

**DEPARTMENT OF HEALTH  
AND SOCIAL SERVICES**



**PROPOSED CHANGES TO REGULATIONS**

**7 AAC 52. JUVENILE JUSTICE HEALTH CARE SERVICES,  
7 AAC 100. MEDICAID ELIGIBILITY, & 7 AAC 105. MEDICAID COVERAGE AND  
PAYMENT**



**PUBLIC REVIEW DRAFT**

**MARCH 12, 2015**

**COMMENT PERIOD ENDS: April 17, 2015**  
**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 is being repealed and readopted (replaced), the new (or replaced) text is not bolded or underlined.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. \_\_\_\_/\_\_\_\_/2015, Register \_\_\_\_\_)

<b>Authority:</b>	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. \_\_\_\_/\_\_\_\_/2015, Register \_\_\_\_\_)

<b>Authority:</b>	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 under (h) 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 services provided by a Federally Qualified Health Center or Rural Health Center provider

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

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

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

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

(d) 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:

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

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

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

(e) 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.

(f) 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 CFR435.1010 and 7 AAC 105 – 7 AAC 160.990.

(g) 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.

(h) 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. \_\_\_\_/\_\_\_\_/2015, 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 47.07.032**  
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. \_\_\_\_/\_\_\_\_/2015, 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 adding 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 \_\_\_\_/\_\_\_\_/2015, Register \_\_\_\_\_)

**Authority:** AS 47.05.010 AS 47.14.020 AS 47.14.100  
AS 47.14.010 AS 47.14.050

7 AAC 100.068 is repealed and readopted, to read:

**7 AAC 100.068. Living in a public institution.** (a) Except as provided in this section, the department will not reimburse Medicaid services provided to a Medicaid-eligible individual while the individual resides in a public institution, regardless of whether placement was voluntary or involuntary, unless the individual is

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

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

(3) living in a correctional facility or juvenile detention facility but received medical care while an inpatient in a medical institution for at least 24 hours; or

(4) living in a substance abuse treatment facility or a halfway house that has a contract with the state to provide treatment and monitoring.

(b) The following individuals living in a public institution may become Medicaid eligible while residing in, or retain their existing eligibility upon entry into, the public institution, if all applicable Medicaid eligibility requirements are met:

(1) a prisoner who is in a correctional facility under AS 33.30; or

(2) a delinquent minor who is in the custody of the department under AS 47.12.120(b)(1) or AS 47.12.240.

(c) In this section,

(1) “correctional facility” has the meaning given in AS 33.30.901;

(2) “delinquent minor” has the meaning given in AS 47.12.990;

(3) “juvenile detention facility” has the meaning given in AS 47.12.990;

(4) “medical institution” has the meaning given in 7 AAC 100.990(24);

(5) “prisoner” has the meaning given in AS 33.30.901, and includes an individual

who

(A) is on temporary furlough; or

(B) has temporarily left correctional facility or public institution for treatment in an acute care medical facility; and

(6) “public institution” means an institution, including a correctional facility or juvenile detention facility, 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 \_\_\_/\_\_\_/2015, Register \_\_\_)

Authority: AS 47.05.010 AS 47.07.020 AS 47.07.400

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 12<sup>th</sup> 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 **detained in a juvenile detention facility or correctional facility, except as described** [INCARCERATED IN A PENAL INSTITUTION AS DESCRIBED] in 7 AAC 100.068;

(4) the death of the child;

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

(6) the date **the** 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

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determination. (Eff. 7/20/2007, Register 183; am 1/1/2011, Register 196, am \_\_\_/\_\_\_/2015, Register \_\_\_\_\_)

Authority: AS 47.05.010    AS 47.07.020                    AS 47.07.400

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 medical institution for 24 hours** [BEFORE 24 HOURS HAVE ELAPSED];

(Eff. 7/20/2007, Register 183; am 1/1/2011, Register 196, am \_\_\_/\_\_\_/2015, Register \_\_\_\_\_)

Authority: AS 47.05.010    AS 47.07.020                    AS 47.07.400

7 AAC 105.110(6) is amended to read:

(6) for a person who is in the custody of the federal, state, or local law enforcement, including a juvenile in a detention facility, **except as an inpatient in a medical institution as defined 7 AAC 100.990(24)**. (Eff. 7/20/2007, Register 183; am 1/1/2011, Register 196, am \_\_\_/\_\_\_/2015, Register \_\_\_\_\_)

Authority: AS 47.05.010    AS 47.07.020                    AS 47.07.400