claims involving the records are pending;
- (2) the retention period for each year's records begins on the date of submission to the department of the provider's annual or final financial status report or its equivalent.
- (c) The provider shall retain and preserve records that relate directly to the care and treatment of a recipient of services for at least seven years following the termination of services to that recipient, subject to the following:
 - (1) if the provider or subcontractor is a hospital subject to [AS 18.20.085](#), the provider shall retain the records in accordance with [AS 18.20.085](#);
 - (2) if the provider or subcontractor is not a hospital subject to [AS 18.20.085](#), and if a recipient of services is under the age of majority, the records must be kept for at least seven years after the recipient has reached the age of majority or until seven years after the termination of services, whichever is longer.
- (d) If records described in this section are transferred under [7 AAC 81.185](#), any continuing board, officers, or successor organization must protect, retain, and preserve those records as required by this section through at least the applicable retention period that would have applied to those records if they had not been transferred.
- (e) After the required retention period, or at any time during the retention period, the provider, or any continuing board, officers, or successor organization must seek approval from the department before destroying the records identified in this section. If the department approves the request, destruction of the records must be done in a manner approved by the department.
- (f) The provisions of this section do not apply to records transferred to or maintained by the department. Notwithstanding (e) of this section, the department may request a transfer of the records described in this section to the custody of the department at any time during the retention period established under this section if the department determines that the records possess long-term retention value.

7 AAC 81.185. Transfer of records.

- (a) The provisions of this section apply to the records of a provider or a subcontractor that relate to a provider agreement, including the records of each recipient of service under the provider agreement, if the provider's business or organization closes or ceases to exist as a service provider under the provider agreement, or if the records must be transferred for any other reason.
- (b) If a provider decides to close or cease to exist as a service provider under a provider agreement, the provider shall notify the department in writing within 48 hours of the decision. A notice under this subsection must
 - (1) be signed by the provider's board of directors or chief executive officer;
 - (2) indicate whether the provider will transfer its records to
 - (A) a continuing board or other officers; or
 - (B) the department, if no continuing board or other officers will assume the provider's responsibilities, and
 - (3) include a formal plan for the transfer of records that includes
 - (A) a description of how and when the provider will notify each recipient of service regarding where the files will be transferred, and how the recipient can continue to receive services and obtain a copy of that recipient's records; the plan for notice under this subparagraph must include those recipients for whom the provider has on file a signed release allowing the recipient's files to be transferred, and those for whom a signed release has not been obtained;
 - (B) a complete list of all files being transferred; and
 - (C) a complete list of all recipients of services who will be sent the notice under (A) of this paragraph.
- (c) The department may require the provider to transfer its records to a successor organization selected by the department.
- (d) Before transfer, the provider must
 - (1) box all paper records and ensure that records of minors are in separate boxes from records of adults; and
 - (2) contact the department for instructions regarding the most appropriate way to transfer electronic records, including the need for encryption of confidential records.
- (e) Records transferred under this section are subject to [7 AAC 81.180](#).
- (f) If records are transferred to the department, the department will, at the written request of a recipient of services, copy records to be sent to the recipient's next service provider.

7 AAC 81.200. Request for appeal.

- (a) A provider may appeal the following decisions under [7 AAC 81.210](#):
 - (1) ineligibility decision under [7 AAC 81.060\(c\)](#);
 - (2) disapproval of a provider agreement under [7 AAC 81.060\(d\)](#);
 - (3) a decision to terminate an agreement under the provisions of the provider agreement.
- (b) The provider must submit, within 15 days after receipt of notification of the decision, a written request for appeal to the commissioner. The request must contain the reasons for the appeal and must cite the statute, regulation, or terms of the provider agreement upon which the appeal is based.
- (c) The commissioner will review the request for appeal and, within 15 days after receipt of the request, will advise the appellant of acceptance or rejection of the appeal and, if the appeal is rejected, inform the provider of the reason for the rejection.
- (d) If the appeal is accepted, the commissioner will
 - (1) find that the appeal has merit and remedy the problem by whatever means within the commissioner's authority; or
 - (2) appoint a hearing officer to hear the appeal under [7 AAC 81.210](#).

7 AAC 81.210. Appeal procedures.

- (a) If the commissioner appoints a hearing officer under [7 AAC 81.200\(d\)](#) to hear an appeal, the hearing officer will set a date for a hearing that is no more than 15 days after the appointment.
- (b) The hearing officer may
 - (1) upon the agreement of the appellant, for good cause shown, or as is otherwise in the interest of the state, extend the time set for the hearing;

- (2) arrange for the hearing to be held by teleconference;
- (3) with the agreement of the appellant, review the appeal on the basis of the written submissions of the appellant and the department, without a hearing.
- (c) In a hearing under this section,
 - (1) the hearing officer shall regulate the order of testimony and presentation of the appeal;
 - (2) interested persons may attend, give testimony, or submit written statements;
 - (3) formal rules of evidence do not apply; however, testimony must be given under oath; and
 - (4) the hearing must be recorded and will be transcribed at the request and expense of the person requesting the transcript.
- (d) The appellant has the burden to prove by a preponderance of the evidence that the appellant is entitled to the remedy requested.
- (e) The hearing officer shall provide a written recommendation to the commissioner. The commissioner will
 - (1) accept the hearing officer's recommendation;
 - (2) reject the hearing officer's recommendation and remand the recommendation back to the hearing officer with instructions; or
 - (3) issue a written decision based on the appeal record.
- (f) The commissioner will mail or deliver to the appellant or the appellant's representative a copy of any decision or order the commissioner issues on the appeal.
- (g) The commissioner's decision on the appeal is a final administrative decision of the department that may be appealed to the superior court under the Alaska Rules of Appellate Procedure.

7 AAC 81.220. Limitation of appropriations.

- (a) During each state fiscal year, the department will authorize the payment of costs under a provider agreement only to the extent of money allocated in the state budget for the grant program for that fiscal year.
- (b) The department will determine the amount of money, if any, that it will keep in reserve at a particular time, based on the part of the fiscal year that remains and the demand for services of the program that the department expects during the balance of the fiscal year.
- (c) If authorized financing for a grant program is less than the amount required to provide service to all individuals who meet applicable eligibility criteria and seek those services, the department will prioritize which individuals will receive services.

7 AAC 81.950. Definitions.

Unless the context indicates otherwise, in this chapter

- (1) "approval" means a written agreement or permission to proceed, signed by the department, in response to a written request from a provider for approval of a proposed action;
- (2) "approve" means to issue an approval;
- (3) "commissioner" means,
 - (A) except as provided in (B) of this paragraph, the commissioner of health;
 - (B) with respect to foster care services and other services under [AS 44.30.020](#), the commissioner of family and community services;
- (4) "criminal background check" means a report of criminal justice information under [13 AAC 68.300](#) - [13 AAC 68.345](#);
- (5) "department" means,
 - (A) except as provided in (B) of this paragraph, the Department of Health;
 - (B) with respect to foster care services and other services under [AS 44.30.020](#), the Department of Family and Community Services;
- (6) "grant program" means a program established by the department, or created under state or federal law, for which the department awards a provider agreement for the services or activities the provider provides;
- (7) "individualized service plan" means the list of services to be provided to an individual determined according to the individual's strengths and needs without regard to the population as a whole;
- (8) "other-source payments" means payments received by a provider with respect to services provided under a provider agreement, including Medicaid reimbursements and other third-party payments and payments received from or on behalf of the recipient of the services;
- (9) "political subdivision of the state" means a
 - (A) municipality; or
 - (B) regional educational attendance area organized under [AS 14.08](#) and [AS 29.03.020](#);
- (10) "provider" means an individual or legal entity, including a state agency or a political subdivision of the state, that provides services under a provider agreement;
- (11) "provider agreement" means an agreement that is entered between the department and a provider for the provision of services under this chapter.