

DEPARTMENT OF HEALTH AND SOCIAL SERVICES



PROPOSED CHANGES TO REGULATIONS 7 AAC 52. JUVENILE JUSTICE HEALTH CARE SERVICES.



PUBLIC REVIEW DRAFT

August 13, 2014

COMMENT PERIOD ENDS: September 17, 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 is being repealed and readopted (replaced), the new (or replaced) text is not bolded or underlined.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.

7 AAC 52 is amended by adding new sections to read:

Article 9. Health Care Services for Juveniles in Facilities
[GENERAL PROVISIONS].

7 AAC 52.850. Covered health services. (a) Juveniles who are in the custody of the department under AS 47.12.240 or AS 47.12.120(b)(1), or if held in a juvenile facility pursuant to a court order, will receive health care services through the division’s health care program.

(b) The superintendent of a juvenile detention or juvenile treatment facility shall ensure that medically necessary health care services are provided to all juveniles under (a), including medical, mental health, pharmacologic, vision, and dental services.

(c) The division’s health care program includes coverage for the following services, as adopted by reference:

- (1) professional services under 7 AAC 110.100 – 7 AAC 110.715, except 7 AAC 110.145, 7 AAC 110.410, 7 AAC 110.415, 7 AAC 110.520 – 7 AAC 110.530, and 7 AAC 110.600;
- (2) therapies and related services under 7 AAC 115.100 – 7 AAC 115.549;
- (3) prescription drugs and medical supplies under 7 AAC 120.100 – 7 AAC 120.140;
- (4) durable medical equipment and medical supplies and related services under 7 AAC 120.200 – 7 AAC 120.299;
- (5) transportation and accommodation services under 7 AAC 120.400 – 7 AAC 120.405, 7 AAC 120.415, 7 AAC 120.420, 7 AAC 120.445 and 7 AAC 120.490(1), (2), and (7);
- (6) home health care services under 7 AAC 125.300 – 7 AAC 125.399;

(7) behavioral health services under 7 AAC 135.010 – 7 AAC 135.990, except 7 AAC 135.250 and 7 AAC 135.800;

(8) facility and facility-based services under 7 AAC 140.100 – 7 AAC 140.720, except 7 AAC 140.270 – 7 AAC 140.289 and 7 AAC 140.500 – 7 AAC 140.640.

(d) The director of the division or designee may authorize specific medically necessary health care services not otherwise specified.

(e) The division’s health care program does not include non-covered services defined at 7 AAC 105.110 except that the program will pay for health care for children that are in juvenile detention and treatment facilities.

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

Authority:	AS 47.05.010	AS 47.14.010	AS 47.14.050
	AS 47.07.030	AS 47.14.020	AS 47.14.100
	AS 47.07.040		

7 AAC 52.855. Priority of authorized providers. (a) The division shall obtain health care services for juveniles in custody using the following priorities:

(1) division employees for health care services provided within a juvenile facility;

(2) division contractors for health care services provided within a juvenile facility;

(3) providers enrolled in the Medicaid program for health care services provided outside a juvenile facility except as provided in (b) of this section;

(4) other providers that the division has executed a Memorandum of Understanding (MOU) or contract for health care services provided outside a juvenile facility;

(5) division contractors for health care services provided outside a juvenile facility; or

(6) other health care providers in compliance with applicable state and federal laws and regulations related to the provision of health care.

(b) Notwithstanding (a), if a provider that is not enrolled in the Medicaid program is actively treating a juvenile before admission to a juvenile facility, the division may obtain services for that juvenile by the provider for the purpose of continuity of care. (Eff. ____/____/2014, Register _____)

Authority:	AS 47.05.010	AS 47.14.010	AS 47.14.050
	AS 47.07.030	AS 47.14.020	AS 47.14.100
	AS 47.07.040		

7 AAC 52.860. Reimbursement rates for approved providers. (a) The division’s health care program will reimburse covered services for youth in the custody of the department under AS 47.12.240 or AS 47.12.120(b)(1), or held in a juvenile facility pursuant to a court order, as follows:

(1) division contractors will be reimbursed at the agreed upon contract rate for health care services provided within a juvenile facility;

(2) providers enrolled in the Medicaid program will be reimbursed under (c) of this section for health care services provided outside a juvenile facility;

(3) other providers that the division has executed a Memorandum of Understanding (MOU) will be reimbursed at the agreed upon MOU rate for health care services provided outside a juvenile facility;

(4) division contractors will be reimbursed at the agreed upon contract rate for health care services provided outside a juvenile facility;

(5) other health care providers in compliance with applicable state and federal laws and regulations related to the provision of health care will be reimbursed at the provider's invoiced amount except that a provider may not charge:

(A) for any administrative cost related to participation in the division's health care program; or

(B) a higher rate for any unit of service provided to a division health care program member than the provider's usual charge to non-program patients, except for an amount billed Medicare.

(b) Providers not covered under (g) of this section are not eligible for reimbursement by the division health care program.

(c) Providers enrolled in the Medicaid program will be reimbursed by the division at the rate and methods described under 7 AAC 105 – 7 AAC 160 except:

(1) services provided by a Federally Qualified Health Center or Rural Health Center provider

(A) will not be paid an encounter rate; and

(B) will be paid at the rate and method specified for:

(i) professional services under 7 AAC 145.100 – 7 AAC 145.280, except 7 AAC 145.250 and 7 AAC 145.265;

(ii) therapies and related services under 7 AAC 145.300 – 7 AAC 145.350 except 7 AAC 145.350;

(2) services provided by a tribal clinic provider

(A) will not be paid an encounter rate; and

(B) will be paid at the rate and method specified for:

(i) professional services at 7 AAC 145.100 – 7 AAC 145.280, except 7 AAC 145.250 and 7 AAC 145.265;

(ii) therapies and related services at 7 AAC 145.300 – 7 AAC 145.350 excluding 7 AAC 145.350; and

(iii) behavioral health services at 7 AAC 145.580;

(C) will not be reimbursed for tribal beneficiaries who are residing in a juvenile facility; and

(D) will be reimbursed for juveniles who are not tribal beneficiaries who are residing in a juvenile facility;

(3) services provided by an outpatient tribal hospital provider:

(A) will be paid the established hospital provider rate under 7 AAC 155.010;

(B) will not be reimbursed for tribal beneficiaries who are residing in a juvenile facility; and

(C) will be reimbursed for juveniles who are not tribal beneficiaries who are residing in a juvenile facility;

(4) services provided by an inpatient hospital, inpatient psychiatric hospital, inpatient tribal hospital, or residential psychiatric treatment center, to eligible Medicaid recipients who are in the custody of the department under AS 47.12.240 or AS 47.12.120(b)(1), or held in a juvenile facility pursuant to a court order, will be reimbursed for services by the Medicaid program:

(A) authorized under 42 CFR 435.1000 – 42 CFR 435.1010;

(B) when services are provided in compliance with 7 AAC 105 – 7 AAC 160.990; and

(C) at the reimbursement rates under 7 AAC 145.600 – 7 AAC 145.695 and 7 AAC 155.010.

(d) Cost sharing requirements under 7 AAC 105.610 and 7 AAC 145.015 do not apply to the division's health care program members except when the juvenile is eligible for the Medicaid program and receives inpatient services authorized under 42 CFR 435.1000 – 42 CFR 435.1010 and 7 AAC 105 – 7 AAC 160.990.

(e) Third-party insurance billing is not required by providers participating in the division's health care program except when the juvenile is eligible for the Medicaid program and receives inpatient services authorized under 42 CFR 435.1000 – 42 CFR 435.1010 and 7 AAC 105 – 7 AAC 160.990.

(f) Payment made will constitute payment in full from the division's health care program, including any payment made by the Medicaid program, for that service. A provider may not charge a program member or a program member's relative, friend, or representative, any amount to supplement payment by the division's health care program or the Medicaid program for services which have been reimbursed, in whole or in part, under this provision.

(g) The department will not reimburse the following Medicaid program enrolled providers for services under this section:

(1) long term care facility;

(2) hospice care agency;

(3) intermediate care facility for the mentally retarded (ICF/MR);

(4) personal care agency;

(5) home and community-based waiver services provider, including environmental modifications services;

(6) care coordination agency provider;

(7) residential supported-living services provider;

(8) residential behavioral rehabilitation services provider;

(9) private-duty nursing agency;

(10) school district providing a Medicaid-covered service to a Medicaid

recipient;

- (11) provider of targeted case management services;
- (12) personal care assistant;
- (13) care coordinator;
- (14) licensed practical nurse or licensed registered nurse who provides direct services as an employee of a private-duty nursing agency;
- (15) provider of non-emergent transportation services;
- (16) provider of accommodation services;
- (17) provider of pre-maternal home services;
- (18) company or individual excluded from participation in the Medicaid

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

Authority: AS 47.05.010 AS 47.14.010 AS 47.14.050
AS 47.07.030 AS 47.14.020 AS 47.14.100
AS 47.07.040

7 AAC 52.865. General provisions regarding approved providers, recoupment of overpayments, appeal rights. Providers that are participating in the division’s health care program are subject to the provisions of 7 AAC 105.220 - 7 AAC 105.280.

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

Authority: AS 47.05.010 AS 47.14.010 AS 47.14.050
AS 47.07.030 AS 47.14.020 AS 47.14.100
AS 47.07.040

Article 10. General Provisions.

(Publisher please place the new article heading before existing section 7 AAC 52.900.)

7 AAC 52.900(8) is amended to read:

(8) "division" means the division **in the department that provides juvenile justice services** [OF JUVENILE JUSTICE];

7 AAC 52.900 is amended by a new paragraph to read:

(20) “medically necessary health care services” means services including medical, mental health, pharmacologic, vision, and dental services necessary to enable the juvenile to participate in or benefit from programs and goals under AS 47.12.010.

(Eff. 7/3/80, Register 74; am 1/14/2000, Register 153; am ____/____/2014,

Register _____, _____ 2014

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Register _____)

Authority: AS 47.05.010
AS 47.14.010

AS 47.14.020
AS 47.14.050

AS 47.14.100

7 AAC 100.068 is amended to read:

(a) **Medicaid services may not be reimbursed except** [EXCEPT] as provided in [(b) AND (c) OF] this section, **when** an individual **is** residing in a public institution, regardless of whether placement was voluntary or involuntary, [IS NOT ELIGIBLE FOR MEDICAID UNDER ANY CATEGORY WHILE RESIDING IN THE PUBLIC INSTITUTION,]unless the individual is

(1) living in a public institution solely to receive educational or vocational training; or

(2) placed in a public institution on a short-term emergency basis pending placement in a living arrangement appropriate to the individual's needs.

(b) An individual who is a Medicaid recipient at the time that individual enters a penal institution and who continues to meet all other applicable Medicaid eligibility requirements, may retain eligibility but **the Medicaid program will not reimburse** [MAY NOT RECEIVE MEDICAID-COVERED] services while an inmate.

(c) **An individual that is in the custody of the department under AS 47.12.240 or AS 47.12.120(b)(1), or if held in a juvenile facility pursuant to a court order, who resides in a public institution and meets all other applicable Medicaid eligibility requirements may become eligible or retain eligibility for Medicaid. Medicaid will reimburse covered services for an eligible individual who is an inpatient in a medical institution for at least a 24-hour period or otherwise defined in 7 AAC 100.990(24)** [NOTWITHSTANDING (a) OF THIS SECTION, IF A SUBSTANCE ABUSE TREATMENT FACILITY OR A CORRECTIONAL HALFWAY HOUSE IS ON CONTRACT WITH THE STATE TO PROVIDE TREATMENT OR MONITORING, AN INDIVIDUAL RESIDING IN THAT FACILITY MAY RECEIVE MEDICAID SERVICES IF OTHERWISE ELIGIBLE FOR MEDICAID UNDER THIS CHAPTER].

(d) **Notwithstanding (a) of this section, if a substance abuse treatment facility or a correctional halfway house is on contract with the state to provide treatment or monitoring, an individual residing in that facility may receive Medicaid services if otherwise eligible for Medicaid under this chapter**

[IN THIS SECTION,

(1) "INMATE" MEANS AN INDIVIDUAL WHO IS LIVING IN A PENAL INSTITUTION OR PUBLIC INSTITUTION THAT IS NOT A MEDICAL OR EDUCATIONAL INSTITUTION; "INMATE" INCLUDES AN INDIVIDUAL WHO

(A) IS ON TEMPORARY FURLOUGH; OR

(B) HAS TEMPORARILY LEFT THE PENAL OR PUBLIC

INSTITUTION FACILITY FOR TREATMENT IN AN ACUTE CARE MEDICAL

FACILITY;

(C) REPEALED 1/1/2011;

(2) "PENAL INSTITUTION" MEANS A CORRECTIONAL OR HOLDING FACILITY FOR INDIVIDUALS WHO ARE HELD AS INMATES;

(3) "PUBLIC INSTITUTION" MEANS AN INSTITUTION, INCLUDING A PENAL INSTITUTION, THAT IS THE RESPONSIBILITY OF A GOVERNMENTAL UNIT OR OVER WHICH A GOVERNMENTAL UNIT EXERCISES ADMINISTRATIVE CONTROL; "PUBLIC INSTITUTION" DOES NOT INCLUDE A MEDICAL INSTITUTION].

(e) In this section,

(1) "inmate" means an individual who is living in a penal institution or public institution that is not a medical or educational institution, including a vocational training institution; "inmate" includes an individual who

(A) is on temporary furlough; or

(B) has temporarily left the penal or public institution facility for treatment in an acute care medical facility, except for individuals identified in (c) of this section;

(2) "penal institution" means a correctional or holding facility for individuals who are held as inmates;

(3) "public institution" means an institution, including a penal institution, that is the responsibility of a governmental unit or over which a governmental unit exercises administrative control; "public institution" does not include a medical institution.

(Eff. 7/20/2007, Register 183; am 1/1/2011, Register 196; am ____/____/2014, Register _____)

Authority: AS 47.05.010 AS 47.07.020 AS 47.07.040

7 AAC 100.070(c) is amended to read:

(c) A continuous period of eligibility ends at the earliest of

(1) the end of the 12th month of continuous eligibility;

(2) the end of the first month the child reaches 19 years of age;

(3) the end of the month the child is incarcerated in a penal institution as described in 7 AAC 100.068, **except as described in 7 AAC 100.068(c);**

(4) the death of the child;

(5) closure of a case due to loss of contact with the applicant or recipient;

(6) the date child loses residency in this state; or

(7) the date the previous eligibility period is replaced by a new 12-calendar-month continuous eligibility period that is the result of a new prospective eligibility determination.

(Eff. 7/20/2007, Register 183; am 4/1/2009, Register 189; am ____/____/2014, Register _____)

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Authority: AS 47.05.010 AS 47.07.020 AS 47.07.040

7 AAC 100.990(24) is amended to read:

(24) "inpatient" means an individual who **has been** [IS] admitted to a medical institution **as an inpatient by a physician or dentist** and who

(A) receives room, board, and professional services in the institution for a 24-hour period or longer; or

(B) is expected by the medical institution to receive room, board, and professional services in the institution for a 24-hour period or longer even if the individual dies, is discharged, or is transferred to another facility **and does not actually stay in the institution for 24 hours** [BEFORE 24 HOURS HAVE ELAPSED];

(Eff. 7/20/2007, Register 183; am 2/1/2010, Register 193; am 1/1/2011, Register 196; am ____/____/2014, Register _____)

Authority: AS 47.05.010 AS 47.07.020 AS 47.07.040

7 AAC 105.110(6) is amended to read:

Unless otherwise provided in 7 AAC 105 - 7 AAC 160, the department will not pay for a service that is

....

(6) for a person who is in the custody of federal, state, or local law enforcement, including a juvenile in a detention facility, **except as an inpatient in a medical institution as defined at 42 CFR 435.1010;**

(Eff. 2/1/2010, Register 193; am 10/1/2011, Register 199; am 5/11/2012, Register 202; am ____/____/2014, Register _____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040