

DEPARTMENT OF HEALTH AND SOCIAL SERVICES



PROPOSED CHANGES TO REGULATIONS

7 AAC 53. Foster Care



PUBLIC REVIEW DRAFT

July 31, 2014

COMMENT PERIOD ENDS: September 3, 2014
Please see public notice for details about how to
comment on these proposed changes.

Notes to reader:

1. Except as discussed in note 2, proposed new text that amends an existing regulation is **bolded and underlined**.
2. If the lead-in line states that a new section, subsection, paragraph, subparagraph, or clause is being added, or that an existing section, subsection, etc. is being repealed and readopted (replaced), the new (or replaced) text is not bolded or underlined.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 proposed to be deleted.
4. When the word “including” is used, Alaska Statutes provide that it means “including, but not limited to.”

Title 7. Health and Social Services.

The title of Article 1 in 7 AAC 53 is changed to read:

Article

1. Child Foster Care [AND FOSTERING INDEPENDENCE: STANDARD] Payment Rates and **Difficulty of Care** Augmentation. (7 AAC 53.010 - 7 AAC 53.140)
2. Subsidized Adoption and Subsidized Guardianship Payments. (7 AAC 53.200 - 7 AAC 53.299)
3. Children in Custody or Under Supervision: Needs and Income. (7 AAC 53.300 - 7 AAC 53.370)
4. Resumption of State Custody. (7 AAC 53.400 - 7 AAC 53.415)
5. Residential Child Care Facility Grants. (7 AAC 53.900 - 7 AAC 53.999)

Article 1

Child Foster Care [AND FOSTERING INDEPENDENCE: STANDARD] Payment Rates and Difficulty of Care Augmentation

Section

10. License required.
20. Payment rates.
30. **Base**[STANDARD] rate and rate adjustments.
40. Emergency shelter.
50. Ongoing direct costs.
60. **Difficulty of care augmented rates** [SPECIALIZED SERVICES FOR FOSTER CARE OR FOSTERING INDEPENDENCE].
- 61. Specialized rates for children with special circumstances.**
65. (Repealed).

66. Specialized foster care training for foster parents caring for children with augmented or specialized care.

- 70. **Repealed** [RESPITE CARE].
- 80. Payment conditions.
- 90. Relatives.
- 100. Liability protection.
- 110. Damages and loss.
- 115. Foster care rates paid for in-state relocation or travel.
- 120. Foster care rates paid out of state.
- 130. (Repealed).

135. Repayment of overpayments.

- 140. Definitions.

7 AAC 53.010 is amended to read:

7 AAC 53.010. License required. To be eligible for payments for foster care [OR FOR FOSTERING INDEPENDENCE], including payments to relatives under 7 AAC 53.090, a foster parent must be licensed to

(1) operate a foster home in accordance with the applicable standards and requirements of AS 47.32 and 7 AAC 50; [OR]

(2) operate an assisted living home in accordance with the applicable standards and requirements of AS 47.32 and 7 AAC 75; **or**

(3) operate a foster home in accordance with the applicable tribal foster care licensing standards in which the tribe has a tribal Title IV-E Pass Through Maintenance Agreement approved by the department.

(Eff. 11/23/78, Register 68; am 7/1/90, Register 114; am 1/1/96, Register 136; am 3/1/98, Register 145; am 4/13/2011, Register 198; am 12/10/2011, Register 200; am ____/____/2014, Register _____)

Authority:	AS 44.29.020	AS 47.14.010	AS 47.14.120
	AS 47.05.010	AS 47.14.100	AS 47.32.030
	AS 47.10.080		

7 AAC 53.020 is amended to read:

7 AAC 53.020. Payment rates. (a) Subject to appropriation, and unless another source of payment is available **from or through the department** for the child's care, the department will provide payment for a child

(1) placed in foster care by the department under AS 47.14.100 - 47.14.130; [OR]

(2) who is eligible for resumption of state custody under AS 47.10.080(v)[FOR FOSTERING INDEPENDENCE]; **or**

(3) placed in foster care by a tribal entity that has a tribal Title IV-E Pass Through Maintenance Agreement approved by the department.

(b) The department will compute and establish [STANDARD] payment rates **under this chapter annually to cover costs incurred by a foster parent and that are outlined in the federal Child Welfare Act, 42 U.S.C. section 672(a)(1) and 42 U.S.C. section 675(4)** [YEARLY IN ACCORDANCE WITH 7 AAC 53.030 AND 7 AAC 53.040].

(c) **Daily payment rates are established for each child. Children in foster care will receive a base foster care payment rate.**

(d) **Children who qualify for augmented difficulty of care or specialized difficulty of care rates under 7 AAC 53.060 or 7 AAC 53.061 will receive the total of the base rate, and the approved augmented or specialized rate for the daily payment rate.**

(Eff. 11/23/78, Register 68; am 7/1/90, Register 114; am 11/16/94, Register 132; am 3/31/2005, Register 173; am 4/13/2011, Register 198; am 12/10/2011, Register 200; am ____/____/2014, Register _____)

Authority:	AS 47.05.010	AS 47.14.010	AS 47.14.120
	AS 47.10.080	AS 47.14.100	AS 47.14.130

7 AAC 53.030(a) is amended to read:

7 AAC 53.030. Base [STANDARD] rate and rate adjustments. (a) Subject to (b) of this section, the department will pay a **base [STANDARD]** rate for foster care [OR FOSTERING INDEPENDENCE] for a child placed by the department **or a tribal entity that has a tribal Title IV-E Pass Through Maintenance Agreement with the department** [. THE STANDARD RATE IS TO ASSIST IN MEETING REASONABLE AND AGE-APPROPRIATE COSTS FOR

- (1) FOOD, INCLUDING MEALS AND SNACKS;
- (2) CLOTHING REPLACEMENT;
- (3) SHELTER, INCLUDING UTILITIES AND USE OF HOUSEHOLD FURNISHING AND EQUIPMENT, BUT NOT INCLUDING EXCESSIVE DAMAGES OR LOSS COVERED IN 7 AAC 53.110;
- (4) DAILY SUPERVISION, INCLUDING THOSE ACTIVITIES THAT A PARENT WOULD NORMALLY CARRY OUT TO ASSURE PROTECTION, EMOTIONAL SUPPORT, AND CARE OF THE CHILD;
- (5) PERSONAL ITEMS AND GROOMING CARE FOR THE FOSTER CHILD, SUCH AS TOOTHBRUSHES, DIAPERS, HAIRCUTS, AND OTHER ESSENTIALS;
- (6) SCHOOL SUPPLIES AND REGULAR SCHOOL ACTIVITIES;
- (7) GAMES, TOYS, BOOKS, RECREATIONAL EQUIPMENT, AND OTHER ITEMS COSTING LESS THAN \$100 PER ITEM THAT ARE AGE-APPROPRIATE AND SUFFICIENT IN QUANTITY TO PROMOTE NORMAL GROWTH AND DEVELOPMENT;
- (8) GENERAL RECREATION OF THE FOSTER CHILD, SUCH AS PICNICS, COMMUNITY SPORTS, AND MOVIES;

(9) USUAL TRANSPORTATION EXPENSES ON BEHALF OF THE FOSTER CHILD, INCLUDING THE PURCHASE OF BUS PASSES FOR A CHILD OLD ENOUGH TO TAKE A BUS, AND REASONABLE LOCAL TRAVEL TO THE CHILD'S HOME FOR VISITATION;

(10) AN ALLOWANCE FOR THE FOSTER CHILD;

(11) CHILD CARE, EXCEPT AS PROVIDED IN 7 AAC 53.050(B)(5); AND

(12) OTHER ITEMS THAT ARE NORMAL AND USUAL IN THE CARE AND SUPERVISION OF A CHILD].

7 AAC 53.030(b) is repealed and readopted to read:

(b) The department may propose to the legislature annually, base rates for care and supervision in child foster care after reviewing the current United States Department of Agriculture (USDA) for this state as outlined in the *USDA Annual Report: Expenditures on Children by Families*, adopted by reference and the geographic cost differentials, adopted by the Department of Administration, based on Table I-1 of the Alaska Geographical Differential Study 2008, dated April 30, 2009, and adopted by reference. Clarification of the geographic differential in the Chart of Personal Care Attendant and Waiver Services Rates is also adopted by reference. Subject to appropriation, the department will establish a base rate by age group, inclusive of youth under fostering independence. A change in the base rate becomes effective the state fiscal year following legislative approval. The base rate for care and supervision will be applied to an individual child foster care placement according to the following age ranges:

- (1) birth to 5 years;
- (2) six years through 11 years;
- (3) 12 years through 20 years.

(The existing text for (b) is presented below for the reader to compare to the proposed text)

(b) [THE DEPARTMENT MAY PROPOSE TO THE LEGISLATURE EACH YEAR A STANDARD RATE FOR CHILD FOSTER CARE OR FOSTERING INDEPENDENCE AFTER REVIEWING THE CURRENT UNITED STATES HEALTH AND HUMAN SERVICES POVERTY GUIDELINES FOR AN ALASKA FAMILY UNIT OF ONE AND THE CURRENT STATE COST-OF-LIVING DIFFERENTIALS DETERMINED BY THE DEPARTMENT OF ADMINISTRATION UNDER AS 39.27.030. BASED ON APPROPRIATION, THE DEPARTMENT WILL ESTABLISH A STANDARD RATE. A CHANGE IN THE STANDARD RATE TAKES EFFECT THE FOLLOWING STATE FISCAL YEAR. THE STANDARD RATE WILL BE APPLIED TO AN INDIVIDUAL CHILD PLACEMENT IN ACCORDANCE WITH THE FOLLOWING:

(1) A PERCENTAGE OF THE STANDARD RATE WILL APPLY FOR FOSTER CARE TO THE FOLLOWING AGE RANGES:

- (A) BIRTH THROUGH 29 MONTHS: 90 PERCENT;
- (B) 30 MONTHS THROUGH 11 YEARS: 80 PERCENT;

(C) 12 YEARS THROUGH 18 YEARS: 95 PERCENT;
 (2) A PERCENTAGE OF THE STANDARD RATE WILL APPLY FOR FOSTERING INDEPENDENCE FROM 19 YEARS THROUGH 20 YEARS: 95 PERCENT;
 (3) THE STANDARD RATE ADJUSTED BY PERCENTAGE FOR AGE WILL BE MULTIPLIED BY THE GEOGRAPHIC COST-OF-LIVING DIFFERENTIAL AS SET BY THE ARBITRATED DECISION ON ALASKA GEOGRAPHIC WAGE DIFFERENTIALS DATED OCTOBER 24, 1986, AND ADOPTED BY REFERENCE, EXCEPT IN A LOCATION WHERE THE RATE CALCULATED UNDER THE DIFFERENTIAL WOULD BE BELOW THE RATE IN EFFECT ON JULY 1, 2008; IN SUCH A LOCATION, THE DEPARTMENT'S RATE IN EFFECT ON JULY 1, 2008 APPLIES.]

7 AAC 53.030(e) is amended to read:

(c) Repealed 3/31/2005.

(d) The department will publish the in-state rate schedule, containing rates to be paid under this section, before the state fiscal year to which they apply.

(e) Notwithstanding (b) of this section, if a reduction in the **base** [STANDARD] rate becomes necessary because appropriations are insufficient, the number of children needing foster care [OR FOSTERING INDEPENDENCE] increases, or appropriations are withdrawn, reduced, or limited in any way for payment of **base** [STANDARD] rates under the formula described in (b) of this section, the department will notify foster parents, in advance and in writing, of the amount of the reduction. (Eff. 7/1/90, Register 114; am 11/16/94, Register 132; am 3/31/2005, Register 173; am 4/13/2011, Register 198; am 12/10/2011, Register 200; am ____/____/2014, Register _____)

Authority: AS 47.05.010 AS 47.10.970 AS 47.14.120
 AS 47.10.080 AS 47.14.010

The editor's note following 7 AAC 53.030 is changed to read:

Editor's note: A copy of the **Department of Administration Alaska Geographic Differential Study, 2008** [ALASKA GEOGRAPHICAL WAGE DIFFERENTIALS] dated **April 30, 2009**, [OCTOBER 24, 1986] **the USDA Annual Report: Expenditures on Children by Families**, adopted by reference in 7 AAC 53.030(b), and a copy of the current rate schedule referred to in 7 AAC 53.030(d) may be obtained or reviewed by contacting the Office of Children's Services, P.O. Box 110630, Juneau, Alaska 99811-0630.

7 AAC 53.040 is amended to read:

7 AAC 53.040. Emergency shelter. (a) The department will authorize emergency shelter rates for a foster home that meets the requirements of 7 AAC 50.610.

(b) Emergency shelter rates will be 125 [120] percent of the [STANDARD] base rate **for the age range 12 through 20 years** set under 7 AAC 53.030, and adjusted for geographic differentials.

(c) The department will authorize emergency shelter rates only in an emergency situation in which less than 24-hour notice was given to the foster parents before placement of a child in the home, **and if the foster parents meet the safety requirements for licensure as outlined in AS 47.32 and 7 AAC 10.900-990 prior to, or at the time of, emergency placement.**

(d) The department will authorize emergency shelter rates for no more than 10 days for a child in a foster home. However, the department may extend the emergency shelter rates for up to a maximum of 30 days if the department determines that special circumstances exist that necessitate emergency shelter for a longer period.

(e) Emergency shelter rates under this section are not available for a child placed in a foster home by a tribal entity under 7 AAC 53.020(3).

(Eff. 7/1/90, Register 114; am 11/16/94, Register 132; am 1/1/96, Register 136; am 3/31/2005, Register 173; am ____/____/2014, Register _____)

Authority: AS 47.05.010 AS 47.14.010

7 AAC 53.050 is repealed and readopted to read:

7 AAC 53.050. Ongoing direct costs. (a) Subject to appropriation, documented need and approval by the department, the department may pay ongoing direct costs in addition to the base rate under 7 AAC 53.030 incurred in providing for the necessary care of the child who has been placed by the department.

(b) Ongoing direct costs will be determined on a case-by-case basis and will be limited to reasonable payment for

(1) costs of transportation that exceed 50 miles a week

(A) to frequent, scheduled

home visits, or

(B) medical or therapeutic appointments such as physical therapy or psychiatric counseling;

(2) costs of transportation to maintain a child in the school district the child is enrolled in at the time of placement;

(3) costs of the purchase of special foods for a child who cannot eat a regular diet;

(4) extraordinary clothing or laundry needs;

(5) child care if

(A) the care is required to ensure continuity of care for the child;

(B) the care is required to meet the child's special developmental needs;

(C) special circumstances or when the foster parent is working or actively

seeking work; or

(D) the care is required for foster children remaining at home while the foster parent regularly escorts a child in the home to frequent medical or therapeutic appointments;

(E) the care is required for foster children while the parent attends mandatory foster parent training;

(6) other services essential to success of the foster care placement, including;

(A) frequent visitation and contacts with siblings, not placed together;

(B) frequent visitation with parents and legal guardians;

(C) mentoring programs;

(D) summer camp experiences;

(E) extracurricular activities before and after school, exclusive of child care under (5) of this subsection;

(7) other services essential to educational success of a child in foster care including educational recovery opportunities, but not private school tuition; for purposes of this subparagraph, "educational recovery opportunities" means activities and services that encourage academic success and stability, including grade level or credit recovery to meet promotional or graduation requirements.

(c) The department will reimburse the costs of transportation authorized under (b)(1) and (b)(2) of this section at the same rate as state employee reimbursement for transportation.

(d) As referenced in 7 AAC 41.370, the department may not provide payment to a foster parent for the childcare services within the foster home setting.

(e) The department will authorize payment of ongoing direct costs under this section based upon documented need and the availability of appropriations from the legislature.

(f) On-going direct costs under this section are not available for a child placed in a foster home by a tribal entity under 7 AAC 53.020(3).

(Eff. 7/1/90, Register 114; am 11/16/94, Register 132; am 3/31/2005, Register 173; am 4/13/2011, Register 198; am 12/10/2011, Register 200; am ____/____/2014, Register _____)

Authority: AS 47.05.010 AS 47.14.010 AS 47.14.120
AS 47.10.080

(The existing text for 7 AAC 53.050 is presented below for the reader to compare to the proposed text)

[(a) THE DEPARTMENT MAY PAY ONGOING DIRECT COSTS FOR FOSTER CARE OR FOR FOSTERING INDEPENDENCE FOR A CHILD PLACED BY THE DEPARTMENT IF THOSE COSTS ARE IN ADDITION TO STANDARD RATE COSTS INCURRED IN PROVIDING FOR THE NECESSARY CARE OF THE CHILD.

(b) ONGOING DIRECT COSTS WILL BE DETERMINED ON A CASE-BY-CASE BASIS AND WILL BE LIMITED TO REASONABLE PAYMENT FOR

(1) COSTS OF TRANSPORTATION THAT EXCEED 50 MILES A WEEK TO

FREQUENT, SCHEDULED HOME VISITS, OR MEDICAL OR THERAPEUTIC APPOINTMENTS SUCH AS PHYSICAL THERAPY OR PSYCHIATRIC COUNSELING;

(2) COSTS OF THE PURCHASE OF SPECIAL FOODS FOR A CHILD WHO CANNOT EAT A REGULAR DIET;

(3) EXTRAORDINARY CLOTHING OR LAUNDRY NEEDS;

(4) REPEALED 4/13/2011;

(5) CHILD CARE IF

(A) THE CARE IS REQUIRED TO ENSURE CONTINUITY OF CARE FOR THE CHILD;

(B) THE CARE IS REQUIRED TO MEET THE CHILD'S SPECIAL DEVELOPMENTAL NEEDS;

(C) RESPITE CARE IS REQUIRED UNDER 7 AAC 53.070;

(D) SPECIAL CIRCUMSTANCES OR A SERIOUS SHORTAGE OF FOSTER PARENT RESOURCES REQUIRE PAYMENT TO BEGIN OR CONTINUE PROVIDING FOSTER CARE WHEN THE FOSTER PARENT IS WORKING OR ACTIVELY SEEKING WORK; OR

(E) THE CARE IS REQUIRED FOR FOSTER CHILDREN REMAINING AT HOME WHILE THE FOSTER PARENT REGULARLY ESCORTS A CHILD IN THE HOME TO FREQUENT MEDICAL OR THERAPEUTIC APPOINTMENTS; AND

(6) OTHER SERVICES ESSENTIAL TO SUCCESS OF THE FOSTER CARE PLACEMENT OR SUCCESS IN SCHOOL, INCLUDING FREQUENT VISITATION WITH SIBLINGS AND EDUCATIONAL STABILITY; THESE SERVICES MAY INCLUDE REASONABLE AND AGE-APPROPRIATE COSTS ASSOCIATED WITH

(A) ELECTRONIC COMMUNICATION TO FACILITATE FREQUENT CONTACT WITH SIBLINGS;

(B) MENTORING PROGRAMS;

(C) EXTRACURRICULAR ACTIVITIES BEFORE OR AFTER SCHOOL;

(D) SUMMER CAMP EXPERIENCES; AND

(E) EDUCATIONAL RECOVERY OPPORTUNITIES, BUT NOT PRIVATE SCHOOL TUITION; FOR PURPOSES OF THIS SUBPARAGRAPH, "EDUCATIONAL RECOVERY OPPORTUNITIES" MEANS ACTIVITIES AND SERVICES THAT ENCOURAGE ACADEMIC SUCCESS AND STABILITY, INCLUDING GRADE LEVEL OR CREDIT RECOVERY TO MEET PROMOTIONAL OR GRADUATION REQUIREMENTS.

(c) THE DEPARTMENT WILL REIMBURSE THE COSTS OF TRANSPORTATION AUTHORIZED UNDER (B)(1) OF THIS SECTION AT THE SAME RATE AS STATE EMPLOYEE REIMBURSEMENT FOR TRANSPORTATION.

(d) THE DEPARTMENT WILL AUTHORIZE PAYMENT OF ONGOING DIRECT COSTS UNDER THIS SECTION BASED UPON DOCUMENTED NEED AND THE AVAILABILITY OF APPROPRIATIONS FROM THE LEGISLATURE.]

The section heading for 7 AAC 53.060 is changed to read:

7 AAC 53.060. Difficulty of care augmented rates[SPECIALIZED SERVICES FOR FOSTER CARE OR FOSTERING INDEPENDENCE].

7 AAC 53.060 is repealed and readopted to read:

(a) In addition to the base rate under 7 AAC 53.030, compliance with all other regulations and subject to appropriation, the department may approve difficulty of care augmented rates for a child, if after assessment the department determines that the child's needs are at a level that exceeds the basic care provided in a licensed foster home. The department will establish rates under this section on an assessment, which is adopted by reference, that determines the child's needs in the foster care placement and the role and level of responsibility of the foster parent in meeting the child's existing needs.

(b) A request for a difficulty of care augmented rate assessment must be made in writing and submitted to the child's worker by the child's

- (1) parent;
- (2) current foster parent;
- (3) worker;
- (4) attorney; or
- (5) guardian ad litem.

(c) Once requested, the department will determine the child's eligibility for an augmented rate, based on the assessment, the child's current needs, and notify the foster parent of the child's eligibility for and determination of a difficulty of care augmented rate for the child.

(d) If approved, the department will reassess difficulty of care augmented rates in this section at least every six months, and will compute the necessary rate change. Children in care are expected to improve with the provision of foster care services, and rate reductions may occur as appropriate. If a rate reduction is appropriate, the department will provide at least a 30-day notice to the foster parents before the reduction is effective.

(e) Foster parents shall have the right to appeal a decision not to authorize, or any reduction or termination of, foster care rates under this section as provided in 7 AAC 54.500 and 7 AAC 54.510.

(f) Based on the assessment score, that documents the child's needs that exceed the basic care provided in a licensed foster home, the difficulty of care augmented rate will be determined as follows:

(1) for children in the custody of the Office of Children's Services under AS 47.10

(A) specialized care: an additional rate per day over the base rate in 7 AAC 50.030(b) equal to the hourly minimum wage in this state multiplied by 1.5;

(B) structured care: an additional rate per day over the base rate in 7 AAC 50.030(b) equal to the hourly minimum wage in this state multiplied by 3;

(2) for children in the custody of the Division of Juvenile Justice under

AS 47.12

(A) structured care: an additional \$15.00 per day over the base rate in 7 AAC 53.030(b);

(B) specialized care: an additional \$30.00 per day over the base rate in 7 AAC 53.030(b);

(C) contracted services: an additional \$60.00 per day over the base rate in 7 AAC 53.030(b).

(g) Difficulty of care augmented rates are under this chapter are not available for a child placed in a foster home by a tribal entity under 7 AAC 53.020(3).

(h) Difficulty of care rate refers only to those services that are paid through the divisions that provide children's services or juvenile justice services and does not include Medicaid services that are authorized by the divisions that provide behavioral health services or senior and disabilities services. The divisions that provide children's services and juvenile justice services may not pay for services that are covered by Medicaid by another state agency. Any determination about the continuation of Medicaid services must be determined by the applicable agency.

(The existing text for 7 AAC 53.060 is presented below for the reader to compare to the proposed text)

[(a) THE DEPARTMENT MAY AUTHORIZE SPECIALIZED FOSTER CARE OR FOSTERING INDEPENDENCE SERVICES IF

(1) A CHILD'S CARE NEEDS HAVE BEEN ASSESSED BY THE DEPARTMENT TO BE AT A LEVEL BEYOND THE BASIC CARE PROVIDED IN A FOSTER HOME LICENSED UNDER AS 47.32 AND IN COMPLIANCE WITH THE ADDITIONAL APPLICABLE STANDARDS AND REQUIREMENTS OF 7 AAC 50; AND

(2) THE FOSTER PARENTS HAVE COMPLETED A SPECIALIZED TRAINING PROGRAM APPROVED BY THE DEPARTMENT AND AGREE TO

(A) PROVIDE SPECIALIZED CARE TO THE CHILD;

(B) PARTICIPATE IN FREQUENT CHILD PLACEMENT PLAN MEETINGS;

(C) ATTEND SPECIAL TRAINING, IF ASKED, TO ADDRESS THE SPECIFIC CARE NEEDS OF A CHILD PLACED IN THE HOME;

(D) WORK DIRECTLY WITH THE CHILD'S BIOLOGICAL PARENTS IF SPECIFIED IN THE CHILD'S PLACEMENT PLAN;

(E) KEEP DETAILED RECORDS OR LOGS ON THE CHILD IN PLACEMENT THAT INCLUDE BEHAVIOR, EDUCATION, VISITS OF THE FAMILY AND PLACEMENT WORKER, IF APPROPRIATE, AND THERAPY, EITHER IN-HOUSE OR PURCHASED; AND

(F) SUBMIT MONTHLY PROGRESS REPORTS TO THE CHILD'S PLACEMENT WORKER.

(b) THE DEPARTMENT WILL AUTHORIZE AN EXCEPTION TO THE SPECIALIZED TRAINING REQUIREMENT OF THIS SECTION IN A COMMUNITY IN

WHICH SPECIALIZED TRAINING PROGRAMS ARE NOT REGULARLY AVAILABLE IF THE

(1) FOSTER PARENTS HAVE BEEN ASSESSED BY THE DEPARTMENT AND DETERMINED TO HAVE THE SKILLS NECESSARY TO SERVE CHILDREN WITH NEEDS BEYOND BASIC CARE;

(2) REPEALED 3/31/2005;

(3) FOSTER PARENTS AGREE TO MEET ALL OTHER CRITERIA OF (a)(2) OF THIS SECTION; AND

(4) FOSTER PARENTS AGREE TO ATTEND THE FIRST AVAILABLE APPROVED SPECIALIZED TRAINING OFFERED IN THEIR COMMUNITY, OR OTHER LOCATION IF TRAVEL EXPENSES ARE PAID BY THE DEPARTMENT.

(c) THE DEPARTMENT WILL DETERMINE THE SPECIALIZED FOSTER CARE OR FOSTERING INDEPENDENCE SERVICES RATES BASED UPON AN ASSESSMENT OF THE CHILD'S LEVEL-OF-CARE NEEDS. THE DEPARTMENT WILL DETERMINE THE FOSTER PARENT'S ROLE IN MEETING THE CHILD'S NEEDS DURING THE ASSESSMENT PROCESS.

(d) THE SPECIALIZED FOSTER CARE OR FOSTERING INDEPENDENCE SERVICES RATE MAY RANGE FROM 100 PERCENT UP TO 500 PERCENT OF THE STANDARD RATE.

(e) THE DEPARTMENT WILL APPROVE SPECIALIZED FOSTER CARE OR FOSTERING INDEPENDENCE SERVICES BASED ON DOCUMENTED ASSESSED NEED AND THE AVAILABILITY OF APPROPRIATIONS FROM THE LEGISLATURE.

(f) IF APPROPRIATE, THE DEPARTMENT WILL AUTHORIZE PAYMENT OF BOTH

(1) ONGOING DIRECT COSTS UNDER 7 AAC 53.050; AND

(2) SPECIALIZED FOSTER CARE OR FOSTERING INDEPENDENCE UNDER THIS SECTION.

(g) THE DEPARTMENT WILL REVIEW THE ASSESSMENTS REQUIRED BY (a) OF THIS SECTION AT LEAST EVERY SIX MONTHS, AND WILL COMPUTE ANY NECESSARY RATE CHANGE. IF A RATE REDUCTION IS APPROPRIATE, THE DEPARTMENT WILL PROVIDE AT LEAST A 30-DAY NOTICE TO THE FOSTER PARENTS OF THE REDUCTION. A CHILD IS NORMALLY EXPECTED TO IMPROVE WITH THE PROVISION OF SPECIALIZED FOSTER CARE OR FOSTERING INDEPENDENCE SERVICES, AND RATE REDUCTIONS ARE TO BE ANTICIPATED AS APPROPRIATE. (Eff. 7/1/90, Register 114; am 11/16/94, Register 132; am 1/1/96, Register 136; am 3/31/2005, Register 173; am 4/13/2011, Register 198; am 12/10/2011, Register 200; am ____/____/2014, Register _____)

Authority: AS 47.05.010 AS 47.14.010 AS 47.14.120
AS 47.10.080

7 AAC 53 is amended by adding new sections to read:

7 AAC 53.061. Specialized difficulty of care augmented rates for children with special circumstances. (a) In addition to the base rate under 7 AAC 53, compliance with all other regulations under this chapter, and subject to appropriation, the department may pay specialized difficulty of care augmented rates for a child, if the department determines that the child's needs are at a level outlined in this section. Specialized rates will be established on a case-by-case basis for each eligible child.

(b) The rate under this section shall not exceed 500 percent of the base rate for foster care under 7 AAC 53.030.

(c) A child who receives a specialized difficulty of care augmented rate is not eligible to receive a base difficulty of care augmented rate under 7 AAC 53.060.

(d) A rate under this section may be paid for a child

(1) that is pending an assessment and approval for, a Children with Complex Medical Conditions Waiver;

(2) that is approved for, but waitlisted for, Medicaid Intellectual and Developmental Disabilities waiver services; or

(3) if there is a determination that the Medicaid waiver services through the established waiver noted in (1) and (2) of this subsection or services provided through other service agencies are not sufficient to cover the cost of the child's care, or the child has needs that cannot be authorized and paid through the Medicaid waiver or through another service agency.

(e) Specialized difficulty of care augmented rates will be set after a determination is made of

(1) what services will be funded through the Medicaid waiver; and

(2) what services are available through another service agency.

(f) Specialized difficulty of care rates may only include reimbursement for the additional care and supervision and management a foster parent provides to maintain a medically fragile child in a home environment.

(g) A rate under (d)(1) and (2) of this section will terminate once the waiver is approved and services established.

(h) Payment for services available and authorized for a child through a Medicaid waiver will not be paid by the department as a specialized difficulty of care augmented rate.

(i) A parent or foster parent may not terminate a child's Medicaid Waiver for a child in the custody of the division that provides children's services. Only the department may terminate a Medicaid Waiver or consent to close a child's Medicaid services waiver for a child in the custody of the division that provides children's services.

(j) If approved for a rate under this section the department will reassess specialized difficulty of care augmented rates in this section at least every six months. If a rate reduction is appropriate, the department will provide at least a 30-day notice to the foster parents before the reduction is effective.

(k) Foster parents shall have the right to appeal a decision not to authorize, or any reduction or termination of, foster care rates under this section as provided in 7 AAC 54.500 and 7 AAC 54.510.

(l) Specialized difficulty of care augmented rates under this chapter are not available for a child placed in a foster home by a tribal entity under 7 AAC 53.020(3).

(Eff. ____/____/2014, Register _____)

Authority: AS 47.05.010 AS 47.14.010 AS 47.14.120
AS 47.10.080

7 AAC 53.062. Child of a minor parent. Notwithstanding 7 AAC 53.061(a), when a child in foster care is a minor parent, and the minor parent and the minor parent's child are placed together in the same foster home, a minor parent augmentation may be paid to the foster parent for the minor child not in the custody of the department. The rate will be equal to the base rate for the age group of the child or children. (Eff. ____/____/2014, Register _____)

Authority: AS 47.05.010 AS 47.14.010 AS 47.14.120
AS 47.10.080

7 AAC 53.063. Other services not paid by the division that provides children's services. There is nothing in the chapter that prohibits a child from being eligible for services through other state agencies including the divisions that provide behavioral health services under 7 AAC 135 or senior and disabilities services under 7 AAC 130. (Eff. ____/____/2014, Register _____)

Authority: AS 47.05.010 AS 47.14.010 AS 47.14.120
AS 47.10.080

7 AAC 53.066. Specialized foster care training for foster parents caring for children with base or specialized difficulty of care augmented rates. (a) Subject to appropriation, documented need, and approval by the department, the department may pay for specialized foster care training, under this section. The department may require that foster parents attend and complete a specialized training program approved by the department before a child requiring care exceeds the basic care provided in a licensing foster home can be placed in the home or to maintain such a placement.

(b) If a foster parent is approved for a placement in (a) of this section they will agree, in addition to other regulatory requirements, to

(1) provide specialized care to the child as documented by the department, the child's health care providers, or grantees that outline the mental health and physical needs of the child, such as a plan of care;

(2) participate in frequent child placement plan meetings;

(3) attend special training, if requested, to address the specific care needs of a child placed in the home;

(4) work directly with the child's biological parents if specified in the child's placement plan;

(5) keep detailed records or logs on the child in placement that include behavior, education, visits of the family and placement worker, if appropriate, and therapy, either in-house or purchased; and

(6) submit monthly progress reports to the child's placement worker.

(c) The department may authorize an exception to the specialized training if the foster parents

(1) have been assessed by the department and determined to have the skills necessary to serve children with needs beyond basic care;

(2) agree to meet all other criteria of (b) of this section; and

(3) agree to attend the first available approved specialized training offered in their community, or other location if travel expenses are paid by the department.

(Eff. ____/____/2014, Register _____)

Authority: AS 47.05.010 AS 47.14.010 AS 47.14.120
AS 47.10.080

7 AAC 53.070 is repealed:

7 AAC 53.070. Respite care. Repealed ____/____/2014 [(a) THE DEPARTMENT MAY AUTHORIZE RESPITE CARE TO TEMPORARILY RELIEVE A FOSTER PARENT FROM THE DEMANDS OF CARING FOR CHILDREN IN ACCORDANCE WITH AS 47.14.100(d)(2) AND (h).

(b) DEPARTMENT APPROVAL OF RESPITE CARE UNDER THIS SECTION IS SUBJECT TO THE AVAILABILITY OF APPROPRIATIONS FROM THE LEGISLATURE]. (Eff. 11/23/78, Register 68; am 7/1/90, Register 114; am 3/31/2005, Register 173; repealed ____/____/2014, Register _____)

7 AAC 53.080 is repealed and readopted to read:

7 AAC 53.080. Payment conditions. (a) Except as otherwise provided in this chapter, the department will pay the appropriate rate established under 7 AAC 53.010 - 7 AAC 53.040 and 7 AAC 53.060 – 7 AAC 53.061 multiplied by the number of days of care provided for a child placed in a child foster home.

(b) The department will pay the foster parents for the day of admission of the child, but not for the day of departure.

(c) For a child placed in a foster home by the department, the department may authorize continued payment for a period up to 14 days if a child is absent from the home due to a medical or psychiatric placement, hospitalization, a home visit, or detention.

(d) If a child is absent from a home as described in (c) of this section, the department will discontinue payment prior to the 14 days if:

(1) the department decides not to return the child to the home; and

(2) the department notifies the foster parent of its decision; the payment will be discontinued as of the date of the notice to the foster parent.

(e) If a child's absence extends beyond 14 days, the department will authorize resumption of payment when the child returns to the home.

(f) The department will authorize payment for an unapproved absence of a foster child from the home without permission of the foster parents and the department, for up to five days only if the child's department placement worker has been notified by the foster parent under 7 AAC 50.140(d)(4).

(f) The department will provide payment only when the eligibility for, and the appropriate amount of, the payment has been verified and certified by the department placement worker. (Eff. 7/1/90, Register 114; am 3/31/2005, Register 173; am 4/13/2011, Register 198; am 12/10/2011, Register 200; am ____/____/2014, Register _____)

Authority:	AS 44.29.020	AS 47.10.080	AS 47.14.100
	AS 47.05.010	AS 47.14.010	AS 47.14.120

(The existing text for 7 AAC 53.080 is presented below for the reader to compare to the proposed text)

7 AAC 53.080. Payment conditions

[(a) THE DEPARTMENT WILL PAY THE APPROPRIATE RATE ESTABLISHED UNDER 7 AAC 53.030 – 7 AAC 53.060 MULTIPLIED BY THE NUMBER OF DAYS OF CARE PROVIDED FOR A CHILD PLACED BY THE DEPARTMENT IN A CHILD FOSTER HOME WITH WHICH THE DEPARTMENT HAS ENTERED INTO A CHILD FOSTER CARE AGREEMENT.

(b) THE DEPARTMENT WILL PAY THE FOSTER PARENTS FOR THE DAY OF ADMISSION OF THE CHILD, BUT NOT FOR THE DAY OF DEPARTURE.

(c) FOR A CHILD PLACED IN A FOSTER HOME BY THE DEPARTMENT, THE DEPARTMENT MAY AUTHORIZE CONTINUED PAYMENT FOR A PERIOD UP TO 14 DAYS IF A CHILD IS ABSENT FROM THE HOME DUE TO

- (1) REPEALED 3/1/98;
- (2) A MEDICAL OR PSYCHIATRIC PLACEMENT;
- (3) A VISIT TO THE CHILD'S HOME; OR
- (4) DETENTION.

(d) IF A CHILD IS ABSENT FROM A HOME AS DESCRIBED IN (c) OF THIS SECTION, AND, BEFORE 14 DAYS HAVE PASSED, THE DEPARTMENT DECIDES NOT TO RETURN THE CHILD TO THE HOME, THE DEPARTMENT WILL DISCONTINUE PAYMENT THE DAY THE DEPARTMENT NOTIFIES THE FOSTER PARENT OF ITS DECISION. IF A CHILD'S ABSENCE EXTENDS BEYOND 14 DAYS, THE DEPARTMENT WILL AUTHORIZE RESUMPTION OF PAYMENT WHEN THE CHILD RETURNS TO THE HOME.

(e) THE DEPARTMENT WILL AUTHORIZE PAYMENT FOR AN UNAPPROVED ABSENCE OF A FOSTER CHILD FROM THE HOME WITHOUT PERMISSION OF THE FOSTER PARENTS AND THE DEPARTMENT FOR UP TO FIVE DAYS ONLY IF THE CHILD'S DEPARTMENT PLACEMENT WORKER HAS BEEN NOTIFIED UNDER 7 AAC 50.140(d)(4).

(f) THE DEPARTMENT WILL PROVIDE PAYMENT ONLY WHEN THE ELIGIBILITY FOR, AND THE APPROPRIATE AMOUNT OF, THE PAYMENT HAS BEEN VERIFIED AND CERTIFIED BY THE DEPARTMENT PLACEMENT WORKER.]

7 AAC 53.090 is amended to read:

7 AAC 53.090. Relatives. (a) Notwithstanding the licensure exemption for relatives under 7 AAC 50.010(a)(6), the department will provide payments for foster care[OR FOSTERING INDEPENDENCE] to a relative of a foster child only if that relative is licensed under AS 47.32 and in compliance with the [additional] **licensing** standards and requirements of 7 AAC 50 as a foster parent.

(b) As used in this section, "relatives" do not include biological and adoptive parents. (Eff. 7/1/90, Register 114; am 1/1/96, Register 136; am 3/31/2005, Register 173; am 4/13/2011, Register 198; am 12/10/2011, Register 200; am ____/____/2014, Register _____)

Authority: AS 47.05.010 AS 47.14.010 AS 47.14.120
AS 47.10.080

7 AAC 53.100 is amended to read:

7 AAC 53.100. Liability protection. (a) It is the policy of this state, through the division of risk management in the Department of Administration, to indemnify and defend a foster parent for an injury that occurs during the performance and within the scope of duty as a foster parent, including

(1) accidental injury to a child placed by the department; and

(2) injury to others by a child placed by the department.

(b) The state will not defend or indemnify a foster parent for an act of intentional and willful misconduct nor pay an award of punitive damages.

(c) In accordance with AS 09.65.255, a foster parent in the state is protected against liability for damage to the property of others caused by a child placed by the department with the foster parent.

(d) State liability protection is extended to a foster parent for allowing a foster child's participation in a risk activity that is not usual for the community, if written permission is obtained from the child's parent or guardian or from the department. If requested by a foster parent, the department may help get written permission from a foster child's parent or guardian for a foster child to participate in a risk activity that is not usual for the community. The

department may grant the permission in cases in which it is not possible or feasible to obtain parent or guardian permission, **such as in the case when parental rights are terminated, or the parents are deceased.**

(e) State liability protection is in effect only while a child is placed by the department in a foster home;

(f) State liability protection under this section is not available for a child placed in a foster home by a tribal entity under 7 AAC 53.020(3).

(Eff. 11/23/78, Register 68; am 3/31/82, Register 81; am 7/1/90, Register 114; am 3/31/2005, Register 173; am 4/13/2011, Register 198; am 12/10/2011, Register 200; am ____/____/2014, Register _____)

Authority: AS 09.65.255 AS 47.10.080 AS 47.14.120
AS 47.05.010 AS 47.14.010

7 AAC 53.110 is amended to read:

7 AAC 53.110. Damages and loss. (a) Modest damages and loss costs are normal in the care of children, and are included in the **base** [STANDARD] rate; however, the department may reimburse a foster parent for damages and loss up to **\$6,000** [\$5,000] if

(1) the damage or loss is a result of a deliberate act with malicious intent of the foster child, or with gross negligence of the child;

(2) considering the child's maturity and behavioral history, the foster parents were providing adequate supervision and exercised appropriate precautions;

(3) the damage or loss does not include rental or other payment for lost time **or wages** or use of the damaged or lost items;

(4) the damage or loss exceeds **\$150** [\$100] for a single event or **\$200** [\$150] cumulative each month;

(5) the damage or loss is documented by the foster parent, including filing a report with law enforcement if required by the department; and

(6) the damage or loss is not covered by any insurance protection the foster parent has.

(b) The department may arrange for restitution by the child instead of by the department.

(c) The department may use the services of an assessor to determine the appropriateness of, and dollar amount paid for, a damage or loss claim. (Eff. 7/1/90, Register 114; am 3/31/2005, Register 173; am ____/____/2014, Register _____)

Authority: AS 47.05.010 AS 47.14.010

7 AAC 53.115 is amended to read:

7 AAC 53.115. Foster care rates paid for in-state relocation or travel. (a) A foster parent who maintains a licensed foster care residence in this state and who is approved to travel to an in-state activity will continue to receive the applicable rates set under 7 AAC 53.030 – **7 AAC 53.061** [7 AAC 53.060] for up to 30 days unless the department approves additional time.

(b) The applicable rates set under 7 AAC 53.030 - **7 AAC 53.061** [7 AAC 53.060] apply after a licensed foster parent moves to another location within this state. The department will pay the applicable rates for up to 60 days after the date of departure from the licensed residence. The department may pay that rate for up to 120 days if the foster parent, in a timely manner,

(1) seeks licensure for the new residence in accordance with AS 47.32 and 7 AAC 50; or

(2) **is in the process of finalizing** [COMPLETES] the adoption **or guardianship** process for the child in foster care. (Eff. 4/13/2011, Register 198; am ____/____/2014, Register _____)

Authority: AS 47.05.010 AS 47.14.120 AS 47.32.030
AS 47.14.010 AS 47.32.010

7 AAC 53.120 is amended to read:

7 AAC 53.120. Foster care rates paid out of state. (a) A foster parent who is a resident of this state and **who receives prior approval** [IS APPROVED] to vacation outside the state with a foster child will continue to receive the applicable rates set under 7 AAC 53.030 – **7 AAC 53.061** [7 AAC 53.060] for up to 30 days unless the department approves additional time.

(b) The **applicable** [STANDARD] rate to be paid to a foster parent residing in another state and caring for a child in department custody is the foster care rate established by the city, county, or state in which the foster parent resides, depending on which government unit supervises the foster care placement. The department may authorize **difficulty of** [SPECIALIZED] care **augmented rates** and payment of ongoing direct costs.

(c) The out-of-state rate under (b) of this section applies 30 days after a family moves to another state. The department will pay the rate under (a) of this section for up to 60 days after the date of departure from the Alaska residence. The department may pay that rate for up to 120 days if the family is, in a timely manner,

(1) seeking licensure or certification in the state to which they have moved, in accordance with AS 47.70 (Interstate Compact on the Placement of Children); or

(2) **is in the process of finalizing** [COMPLETING] the adoption **or guardianship** process for the child in their foster care.

(d) Difficulty of care rates for out of state placements will be reimbursed the difficulty of care rates in the state in which the child resides or the foster care rate that the division that provides children’s services is currently paying for the child.

(e)[(d)] The department will cease payment under (c) **and (d)** of this section when the state, county, or city to which the family has moved begins payment, or after expiration of the applicable payment period under (c) of this section, whichever occurs first. (Eff. 11/23/78, Register 68; am 7/1/90, Register 114; am 11/16/94, Register 132; am 3/31/2005, Register 173; am ____/____/2014, Register _____)

Authority: AS 47.05.010 AS 47.14.010

7 AAC 53 is amended by adding a new section to read:

7 AAC 53.135. Repayment of overpayments. (a) The department may pursue repayment under this section from a current or former foster parent who received an overpayment, regardless of whether the overpayment was the result of an administrative error or oversight by the department.

(b) To request repayment under this section, the department shall send an overpayment notice to the current or former foster parent. The overpayment notice must

- (1) identify the overpayment amount;
- (2) provide the detail of the overpayment; and
- (3) provide notice to the right to appeal under 7 AAC 54 if they disagree with the findings.

(c) A current or former foster parent may choose to repay the entire amount of an overpayment

- (1) in a single payment;
- (2) in monthly installment payments; or
- (3) by offsetting future foster care payments.

(d) In this section "overpayment" means a payment to a current or former foster parent that the foster parent was not legally entitled. (Eff. ____/____/2014, Register _____)

Authority: AS 47.05.010 AS 47.14.120 AS 47.32.030
AS 47.14.010 AS 47.32.010

7 AAC 53.140 is repealed and readopted to read:

7 AAC 53.140. Definitions. Unless the context indicates otherwise, in 7 AAC 53.010 – 7 AAC 53.140,

- (1) "child" has the meaning given in AS 47.10.990;
- (2) "child's placement plan" means a plan developed to ensure appropriate goals and objectives for a child placed by the department in a foster home, including identification of the person responsible for implementing provisions of the plan; however, a placement plan is not a full case plan for a family with a child in foster care;
- (3) "department" means the Alaska Department of Health and Social Services;
- (4) "eligibility" means a child's eligibility for an augmented difficulty of care

rate;

(5) "foster care" means responsibility and care for a child who is placed by the department or through a tribal entity as approved by the department;

(6) "foster home" means a home that

(A) is licensed under AS 47.32;

(B) is in compliance with the additional applicable standards and requirements of 7 AAC 50; and

(C) provides care for a child who is in the custody of the department or tribal entity who has a tribal title IV-E maintenance pass through agreement approved by the department;

(7) "foster parent" means an individual providing care to a child in foster care;

(8) "fostering independence" means providing care and services to a child that is at least 18 years old and has graduated from high school, will not graduate by the time the child turns 19, or is 19 – 20 years of age;

(9) "placed" means to put a child in a foster home under authority of the department in accordance with AS 47.14.100 - 47.14.130 or through a tribal entity as approved by the department;

(10) "difficulty of care augmented rates" means higher care and service levels for foster care that are designed to meet the higher difficulty-of-care levels of children and their families;

(11) "specialized difficulty of care augmented rates" means advanced care and service levels for foster care that are designed to meet the needs of medically fragile children not met by another resource or service agency;

(12) "state" means the State of Alaska;

(13) "tribal custody" means children under the custody of a tribe through a tribal court;

(14) "tribe" means the child's tribe to which the child is either enrolled or eligible for enrollment for purposes of 25 USCS Section 1905. (Eff. 11/23/78, Register 68; am 3/31/82, Register 81; am 7/1/90, Register 114; am 1/1/96, Register 136; am 3/31/2005, Register 173; am 4/13/2011, Register 198; am 12/10/2011, Register 200; am ____/____/2014, Register _____)

Authority:	AS 47.05.010	AS 47.14.010	AS 47.14.120
	AS 47.10.080	AS 47.14.100	AS 47.14.130

7 AAC 53.222 is amended to read:

7 AAC 53.222. Eligibility of a not applicable child in department custody for Title IV-E adoption assistance. (a) A child in department custody who is not an applicable child eligible for assistance under 7 AAC 53.223 is eligible for Title IV-E adoption assistance under

this section if the department has determined under 7 AAC 53.205 that the child is a hard-to-place child with special needs, and the child meets one of the following conditions:

(1) the child is eligible for SSI at the time the adoption petition is filed with the court;

(2) the child was removed from the home of a parent, or other specified relative who is the child's legal guardian, through a voluntary placement agreement, and all of the following conditions apply:

(A) within six months before the most recent removal from the home, the child lived with the parent or other specified relative from whose home the child was removed;

(B) at least one Title IV-E foster care payment was made for the child;

(C) the child would have been eligible for AFDC, according to the requirements that were in effect on July 16, 1996, at the time **the voluntary placement agreement was signed** [OF REMOVAL FROM THE HOME];

(3) the child has been placed, through a voluntary relinquishment, with the department or another government entity with whom the department has a Title IV-E contract, and all of the following conditions apply:

(A) the child was not already in department custody at the time of the relinquishment;

(B) within six months before the most recent removal from the home, the child lived with a parent, or other specified relative who is the child's legal guardian;

(C) the department petitions the court within six months after a child was removed from the home, and obtains a judicial determination that remaining in the home would be contrary to the child's welfare; if the court approves voluntary relinquishment without making a determination that remaining in the home would be contrary to the child's welfare, the child is not eligible for Title IV-E adoption assistance;

(D) the child would have been eligible for AFDC, according to the requirements that were in effect on July 16, 1996, at the time the department petitions the court for a determination;

(4) the child was removed from the home of a parent, or other specified relative who is the child's legal guardian, under a judicial determination that remaining in that home would be contrary to the child's welfare, subject to the following:

(A) for a child who was removed from the home

(i) before January 23, 2001, the determination must be made within six months after removal from the home; or

(ii) on or after January 23, 2001, the determination must be made in the first court ruling that approves the removal; if the determination is not made in the first court ruling regarding removal from the home, the child is not eligible for Title IV-E adoption assistance;

(B) within six months before the most recent removal from the home, the child lived with the parent or other specified relative from whose home the child was removed;

(C) the child would have been eligible for AFDC, according to the requirements that were in effect on July 16, 1996, in the month that the court proceedings that led to the removal were initiated;

(5) the child's parent is a minor who is in foster care and who is receiving Title IV-E foster care maintenance payments that cover the minor parent and the child at the time the adoption petition is filed in court; if the child and minor parent have been separated in foster care before the adoption petition is filed, the child's eligibility for Title IV-E adoption assistance will be determined based on the child's current circumstances;

(6) the child receives Title IV-E adoption assistance, but the adoption is later dissolved, or the adoptive parents die; for purposes of this paragraph, the child's eligibility **is based on the child's previous eligibility for Title IV-E adoption assistance** [WILL BE DETERMINED BASED ON THE CHILD'S CIRCUMSTANCES AT THE TIME THAT THE PREVIOUS ADOPTION SUBSIDY BECAME EFFECTIVE].

(b) Repealed 4/13/2011.

(c) The department will notify an adoptive parent in writing of the department's determination of eligibility under this section, and will advise the adoptive parent of the right to request a review under 7 AAC 54.500 or an evidentiary hearing under 7 AAC 54.510.

(d) If a legal guardian of a child who is receiving Title IV-E relative guardianship assistance under 7 AAC 53.226 seeks to adopt the child, the child's eligibility will be determined based on the child's circumstances at the time that the Title IV-E relative guardianship subsidy became effective.

(Eff. 3/31/2005, Register 173; am 4/13/2011, Register 198; am ____/____/2014, Register _____)

Authority: AS 13.26.062 AS 25.23.230 AS 47.14.120
AS 25.23.210 AS 47.14.100

7 AAC 53.223 is amended to read:

7 AAC 53.223. Eligibility of an applicable child in department custody for Title IV-E adoption assistance. (a) A child who is considered an applicable child for a fiscal year under Title IV-E, as described in (b) of this section, is eligible for Title IV-E adoption assistance if the department has determined under 7 AAC 53.205 that the child is a hard-to-place child with special needs and at the time of initiation of adoption proceedings, the child

(1) was in the care of a public or licensed private child placement agency or Indian tribal organization under

(A) an involuntary removal of the child from the home of a parent, or other specified relative who is the child's legal guardian, in accordance with a judicial determination that remaining in the home would be contrary to the welfare of the child; for a child who was removed from the home

(i) before January 23, 2001, the determination must be made within six months after removal from the home; or

(ii) on or after January 23, 2001, the determination must be made in the first court ruling that approves the removal; if the determination is not made in the first court ruling regarding removal from the home, the child is not eligible for Title IV-E adoption assistance; or

(B) a voluntary placement agreement or voluntary relinquishment;
(2) meets the medical or disability requirements of Title XVI, adopted by reference in 7 AAC 53.299, with respect to eligibility for SSI benefits; or

(3) was residing in a foster family home or child care institution with the child's minor parent, and the child's minor parent was in that foster family home or child care institution under

(A) an involuntary removal of the child from the home in accordance with a judicial determination that remaining in the home would be contrary to the welfare of the child; or

(B) a voluntary placement agreement or voluntary relinquishment.

(b) Subject to (d) of this section, a child is an applicable child under Title IV-E if an adoption assistance agreement as described in (g) of this section has been entered into during the following federal fiscal years, and if the child attained the applicable age for that fiscal year before the end of that fiscal year, as follows:

- (1) for federal fiscal year 2010, the applicable age is 16 years;
- (2) for federal fiscal year 2011, the applicable age is 14 years;
- (3) for federal fiscal year 2012, the applicable age is 12 years;
- (4) for federal fiscal year 2013, the applicable age is 10 years;
- (5) for federal fiscal year 2014, the applicable age is eight years;
- (6) for federal fiscal year 2015, the applicable age is six years;
- (7) for federal fiscal year 2016, the applicable age is four years;
- (8) for federal fiscal year 2017, the applicable age is two years;
- (9) for federal fiscal year 2018 and after, the applicable age is any age.

(c) A child who meets the requirements of (a)(1), (2), or (3) of this section, and is an applicable child under (b) of this section, is eligible for an adoption subsidy under this section if

(1) a prior adoption has been dissolved, or the child's adoptive parents have died; for purposes of this paragraph, the child's eligibility **is based on the child's previous eligibility for Title IV-E adoption assistance** [WILL BE DETERMINED BASED ON THE CHILD'S CIRCUMSTANCES AT THE TIME THAT THE PREVIOUS ADOPTION SUBSIDY BECAME EFFECTIVE]; or

(2) the child would have been determined eligible for a subsidy if P.L. 105-89 (Adoption and Safe Families Act of 1997) had been in effect at the time that the determination would have been made.

(d) Notwithstanding (b) of this section, beginning with fiscal year 2010, a child of any age on the date on which an adoption assistance agreement as described in (g) of this section is entered into on behalf of the child is an applicable child under Title IV-E if the child meets the requirements of (a)(1), (2), or (3) of this section, and

- (1) has been in foster care under the responsibility of the department for at least

60 consecutive months; or

(2) is a sibling of a child who is an applicable child under (a) of this section or under (1) of this subsection, and is to be placed in the same placement as the applicable child who is that child's sibling.

(e) If a legal guardian of a child who is receiving Title IV-E relative guardianship assistance under 7 AAC 53.226 seeks to adopt the child, in addition to the other eligibility requirements of this section, **in the determination of the child's eligibility the placement of the child with the relative guardian and any guardianship assistance payments made on behalf of the child shall be considered never to have been made** [WILL BE DETERMINED BASED ON THE CHILD'S CIRCUMSTANCES AT THE TIME THAT THE TITLE IV-E RELATIVE GUARDIANSHIP SUBSIDY BECAME EFFECTIVE].

(f) Notwithstanding any other provision of this section, the department will not make a payment, including reimbursement of a nonrecurring adoption expense, with respect to any applicable child for a fiscal year if that child would otherwise be considered to be a hard-to-place child with special needs under (a) of this section, but, as provided in 42 U.S.C. 673(a)(7) (sec. 473(a)(7) of the Social Security Act),

(1) is not a citizen or resident of the United States; and

(2) was adopted outside of the United States or was brought into the United States for the purpose of being adopted.

(g) An adoption assistance agreement under (b) or (d) of this section must be in compliance with 42 U.S.C. 675(3) (sec. 475(3) of the Social Security Act), adopted by reference in 7 AAC 53.299.

(h) In this section,

(1) "child care institution" has the meaning given in 42 U.S.C. 672(c) (sec. 472(c) of the Social Security Act);

(2) "foster family home" has the meaning given in 42 U.S.C. 672(c) (sec. 472(c) of the Social Security Act);

(3) "Indian tribal organization" has the meaning given in 25 U.S.C. 450b, as provided in 42 U.S.C. 672(a)(2)(B)(iii) and 679c(a) (secs. 472(a)(2)(B)(iii) and 479B(a) of the Social Security Act).

(Eff. 4/13/2011, Register 198; am _____/_____/2014, Register _____)

Authority: AS 13.26.062 AS 25.23.230 AS 47.14.120
AS 25.23.210 AS 47.14.100

7 AAC 53.240 is repealed and readopted to read:

7 AAC 53.240. Medical expenses of an adoptive or a guardianship child. (a) A title IV-E adoption or guardianship subsidy includes automatic Medicaid coverage for the child.

(b) A state adoption or guardianship subsidy does not include automatic Medicaid coverage for the child.

(c) If the adoptive or guardianship family's insurance plan will cover the child for an additional fee, that cost will be considered in determining the amount of a subsidized adoption or guardianship payment, subject to the limit set by AS 25.23.210.

(d) If a child is not eligible for Medicaid, and medical costs are a factor in the individual's ability to adopt or become a guardian, the department will consider the medical need when it determines the subsidy rate under 7 AAC 53.245, subject to the limit set by AS 25.23.210.

(e) If a child is eligible for Medicaid, medical costs, services and treatment available through Medicaid will not be considered by the department when determining the adoption or guardianship subsidy rate under 7 AAC 53.245.

(The existing text for 7 AAC 53.240 is presented below for the reader to compare to the proposed text)

[7 AAC 53.240. Medical expenses of an adoptive or a guardianship child. (a) A STATE ADOPTION SUBSIDY DOES NOT INCLUDE AUTOMATIC MEDICAID COVERAGE FOR THE CHILD. SUBSIDIZED GUARDIANSHIP DOES NOT INCLUDE MEDICAID BENEFITS FOR THE CHILD, EVEN IF THE CHILD WAS PREVIOUSLY ELIGIBLE FOR TITLE IV-E FOSTER CARE. IF THE ADOPTIVE OR GUARDIANSHIP FAMILY'S INSURANCE PLAN WILL COVER THE CHILD FOR AN ADDITIONAL FEE, THAT COST WILL BE CONSIDERED IN DETERMINING THE AMOUNT OF A SUBSIDIZED ADOPTION OR GUARDIANSHIP PAYMENT, SUBJECT TO THE LIMIT SET BY AS 25.23.210.

(b) IF A CHILD IS NOT ELIGIBLE FOR MEDICAID, AND MEDICAL COSTS ARE A FACTOR IN THE INDIVIDUAL'S ABILITY TO ADOPT OR BECOME A GUARDIAN, THE DEPARTMENT WILL CONSIDER THE MEDICAL NEED WHEN IT DETERMINES THE SUBSIDY RATE UNDER 7 AAC 53.245, SUBJECT TO THE LIMIT SET BY AS 25.23.210.]

(Eff. 7/1/90, Register 114; am 11/16/94, Register 132; am 3/31/2005, Register 173; am _____/_____/2014, Register _____)

Authority: AS 13.26.062 AS 25.23.230 AS 47.14.120
AS 25.23.210 AS 47.14.100

7 AAC 53.255 is amended to read:

7 AAC 53.255. Reimbursement for nonrecurring adoption expenses. (a) Except as provided in (g) of this section, the department will reimburse an adoptive parent or guardian of a hard-to-place child with special needs for a nonrecurring expense associated with obtaining a decree of adoption or a guardianship order if the expense is not incurred in violation of state or federal law and has not otherwise been reimbursed. The department will reimburse under this section only if an adoption or guardianship is final and the adoptive parent or guardian provides

the department with a copy of the adoption decree or guardianship order. If the adoptive parent or guardian designates a third party to receive reimbursement under this subsection in accordance with (d)(3) of this section, the department will reimburse that third party instead of the adoptive parent or guardian. Only one third party may be designated for purposes of this section.

(b) Except as provided in (g) of this section, if a sibling is also a hard-to-place child with special needs and is adopted or is placed with the guardian, either separately or at the same time, the department will treat each child as an individual, with separate reimbursement for nonrecurring expenses up to the maximum amount allowable for each child.

(c) Except as provided in (g) of this section, the department will not pay more than a total of \$2,000 in reimbursement under this section for each hard-to-place child with special needs. The department will not base reimbursement on the adoptive parent's or guardian's income or other resources. The department will pay reimbursement regardless of whether the child is

(1) eligible for adoption or guardianship assistance or a subsidy under 7 AAC 53.222, 7 AAC 53.223, 7 AAC 53.225, 7 AAC 53.226, AFDC, Title IV-E, or SSI; or

(2) in department custody.

(d) The adoptive parent or guardian shall submit

(1) for department review and approval

(A) a final bill for each billable expense, regardless of whether the bill has been paid; and

(B) a receipt for each **non-billable** [nonbillable] expense, including meals, lodging, and gas;

(2) a copy of the final decree of adoption or guardianship order; and

(3) a copy of a third-party designation signed by the adoptive parent or guardian, authorizing the department to release the payment directly to a third party, if the adoptive parent or guardian has designated a third party to receive the nonrecurring expense reimbursement.

(e) A subsidy agreement negotiated under 7 AAC 53.245 must include a provision regarding any reimbursement approved under this section. If a subsidy is not negotiated, the adoptive parent or guardian shall sign an agreement for nonrecurring expenses before the final decree of adoption or guardianship order.

(f) For purposes of this section, a nonrecurring expense includes reasonable and necessary attorney fees, court costs, home study fees, costs of replacement visitation and travel, and other nonrecurring expenses that are directly related to the adoption or guardianship, including lodging and food for the child and for the adoptive parent or guardian if necessary to complete the adoption or guardianship process.

(g) Notwithstanding (a) - (c) of this section, the department will not reimburse, for a nonrecurring expense, an adoptive parent of a child who, under 7 AAC 53.223, is an applicable hard-to-place child with special needs, if the child, as provided in 42 U.S.C. 673(a)(7) (sec. 473(a)(7) of the Social Security Act),

(1) is not a citizen or resident of the United States; and

(2) was adopted outside of the United States or was brought into the United

States for the purpose of being adopted. (Eff. 3/31/2005, Register 173; am 4/13/2011, Register 198; am _____/_____/2014, Register _____)

Authority: AS 13.26.062 AS 25.23.230 AS 47.14.120
AS 25.23.210

7 AAC 53.299 is amended by adding new paragraphs to read:

(Publisher: Please place the following paragraphs in alphabetical order)

7 AAC 53.299. Definitions. In 7 AAC 53.200 - 7 AAC 53.299, unless the context requires otherwise,

(1) "adoptive parent" means

(A) an individual, including a foster/adopt individual, who has applied to adopt a hard-to-place child with special needs whose birth parents' rights have been relinquished or terminated;

(B) an individual, including a foster/adopt individual, who

(i) has applied to adopt a hard-to-place child with special needs whose birth parents' rights have not yet been relinquished or terminated; and

(ii) is aware of the legal risk that the adoption might not be finalized; or

(C) an individual who has adopted a hard-to-place child with special needs and who is receiving subsidized adoption payments;

(2) "AFDC" means Aid to Families with Dependent Children assistance, formerly administered by the department under former AS 47.25.301 - 47.25.420;

(3) "circumstances of the adoptive parent or guardian" means the capacity to incorporate the child into the household in relation to lifestyle, standard of living, and future plans, and overall capacity to meet the immediate and future needs, including educational needs, of the child;

(4) "department" means the Department of Health and Social Services;

(5) "foster/adopt individual" means a foster parent who is interested in adopting a child and who is currently providing care in a licensed foster home for children in custody of the department;

(6) "guardian"

(A) means

(i) a legal guardian;

(ii) an individual who has qualified as, or has applied to be a guardian of a minor under court appointment;

(B) does not include an individual who is a guardian ad litem;

(7) "hard-to-place child with special needs" has the meaning given "hard-to-place child" in AS 25.23.240;

(8) "home study" means a home study or a guardianship study conducted under

AS 25.23.200 and this chapter;

(9) "Medicaid" means the medical assistance program administered by the department under 42 U.S.C. 1396 - 1396v and AS 47.07;

(10) "qualified health professional" means a health professional who is qualified to diagnose the physical or mental condition that would qualify a child to be a hard-to-place child with special needs under this chapter; "qualified health professional" includes

(A) physician or other health professional licensed under AS 08; and

(B) mental health professional; for purposes of this subparagraph, "mental health professional" has the meaning given in AS 47.30.915;

(11) "specified relative" means a relative of a child who is related by blood, marriage, or adoption within the fifth degree of kinship to the child;

(12) "SSI" means the Supplemental Security Income program administered under 42 U.S.C. 1381 - 1383f;

(13) "Title IV-E" means 42 U.S.C. 670 - 679b (secs. 470 - 479A of the Social Security Act), revised as of October 1, 2010 and adopted by reference;

(14) "tribal court" means a court of a tribe that is in a state not subject to Public Law 280 and that has exclusive jurisdiction over child custody proceedings under 25 U.S.C. 1911(a), a tribe that has re-assumed jurisdiction over child custody proceedings under 25 U.S.C. 1918, or a tribe to which jurisdiction of the particular child custody proceeding has been transferred by the state court under 25 U.S.C. 1911(b);

(15) "deferred subsidy" has the meaning given in AS 25.23.210(b)(2);

(16) "dissolved" means that an adoption or guardianship relationship has ended because the parental rights of the adoptive or guardianship parents are terminated;

(17) "legal guardian" means the caretaker in a judicially created relationship between child and caretaker that is intended to be permanent and self-sustaining as evidenced by the transfer to the caretaker of each of the following parental rights with respect to the child:

(A) protection;

(B) education;

(C) care and control of the person;

(D) custody of the person;

(E) decision-making;

(18) "relative guardian" means a guardian or prospective guardian who is related to a child by blood, marriage, fictive kin, or tribal custom; for purposes of this paragraph, "fictive kin" means an individual who is unrelated by birth or marriage, but has an emotionally significant relationship with a child that has the characteristics of a family relationship;

(19) "Title XVI" means 42 U.S.C. 1381 - 1383f (secs. 1601 - 1637 of the Social Security Act), revised as of October 1, 2010 and adopted by reference;

(20) "applicable child" means a child who meets both the definition of hard-to-place child under 7 AAC 53.205 and the requirements of 7 AAC 53.223(b) or (d);

(21) "not-applicable child" means a child who meets the definition of hard-to-place child under 7 AAC 53.205 but does not meet the requirements of 7 AAC 53.223(b) or (d). (Eff. 3/31/2005, Register 173; am 4/13/2011, Register 198; am ____/____/2014,

Register _____, _____ 2014

HEALTH AND SOCIAL SERVICES

Register _____)

Authority: AS 13.26.062 AS 25.23.230 AS 47.14.120
AS 25.23.210 AS 47.14.100

The authority line following 7 AAC 53.300 is changed to read:

7 AAC 53.300. Applicability. 7 AAC 53.300 - 7 AAC 53.370 apply, unless otherwise indicated, for children in department custody or under the supervision of the division.

(Eff. 7/1/90, Register 114; am _____/_____/2014, Register _____)

Authority: AS 47.05.010 AS 47.10.080 AS 47.14.010
AS 47.05.065

7 AAC 53.310 is amended to read:

7 AAC 53.310. Clothing. (a) The division will pay for adequate clothing as determined by the division at the time of the initial placement of a child in an out-of-home care setting. If the child is placed in successive settings, the division will determine the adequacy of clothing at the time of each placement and will pay for the purchase of additional clothing if

- (1) the division has provided prior authorization for that purchase; and
- (2) the cost is not already covered by another program or by the **base**

[STANDARD] rate under 7 AAC 53.030.

(b) Once it is determined that the child has an adequate supply of clothing upon placement, routine replacement of clothing is the responsibility of the out-of-home care provider.

(Eff. 11/23/78, Register 68; am 7/1/90, Register 114; am 12/10/2011, Register 200; am _____/_____/2014, Register _____)

Authority: AS 47.05.010 AS 47.10.080 AS 47.14.010

7 AAC 53.340(b) is amended to read:

(b) The services or goods will, in the **division director's** [DIVISION'S] discretion, be authorized, if

- (1) funding is available;
- (2) one or more of the services or goods is essential to prevent the out-of-home placement of the child, or to return the child to the child's own home;
- (3) **one or more of the services or goods are essential to prevent the out of home placement of a child not in custody who is temporarily residing with a designated adult caregiver under a provision of an out of home safety plan** [THE PROVISION OF ONE OR MORE OF THE SERVICES OR GOODS REMOVES A BARRIER FOR THE SAFETY OF THE CHILD OR MIGHT PREVENT THE FURTHER DELINQUENCY OF THE CHILD];

(4) the services or goods are consistent with the child's risk assessment and plan of services; and

(5) consideration has been given to the parent's ability to pay for the necessary services or goods;

(6) the provision of one or more of the services or goods removes a barrier for the safety of the child or might prevent the further delinquency of the child.

(Eff. 7/1/90, Register 114; am 4/13/2011, Register 198; am ____/____/2014, Register _____)

Authority: AS 47.05.010 AS 47.10.080 AS 47.14.010
AS 47.05.065

7 AAC 53.350 is amended to read:

7 AAC 53.350. Independent living. In order to successfully facilitate the transition of adolescents from the out-of-home care system to independent living, the following services will be authorized, if funding is available and if consistent with the child's placement plan or case plan, before department release of custody of the child:

(1) counseling and referral to community support networks, where available, to assist the youth in preparation for emancipation, in areas such as

- (A) self-esteem;
- (B) basic living skills;
- (C) employability;

(2) financial assistance for housing up to 100 percent of the foster care[OR FOSTERING INDEPENDENCE] rate; and

(3) the services or goods described in 7 AAC 53.310, 7 AAC 53.320, and 7 AAC 53.330. (Eff. 7/1/90, Register 114; am 12/10/2011, Register 200; am ____/____/2014, Register _____)

Authority: AS 47.05.010 AS 47.10.080 AS 47.14.010

7 AAC 53.365 is amended to read:

7 AAC 53.365. Payment to child placement agencies. (a) The division will pay for child placement services when the division has entered into an agreement with a child placement agency licensed under AS 47.32 and in compliance with the additional applicable standards and requirements of 7 AAC 56.

(b) The division will pay for the cost of foster care [OR FOSTERING INDEPENDENCE] to a child placement agency under an agreement that meets the requirements of (a) of this section. The division will list the rates in the agreement to be paid by the child placement agency to the foster parents and for associated expenses related to child placement services. The child placement agency is responsible for direct payment to the foster parents.

(c) The division will, in its discretion, authorize a child placement agency to pay for the cost of subsidized adoption or subsidized guardianship under agreement as specified in (a) of this section. If payment for subsidized adoption or subsidized guardianship is included in the agreement, the division will list the rates in the agreement to be paid by the child placement agency to the adoptive or guardianship parents. The child placement agency is responsible for direct payment of those subsidies. The division will list the rates in the agreement to be paid for expenses related to child placement services for adoption and guardianship.

(d) In this section, "child placement services" includes

- (1) planning for a child's care and treatment;
- (2) selection of a particular foster home, guardianship, or adoption setting for a child;
- (3) carrying out activities of the agency specified in the child's care and treatment plan and, if applicable, the child's case plan;
- (4) supervision of a child's care; and
- (5) training and technical assistance of the care setting for a child.

(Eff. 1/1/2001, Register 156; am 4/13/2011, Register 198; am 12/10/2011, Register 200; am ____/____/2014, Register _____)

Authority: AS 25.23.200 AS 47.10.080 AS 47.14.100
AS 25.23.210 AS 47.14.010

7 AAC 53.370 is amended to read:

7 AAC 53.370. Definitions. In 7 AAC 53.300 - 7 AAC 53.370,

- (1) "child's placement plan" includes the placement plan of care required by 7 AAC 50.300(c) for a child in a licensed foster home, the treatment plan required by 7 AAC 50.330 for a child in a licensed residential child care facility, and the case plan for a child and the child's family prepared by an employee of the division;
- (2) "department" means the Alaska Department of Health and Social Services;
- (3) "division" means the office of children's services or the division of juvenile justice in the department;
- (4) "out-of-home care setting" and "out-of-home care provider" include
 - (A) the home of a relative;
 - (B) a child foster home or a residential child care facility licensed under AS 47.32 and in compliance with the additional applicable standards and requirements of 7 AAC 50; and
 - (C) a state-operated facility;
- (5) "placed" means put in an out-of-home care setting under authority of the Department or department approved tribal entity; and
- (6) **repealed** ____/____/2014 ["REPRESENTATIVE OF THE DIVISION"]

MEANS A SOCIAL WORKER, SOCIAL SERVICES ASSOCIATE, PROBATION OFFICER, OR OTHER STAFF MEMBER OF THE DIVISION WITH AUTHORITY TO AUTHORIZE PURCHASE OF FOSTER CARE OR FOSTERING INDEPENDENCE];

(7) "case plan" means a plan that addresses the activities and services that are needed to implement permanency for a child and to ensure the child's safety and well-being; a subsection of the case plan is the transition plan, which is a plan that is personalized at the direction of the child in foster care[OR FOSTERING INDEPENDENCE] and is intended to assist the child in preparing for the time when the child is no longer in department custody; a transition plan is developed before the child attains 18 years of age or, for a child resuming custody under AS 47.10.080(v), before the child attains 21 years of age;

(8) "child" has the meaning given in AS 47.10.990;

(9) "foster home" has the meaning given in 7 AAC 53.140;

(10) **repealed** _____/_____/2014 "FOSTERING INDEPENDENCE" HAS THE MEANING GIVEN IN 7 AAC 53.140. (Eff. 7/1/90, Register 114; am 1/1/96, Register 136; am 3/1/98, Register 145; am 4/13/2011, Register 198; am 12/10/2011, Register 200; am _____/_____/2014, Register _____)

Authority: AS 47.05.010 AS 47.10.080 AS 47.14.010

7 AAC 53.400 is repealed and readopted to read:

7 AAC 53.400. Eligibility for resumption of state custody. (a) A petition for resumption of custody may be submitted to the court for a person who is no longer in state custody if that person

(1) was placed in out-of-home care by the department immediately prior to being released from state custody; and

(A) was released to the person's own custody after reaching age 18 and consents to resumption of custody; or

(B) was at least 16 years of age and released to the person's own custody after the disabilities of minority were removed under AS 09.55.590 and consents to resumption of custody; or

(C) was at least 16 years of age and released to the custody of a parent or guardian because the person refused out-of-home care, has reached the age of 18, and consents to resumption of custody; or

(D) was at least 16 years of age and released to the custody of a parent or guardian because the person refused out-of-home care, has not reached the age of 18, consents to resumption of custody, and grounds for filing a child in need of aid petition do not exist; and

(E) meets the requirements of AS 47.10.080(v)(3); and

(2) signs a custody resumption agreement prepared by the department that includes a provision that the person agrees to actively participate in

(A) developing the transition plan; and

(B) services designed to promote self-sufficiency.

(b) A person is not eligible under AS 47.10.080(v) or this chapter if that person

- (1) is married;
- (2) does not reside in this state;
- (3) fails to comply with requirements of probation or parole, if any;
- (4) is in or enters active duty in the military;
- (5) has previously resumed state custody under AS 47.10.080(v) after 18 years of

age; or

(6) refuses to sign the agreement referred to in (a)(2) of this section.

(The existing text for 7 AAC 53.400 is presented below for the reader to compare to the proposed text)

[a) A PERSON WHO IS NO LONGER IN STATE CUSTODY, INCLUDING A PERSON EMANCIPATED BEFORE 18 YEARS OF AGE WHILE IN STATE CUSTODY UNDER AS 47.10, IS ELIGIBLE TO PETITION THE COURT FOR RESUMPTION OF STATE CUSTODY IF THAT PERSON

(1) MEETS THE REQUIREMENTS OF AS 47.10.080(v); AND

(2) SIGNS A CUSTODY RESUMPTION AGREEMENT PREPARED BY THE DEPARTMENT THAT INCLUDES A PROVISION THAT THE PERSON AGREES TO ACTIVELY PARTICIPATE IN

(A) DEVELOPING THE TRANSITION PLAN; AND

(B) SERVICES DESIGNED TO PROMOTE SELF-SUFFICIENCY.

(b) A PERSON IS NOT ELIGIBLE UNDER AS 47.10.080(v) OR THIS CHAPTER IF THAT PERSON

(1) IS MARRIED;

(2) DOES NOT RESIDE IN THIS STATE;

(3) WAS RELEASED TO THE CUSTODY OF A BIOLOGICAL OR ADOPTIVE PARENT, RELATIVE, OR GUARDIAN;

(4) FAILS TO COMPLY WITH REQUIREMENTS OF PROBATION OR PAROLE, IF ANY;

(5) IS IN OR ENTERS ACTIVE DUTY IN THE MILITARY;

(6) HAS PREVIOUSLY RESUMED STATE CUSTODY AFTER 18 YEARS OF AGE; OR

(7) REFUSES TO SIGN THE AGREEMENT REFERRED TO IN (a)(2) OF THIS SECTION]. (Eff. 12/10/2011, Register 200; am ____/____/2014, Register _____)

Authority: AS 47.05.010 AS 47.10.080 AS 47.14.010

7 AAC 53.410 is repealed and readopted to read:

7 AAC 53.410. Petition for resumption of state custody. (a) A person who seeks resumption of state custody under AS 47.10.080(v) and this chapter may request the department to petition the court for a hearing to determine eligibility for resumption of state custody.

(b) For a person who has not reached age 18 the petition will be submitted by the department.

(c) For a person who has reached age 18 or been emancipated the petition may be submitted by either the person or the department.

(d) A request for a petition under this section also may be made to the department by the person's legal representative or guardian ad litem.

(The existing text for 7 AAC 53.410 is presented below for the reader to compare to the proposed text)

[A PERSON WHO SEEKS RESUMPTION OF STATE CUSTODY UNDER AS 47.10.080(v) AND THIS CHAPTER MAY REQUEST THE DEPARTMENT TO PETITION THE COURT FOR A HEARING TO DETERMINE ELIGIBILITY FOR RESUMPTION OF STATE CUSTODY. A REQUEST FOR A PETITION UNDER THIS SECTION ALSO MAY BE MADE TO THE DEPARTMENT BY THE PERSON'S LEGAL REPRESENTATIVE OR GUARDIAN AD LITEM].

(Eff. 12/10/2011, Register 200; am _____/_____/2014, Register _____)

Authority: AS 47.05.010 AS 47.10.080 AS 47.14.010