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OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA

MEMORANDUM

TO: Kurt West, AAC Contact
Department of Health and Social Services

FROM: Scott Clark
Special Assistant
907.465.4081

A handwritten signature in black ink, appearing to read "Scott", with a horizontal line extending to the right.

DATE: January 25, 2011

RE: Filed Permanent Regulations: Department of Health and Social Services

Regulations re: Medicaid payment rates for personal care services and home-based waiver services: 7 AAC 125.010(d); 7 AAC 130.275(c); 7 AAC 130.305; 7 AAC 145.500; 7 AAC 145.520 - 7 AAC 145.537; 7 AAC 160.900(d)

Attorney General File: JU2010201165

Regulation Filed: 1/25/2011

Effective Date: 3/1/2011

Print: 197, April 2011

cc with enclosures:

Linda Miller, Department of Law
Jim Pound, Administrative Regulation Review Committee
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS OF THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES

The attached 32 pages of regulations, dealing with proposed rate setting methodologies for Medicaid home and community based waiver services, are hereby adopted and certified to be a correct copy of the regulation changes that the Department of Health and Social Services adopts, under the authority of AS 47.05.010, AS 47.05.012, AS 47.07.030, AS 47.07.040, and AS 47.07.045, and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and AS 44.62.200 and opportunity for public comment under AS 44.62.210.

It is estimated that this action will require increased appropriations as shown on the attached fiscal note.

In considering public comments, the Department of Health and Social Services paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on March 1, 2011, as provided in AS 44.62.180.

DATE: 9/24/2011
Juneau, Alaska

William J. Steur
William J. Steur, Acting Commissioner
Department of Health and Social Services

FILING CERTIFICATION

v Scott Clark for
I, Mead Treadwell, Lieutenant Governor for the State of Alaska, certify that on January 25, 2011 at 12:52 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 – AS 44.62.120.

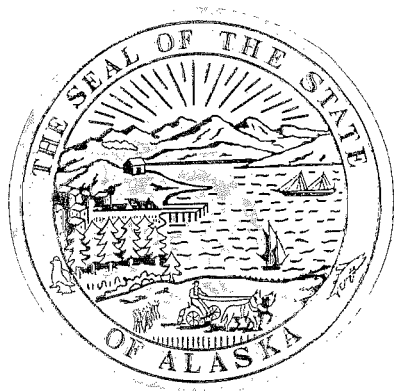
Scott Clark for
Mead Treadwell, Lieutenant Governor
State of Alaska

Effective March 1, 2011
Register 197, April 2011

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, MEAD TREADWELL, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employee to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:

Scott Clark, SPECIAL ASSISTANT



IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on December 8, 2010.

A handwritten signature in black ink, appearing to read "Mead Treadwell", is written over a horizontal dotted line.

**MEAD TREADWELL
LIEUTENANT GOVERNOR**

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7 AAC 125.010 is amended by adding a new subsection to read:

(d) As a condition of participation, a provider of personal care services shall comply with the accounting, reporting, and cost survey requirements of 7 AAC 145.531 - 7 AAC 145.537.

(Eff. 2/1/2010, Register 193; am 3 / 1 / 2011, Register 197)

Authority: AS 47.05.010 AS 47.07.030

7 AAC 130.275 is amended by adding a new subsection to read:

(c) The department will not consider services to be intensive active treatment services if they are

(1) intended for routine and ongoing behavioral challenges; or

(2) related to administration of care through training of staff. (Eff. 2/1/2010,

Register 193; am 3 / 1 / 2011, Register 197)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 130.305(b) is repealed and readopted to read:

(b) The department will consider items to be specialized medical equipment and supplies if they are identified in the department's *Specialized Medical Equipment Fee Schedule*, adopted by reference in 7 AAC 160.900.

7 AAC 130.305(c) is amended to read:

(c) The department will pay under this section subject to the following limitations:

(1) the unit cost of equipment is [MUST BE] determined by including the cost of

(A) training in the equipment's proper use; and

(B) routine fitting of and maintenance on the equipment necessary to meet applicable standards of manufacture, design, and installation;

(2) the cost of repair, modification, or adaptation of equipment may be paid as separate units of service, if the department determines that payment as separate units of service is cost-effective;

(3) the department will not pay as a home and community-based waiver service the cost of any medical equipment or supplies that is payable under 7 AAC 120.200 - 7 AAC 120.299;

(4) specialized medical equipment and supplies must be rented if the equipment is a personal emergency response system or if the department determines that renting the equipment is more cost-effective than purchasing it;

(5) once purchased, specialized medical equipment and supplies become the property of the recipient;

(6) [SPECIALIZED MEDICAL EQUIPMENT MAY INCLUDE A PORTABLE HYDROTHERAPY TUB DEVICE, BUT DOES NOT INCLUDE ITEMS LISTED IN (d)(1) OF THIS SECTION;

(7)] the department will not give prior authorization to replace specialized medical equipment before the end of that item's expected useful life, unless the department determines that replacing rather than repairing that item is more cost-effective.

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7 AAC 130.305(d) is repealed:

(d) Repealed 3 / 1 / 2011. (Eff. 2/1/2010, Register 193; am 3 / 1 / 2011, Register 197)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.500 is repealed and readopted to read:

7 AAC 145.500. Personal care services payment rates. (a) For providing personal care services under 7 AAC 125.010 - 7 AAC 125.199, the department will pay a unit of service at the lesser of

(1) rates established in the department's *Chart of Personal Care Attendant and Waiver Services Rates*, adopted by reference in 7 AAC 160.900; those rates will be adjusted in accordance with (b) of this section; or

(2) the amount charged by the provider in accordance with 7 AAC 145.020.

(b) Each July 1, rates established in the *Chart of Personal Care Attendant and Waiver Services Rates* will be adjusted as provided in 7 AAC 145.520(g).

(c) On or after January 1, 2014, rates of payment established in the *Chart of Personal Care Attendant and Waiver Service Rates*, as adjusted under 7 AAC 145.520(g), will be re-established at least every four years based on the requirements of 7 AAC 145.531 - 7 AAC 145.537, and the results of provider cost surveys submitted in accordance with 7 AAC 145.533 - 7 AAC 145.537, using cost survey costs from the provider's first fiscal year beginning on or after January 1, 2011, with the cost surveys due to the department nine months after the end of the provider's fiscal year.

(d) If a provider does not submit a complete annual report in accordance with the requirements of 7 AAC 145.531 - 7 AAC 145.537 on or before the due date of the report, the provider is subject to the provisions of 7 AAC 145.520(I). (Eff. 2/1/2010, Register 193; am 3 / 1 / 2011, Register 197)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.520 is repealed and readopted to read:

7 AAC 145.520. Home and community-based waiver services payment rates. (a)

The department will pay a home and community-based waiver services provider in accordance with the rates and methodologies set out in this section.

(b) For care coordination services provided under 7 AAC 130.240, the department will pay a unit of service at the lesser of the

(1) amount charged by the provider to the public; or

(2) rates established in the department's *Chart of Personal Care Attendant and Waiver Services Rates*, adopted by reference in 7 AAC 160.900.

(c) For specialized medical equipment and supplies provided under 7 AAC 130.305, the department will pay at the lesser of the

(1) amount charged by the provider in accordance with 7 AAC 145.020; or

(2) the maximum allowable amount specified for that item in the *Specialized Medical Equipment Fee Schedule*, adopted by reference in 7 AAC 160.900.

(d) For specialized private duty nursing services provided under 7 AAC 130.285, the department will pay a unit of service at the lesser of the

- (1) amount charged by the provider in accordance with 7 AAC 145.020; or
- (2) the rate described in 7 AAC 145.250.

(e) For environmental modification services provided under 7 AAC 130.300, the department will pay at 100 percent of billed charges to a home and community-based waiver services provider. In addition, the department will pay the provider an administrative fee of two percent of the billed charges or \$50, whichever is greater, if the provider

- (1) is certified and enrolled under 7 AAC 130.220(b)(1)(J); and
- (2) acts as an organized health care delivery system under 42 C.F.R. 447.10 for the purpose of overseeing the purchase of an environmental modification for a recipient.

(f) For chore services provided under 7 AAC 130.245, adult day services provided under 7 AAC 130.250, residential supported-living services provided under 7 AAC 130.255, day habilitation services provided under 7 AAC 130.260, residential habilitation services provided under 7 AAC 130.265, supported-employment services provided under 7 AAC 130.270, intensive active treatment services provided under 7 AAC 130.275, respite care services provided under 7 AAC 130.280, transportation services provided under 7 AAC 130.290(a), or meals services provided under 7 AAC 130.295, the department will pay a unit of service at the lesser of

(1) rates established in the department's *Chart of Personal Care Attendant and Waiver Services Rates*, adopted by reference in 7 AAC 160.900; those rates will be

- (A) adjusted in accordance with (g) of this section, except as provided in (i) of this section for a rate described in (h)(1) of this section; and

(B) adjusted in accordance with (h) of this section, for services other than

intensive active treatment services; or

(2) the amount charged by the provider in accordance with 7 AAC 145.020.

(g) Each July 1, rates established in the *Chart of Personal Care Attendant and Waiver Services Rates* will be adjusted as follows:

(1) the department will first adjust the rates for inflation, using the CMS Home Health Agency Market Basket in the most recent quarterly publication of Global Insight's *Healthcare Cost Review* available 60 days before July 1;

(2) after adjusting the rates for inflation, the department will further adjust them to reflect regional differences in the cost of doing business based on the designated planning regions described in Table I-1 of the *Alaska Geographic Differential Study 2008*, dated April 30, 2009 and adopted by reference in 7 AAC 160.900, with a factor of 1.00 being the lowest factor applied and with the four southeast regional factors being averaged to a single weighted applicable factor of 1.09.

(h) For the types of service listed in (f) of this section, other than intensive active treatment services provided under 7 AAC 130.275,

(1) if the provider's average per-unit allowed amount for the type of service, for claims with dates of service after June 30, 2009 and before October 1, 2009, and processed before February 3, 2010, is higher than the rate established under (f) of this section, the recipient care rate before January 1, 2014 is the average per-unit allowed amount for the period after June 30, 2009 and before October 1, 2009;

(2) if the provider's average per-unit allowed amount for the type of service, for claims with dates of service after June 30, 2009 and before October 1, 2009, and processed

before February 3, 2010, is lower than the rate established under (f) of this section, the recipient care rate will be calculated as follows:

(A) before July 1, 2011, the service will be paid at a rate calculated as 75 percent of the average allowed amount for claims with dates of service after June 30, 2009 and before October 1, 2009 that were processed before February 3, 2010, plus 25 percent of the rate established under (f) of this section;

(B) after June 30, 2011 and before July 1, 2012, the service will be paid at a rate calculated as 50 percent of the average allowed amount for claims with dates of service after June 30, 2009 and before October 1, 2009 that were processed before February 3, 2010, plus 50 percent of the rate established under (f) of this section;

(C) after June 30, 2012 and before July 1, 2013, the service will be paid at a rate calculated as 25 percent of the average allowed amount for claims with dates of service after June 30, 2009 and before October 1, 2009 that were processed before February 3, 2010, plus 75 percent of the rate established under (f) of this section;

(D) after June 30, 2013, the service will be paid at the amount established under (f) and (j) of this section.

(i) A rate established under (h)(1) of this section will not be adjusted under (g) of this section until the rate is re-established in accordance with (j) of this section. After the rate is re-established, it will be adjusted in accordance with (g) of this section. The portion of a rate established under (h)(2) of this section that is based on (f) of this section will be adjusted in accordance with (g) of this section.

(j) On or after January 1, 2014, rates of payment established in the *Chart of Personal*

Care Attendant and Waiver Service Rates, as adjusted under (g) of this section, and except as provided in (k) of this section, will be re-established at least every four years based on the requirements of 7 AAC 145.531 - 7 AAC 145.537, and the results of provider cost surveys submitted in accordance with 7 AAC 145.533 - 7 AAC 145.537, using cost survey costs from the provider's first fiscal year beginning on or after January 1, 2011, with the cost surveys due to the department nine months after the end of the provider's fiscal year. In determining per diem payment rates under this subsection, the cost of room and board will be removed from cost survey costs at \$40 per day.

(k) Cost survey information submitted by state-owned and operated providers for residential supported-living services provided under 7 AAC 130.255 will be used solely to re-establish rates for state-owned and operated providers for residential supported-living services provided under 7 AAC 130.255.

(l) If a provider does not submit a complete annual report in accordance with the requirements of 7 AAC 145.531 - 7 AAC 145.537 on or before the due date of the report, and

(1) received less than \$200,000 in Medicaid payments during the report year,

(A) the department will consider the provider to have exercised the option under 7 AAC 145.535(b) not to comply with the requirements of 7 AAC 145.531 and 7 AAC 145.535;

(B) the department will reduce the payment rate to the provider by 10 percent, effective 30 days after the due date, if an audited financial statement is not provided in accordance with 7 AAC 145.531(e)(2), with the payment reduction remaining in effect until a complete annual report is received in accordance with 7 AAC

145.531(e);

(C) the department will reduce the payment rate to the provider by an additional 10 percent, effective 30 days after the due date, if a working trial balance and documents required under 7 AAC 145.531(e)(1), (4), or (5) are not provided, with the payment reduction remaining in effect until a complete annual report is received in accordance with 7 AAC 145.531(e); and

(D) the provider is not subject to removal from the Medicaid program for exercising the option under 7 AAC 145.535(b);

(2) received \$200,000 or more in Medicaid payments during the report year,

(A) the department will reduce the payment rate to the provider by 20 percent, effective 30 days after the report is due, with the payment reduction remaining in effect until a complete annual report is received in accordance with 7 AAC 145.531(e); and

(B) the provider is subject to removal from the Medicaid program in accordance with 7 AAC 145.531(a).

(m) A qualified recipient receiving residential supported-living services under 7 AAC 130.255 that are assigned procedure code T2031 in the *Healthcare Common Procedure Coding System (HCPCS)*, adopted by reference in 7 AAC 160.900, or group-home habilitation services under 7 AAC 130.265 that are assigned procedure code T2016 in the *Healthcare Common Procedure Coding System*, is eligible for an acuity rate of \$320 per approved day in addition to the qualified recipient's daily rate provided for under (f) and (h) of this section. For purposes of this subsection, a qualified recipient is a recipient whose plan of care developed and approved

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under 7 AAC 130.230 documents and requires that the recipient receive dedicated one-on-one staffing 24 hours per day.

(n) If a recipient has been determined eligible for Medicaid coverage under 7 AAC 100.002(d)(8), the recipient's income, exclusive of the personal needs allowance and other deductions described in 7 AAC 100.550 - 7 AAC 100.579 is a prior resource for home and community-based waiver services. Once the department has determined the recipient's monthly liability under 7 AAC 100.550 - 7 AAC 100.579, the recipient shall pay that liability toward the cost of care for home and community-based waiver services. If a recipient is receiving residential supported living services under 7 AAC 130.255, the recipient shall pay the liability first to the recipient's residential supported-living services provider, and second to other home and community-based waiver services providers if any monthly liability remains. (Eff. 2/1/2010, Register 193; am 3 / 1 / 2011, Register 197)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.045

7 AAC 145.530 is repealed:

7 AAC 145.530. Home and community-based waiver services; nursing facility and ICF/MR level-of-care determination of administrative and general cost rates. Repealed. (Eff. 2/1/2010, Register 193; repealed 3 / 1 / 2011, Register 197)

7 AAC 145 is amended by adding new sections to read:

7 AAC 145.531. Personal care services or home and community-based waiver services accounting and reporting. (a) As a condition of participation, a provider of personal

care services under 7 AAC 125.010 - 7 AAC 125.199 or home and community-based waiver services under 7 AAC 130.200 - 7 AAC 130.319 shall comply with the accounting and reporting requirements of this section, except that the requirements of this section do not apply to

(1) a provider that exercises the option under 7 AAC 145.535(b) not to comply with the requirements of this section and 7 AAC 145.535;

(2) any of the following providers, if the provider does not provide any other type of personal care service or home and community-based waiver service:

(A) a provider of specialized private-duty nursing services under 7 AAC 130.285;

(B) a provider of environmental modification services under 7 AAC 130.300;

(C) a provider of specialized medical equipment and supplies under 7 AAC 130.305.

(b) A provider shall maintain a system of accounts, records, and books to document and track financial and statistical information related to personal care services provided under 7 AAC 125.010 - 7 AAC 125.199 or home and community-based waiver services provided under 7 AAC 130.200 - 7 AAC 130.319. A provider is responsible for ensuring that financial and statistical information is adequate to report annual costs and usage by each home and community-based waiver service provided.

(c) A provider, other than a state-owned and operated provider, shall base all financial and statistical information on an accrual method of accounting and comply with generally accepted accounting principles. For the provider to base financial and statistical information on

an accrual method of accounting,

(1) revenues must be reported in the period earned, regardless of when the payment was received; and

(2) costs must be reported in the period in which they were incurred.

(d) A provider's accounting system must be adequate to separate allowable costs from nonallowable costs and capable of producing detailed reporting of allowable costs by home and community-based waiver service. Nonallowable costs and costs not related to the provision of recipient services must be separately tracked and reported.

(e) A provider shall submit an annual report no later than nine months after the end of the provider's fiscal year. The report must be a consolidated report and consist of

(1) a cover sheet or letter signed by the chief executive officer indicating that the submitted information is complete and accurate to the best of the officer's knowledge;

(2) audited financial statements completed in accordance with generally accepted auditing standards (GAAS) or generally accepted government auditing standards (GAGAS);

(3) a post-audit working trial balance that ties to the audited financial statements;

(4) a completed statistics worksheet from the department's *Cost Survey*, adopted by reference in 7 AAC 160.900; the provider shall complete the worksheet in accordance with the *Cost Survey 2011 Instructions*, adopted by reference in 7 AAC 160.900, and shall submit a completed worksheet regardless of whether the department requests a complete cost survey in accordance with 7 AAC 145.535; and

(5) a complete cost survey in accordance with 7 AAC 145.535, if the department has requested one.

(f) A state-owned and operated provider is exempt from the requirement to submit audited financial statements and a post-audit working trial balance. (Eff. 3 / 1 / 2011, Register 197)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.045
AS 47.07.030

7 AAC 145.533. Personal care services or home and community-based waiver services allowable costs. (a) For purposes of 7 AAC 145.531 - 7 AAC 145.537, costs are allowable costs if they are reasonable, necessary, and related to the service provided. For purposes of this section,

(1) a cost is reasonable if the amount expended does not exceed what a prudent buyer who seeks to minimize costs would pay for an item or service; and

(2) a cost, direct or indirect, is necessary if it is appropriate in developing and maintaining the required standard of operation for providing recipient care in accordance with state law.

(b) Allowable costs include, subject to (a) of this section,

(1) wages, salaries, and associated costs; those costs must be commensurate with compensation paid for equivalent staff positions or similar duties on a state-specific industry level; the provider shall support each cost with a timesheet, or other contemporaneous documentation, that supports time worked and the category of service if applicable; in this paragraph, "associated costs" include

(A) payroll taxes;

- (B) insurance for
 - (i) the owner-employee;
 - (ii) an employee who is a related party; and
 - (iii) other employees and staff;
- (C) payments for contract labor services; and
- (D) other labor costs that can be tied directly to recipient care;
- (2) travel costs for recipients and providers including transportation, per diem, and meal allowances that are an allowable element of a covered service;
- (3) the costs of items or services purchased for recipients that are necessary to carry out the recipients' approved plans of care;
- (4) board of directors' expenses, including travel and training costs directly associated with board functions on behalf of the provider, but excluding lobbying activities;
- (5) bonuses to owners or other related parties, except that to be allowable, bonuses
 - (A) may not represent any form of profit sharing or distribution of profits;
 - (B) may not be determined on the level of profit earned by the provider;
 - (C) must be clearly defined in a written agreement or employment policy;
 - (D) may not be made only to related parties;
 - (E) must be based upon the same criteria for all members of the same employee classification type; in determining the employee classification type, part-time employees may be considered a different classification type than full-time employees;
 - (F) must be made available to all employees of the same classification

type; however, if the employee classification type predominantly consists of related parties, the bonuses are nonallowable costs; and

(G) may not be made available only to employees who are officers, stockholders, or the highest paid individuals of the organization, and may not otherwise discriminate in favor of certain employees;

(6) general service costs, including the costs of

(A) personal services and associated benefits, training, and travel of the owner, the provider's executive director, and the provider's secretarial, clerical, accounting, and other administrative staff;

(B) office equipment, including leased equipment, supplies, postage, related professional subscriptions, and associated procurement costs;

(C) rent, a lease, interest on capital loans, utilities, equipment, security systems, and routine maintenance; and

(D) professional dues for professional staff;

(7) contractual costs for consulting, legal, and financial accounting and auditing services directly related to the provision of care;

(8) insurance expenses, including professional liability, automobile, and facility coverage, and bonding;

(9) advertising costs limited to

(A) announcing the opening of or change of name of a facility;

(B) recruitment of personnel;

(C) advertising for the procurement or sale of items;

- (D) obtaining bids for construction or renovation;
- (E) advertising for a bond issue;
- (F) informational listing of a provider in a telephone directory;
- (G) listing a facility's hours of operation; and
- (H) advertising specifically required as part of a provider's accreditation

process; and

(10) depreciation expense on assets used in the provision of covered service care to the extent the useful lives are no shorter than the useful life allowed under 26 U.S.C. (Internal Revenue Code) by the United States Department of the Treasury, Internal Revenue Service for federal income tax purposes; equipment expense is allowable only in accordance with generally accepted accounting principles.

(c) Nonallowable costs include

- (1) items or services purchased for recipients that are not necessary to carry out approved plans of care;
- (2) lobbying expenses;
- (3) fund raising expenses;
- (4) contingency funds;
- (5) fines, penalties, and bad debts;
- (6) contributions or donations;
- (7) entertainment expenses, including meals, banquets, gratuities, and decorations;
- (8) organization dues that are based on a percentage of grant award amounts;

(9) other costs not allowed under requirements or special conditions related to other state grant awards to the provider;

(10) public relations and community education expenses related to advertisements, brochures, newsletters, marketing, surveys, and staff and community development activities; and

(11) costs incurred by a provider related to a court or administrative proceeding initiated by a provider, except that costs incurred on an issue in a court or administrative proceeding originally initiated by a provider are allowable costs if the provider is the prevailing party on the issue under a final order, and the rules governing the proceedings do not make provision for the award of fees and costs to a prevailing party. (Eff. 3/1/2011, Register 197)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.045
AS 47.07.030

7 AAC 145.535. Personal care services or home and community-based waiver services cost survey. (a) As a condition of participation, a provider of personal care services under 7 AAC 125.010 - 7 AAC 125.199 or home and community-based waiver services under 7 AAC 130.200 - 7 AAC 130.319 shall comply with the cost survey requirements of this section, except that the requirements of this section do not apply to

(1) a provider that exercises the option under (b) of this section not to comply with the requirements of 7 AAC 145.531 and this section;

(2) any of the following providers, if the provider does not provide any other type

of personal care service or home and community-based waiver service:

(A) a provider of specialized private-duty nursing services under 7 AAC 130.285;

(B) a provider of environmental modification services under 7 AAC 130.300;

(C) a provider of specialized medical equipment and supplies under 7 AAC 130.305.

(b) If a provider of personal care services under 7 AAC 125.010 - 7 AAC 125.199 or home and community-based waiver services under 7 AAC 130.200 - 7 AAC 130.319 received less than \$200,000 in Medicaid payments during the report year, the provider may exercise the option not to comply with the requirements of 7 AAC 145.531 and this section, subject to the payment limitations of 7 AAC 145.520(l).

(c) The department will conduct a cost survey at least every four years. In conducting the cost survey, the department will

(1) notify the provider of the due date for the survey report at least three months before the survey is due;

(2) provide notification to the provider of the provider's fiscal year that the cost survey is to address; and

(3) require the use of the department's *Cost Survey* and *Cost Survey 2011 Instructions*, adopted by reference in 7 AAC 160.900.

(d) The department will evaluate the costs reported by providers to determine the relationship to recipient care and to determine whether individual cost survey reports are

reasonable and accurate for use in rate-setting determinations.

(e) A provider shall report in a manner consistent with generally accepted accounting principles, unless otherwise specified in the *Cost Survey 2011 Instructions*, adopted by reference in 7 AAC 160.900. Accurate cost reporting is the responsibility of the provider. The provider is responsible for including in the cost survey report all costs incurred, based on an accrual method of accounting, and in accordance with allowable and nonallowable cost provisions in 7 AAC 145.531 - 7 AAC 145.537 and other applicable provisions of 7 AAC 105 - 7 AAC 160. The cost survey report is limited to actual allowable costs and other financial and statistical information. The provider may not impute or report a cost on the cost survey if

- (1) the cost was not actually incurred; or
- (2) documentation does not exist for the cost, even if the cost was actually incurred during the reporting period.

(f) A provider shall maintain adequate documentation to support the compensation of owners and other related parties. If a provider fails to provide adequate documentation upon request to substantiate the cost to the related party, and if that cost exceeds \$5,000, the reported cost is nonallowable. The minimum documentation for each owner or related party cost in excess of \$5,000 is

- (1) identification of the related party's total cost;
- (2) the basis of allocation of direct and indirect costs to the provider;
- (3) other business entities served by the related party;
- (4) a detailed written description of actual duties, functions, and responsibilities;
- (5) documentation substantiating that the services performed were not duplicative

of services performed by other employees;

(6) daily timesheets or other documentation verifying the hours and days worked;

(7) the total amount of compensation paid for these duties, with a breakdown detailing regular salary, overtime, bonuses, benefits, and other payments;

(8) documentation of regular, periodic payments or accruals of the compensation;

and

(9) if applicable, a detailed allocation worksheet indicating how the total compensation was allocated across all business components that received benefit of the effort.

(g) Allowable expenses in related-party transactions are reported on the cost survey report at the cost to the related party. However, those costs may not exceed the price of comparable services, equipment, facilities, or supplies that could be purchased or leased elsewhere in an arm's length transaction.

(h) Total expenses on the cost survey must match the audited financial statements.

(i) The department may determine a cost survey report to be unacceptable and return it to the provider for

(1) use of an incorrect cost-reporting period;

(2) failure to provide required financial and statistical data or providing inaccurate financial and statistical data;

(3) failure to maintain all work papers and any other records that support the information submitted on the cost survey report relating to all allocations, cost centers, cost or statistical line items, and schedules; or

(4) failure to complete the cost survey report in accordance with 7 AAC

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145.531 - 7 AAC 145.537, other applicable provisions of 7 AAC 105 - 7 AAC 160, and the *Cost Survey 2011 Instructions*, adopted by reference in 7 AAC 160.900.

(j) A provider shall maintain records to support cost survey information related to all expenses, allocations, statistical data, surveys, and schedules. Upon review of the cost survey report and the supporting documents listed in the *Cost Survey 2011 Instructions*, the department may make a written request for clarification, additional information, or additional documents. No later than 21 days after the department issues the request, the provider shall provide the requested clarification, additional information, or additional documents.

(k) Documentation for all costs reported on the cost survey report must be available for review and maintained for a minimum of seven years.

(l) If documentation is inadequate to support a reported cost, the department will disallow the cost. (Eff. 3 / 1 / 2011, Register 197)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.045
AS 47.07.030

7 AAC 145.537. Related parties for purposes of personal care services or home and community-based waiver services. For purposes of 7 AAC 145.531 - 7 AAC 145.537, a related party is

(1) a person with an immediate family relationship with an owner, director, or officer of the contracted provider; for purposes of this paragraph, the following individuals have an immediate family relationship with an owner, director, or officer of the contracted provider:

(A) a spouse;

- (B) a natural parent, child, or sibling;
- (C) an adopted parent, child, or sibling;
- (D) a stepparent, stepchild, or stepsibling;
- (E) a father-in-law, mother-in-law, brother-in-law, son-in-law, sister-in-law, or daughter-in-law;
- (F) a grandparent or grandchild;
- (G) an uncle or aunt by blood or marriage;
- (H) a first cousin by blood or marriage;
- (I) a nephew or niece by blood or marriage;

(2) a member of the provider's board of directors or board of trustees;

(3) a person or organization that is affiliated or associated with the provider in a manner that permits either entity to exercise over the other, directly or indirectly, a degree of ownership, legal control, or practical influence beyond that which occurs in an arm's length transaction. (Eff. 3 / 1 / 2011, Register 197)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.045
AS 47.07.030

7 AAC 160.900(d)(10) is repealed and readopted to read:

(10) the *Chart of Personal Care Attendant and Waiver Services Rates 2011*, dated January 21, 2011, for providers of personal care services under 7 AAC 125.010 - 7 AAC 125.199 and home and community-based waiver services under 7 AAC 130.200 - 7 AAC 130.319;

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7 AAC 160.900(d)(18) is amended to read:

(18) the *Specialized Medical Equipment Fee Schedule* 2011, dated January 21, 2011, [2006] for home and community-based waiver services;

7 AAC 160.900(d) is amended by adding new paragraphs to read:

(24) the *Alaska Geographic Differential Study 2008*, Table I-1, dated April 30, 2009;

(25) the *Cost Survey and Cost Survey 2011 Instructions*, dated January 21, 2011, for providers of personal care services under 7 AAC 125.010 - 7 AAC 125.199 and home and community-based waiver services under 7 AAC 130.200 - 7 AAC 130.319.

(Eff. 2/1/2010, Register 193; am 8/25/2010, Register 195; am 12/1/2010, Register 196; am 1/1/2011, Register 196; am 1/15/2011, Register 197; am 2/9/2011, Register 197; am

3 / 1 / 2011, Register 197)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040
AS 47.05.012

Editor's note: The department's *Handicapping Labiolingual Deviation (HLD) Index Report* adopted by reference in 7 AAC 160.900(d), may be obtained from the Affiliated Computer Services (ACS) web site at <http://www.medicaidalaska.com/providers/forms.shtml>, the department's Internet site at <http://www.hss.state.ak.us/dhcs/> or at the Department of Health and Social Services, Division of Health Care Services, 4501 Business Park Boulevard, Suite 24, Anchorage, AK 99503-7167.

The American Medical Association's *Current Procedural Terminology (CPT), Professional Edition*; the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services's (CMS) *Healthcare Common Procedure Coding System (HCPCS)*, the *International Classification of Diseases - 9th Revision, Clinical Modification (ICD-9-CM)*, and the American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders (DSM)*, all adopted by reference in 7 AAC 160.900, may be obtained by contacting the Order Department, American Medical Association, P.O. Box 930876, Atlanta, Georgia 31193-0876, or by visiting the AMA Bookstore at Internet address: <https://catalog.ama-assn.org/Catalog/home.jsp>. These publications may also be available at other retail book sellers. A copy of each of these publications is available for examination at the Department of Health and Social Services, Division of Health Care Services, 4501 Business Park Boulevard, Suite 24, Anchorage, Alaska 99503-7167 or the Office of the Commissioner, 350 Main Street, Juneau, Alaska 99801.

The American Psychiatric Association's *Diagnostic and Statistical Manual of Mental Disorders*, adopted by reference in 7 AAC 160.900, may also be obtained from American Psychiatric Publishing, Inc., 1000 Wilson Boulevard, Suite 1825, Arlington, Virginia 22209-3901, telephone (703) 907-7322 or (800) 368-5777; or from the American Psychiatric Association at the following electronic mail address: apa@psych.org.

The United States Department of Health and Human Services, National Institutes of Health's *Glossary of Terms for Human Subjects Protection and Inclusion Issues*, adopted by reference in 7 AAC 160.900, may be obtained by contacting the Department of Health and Social Services, Division of Health Care Services, 4501 Business Park Boulevard, Suite 24,

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Anchorage, Alaska 99503-7167 or at the National Institutes of Health Internet address:

http://grants.nih.gov/grants/peer/tree_glossary.pdf

The Federal Register may be obtained through the nearest public library. If the Federal Register is not available at your nearest library, the material can be obtained by the library through the interlibrary loan system. It may also be obtained at <http://www.gpoaccess.gov>.

The American Society of Anesthesiologists' *Relative Value Guide*, adopted by reference in 7 AAC 160.900, may be obtained by contacting American Society of Anesthesiologists, 520 N. Northwest Highway, Park Ridge, Illinois 60068-2573, Internet address:

<http://www2.asahq.org/publications/>.

The nonfacility individual relative value units (RVUs) for the Medicare program, and the geographic practice cost indices (GCPI) for this state, adopted by reference in 7 AAC 160.900, may be reviewed at the Department of Health and Social Services, Division of Health Care Services, 4501 Business Park Boulevard, Suite 24, Anchorage, Alaska 99503-7167.

Drug Facts and Comparisons, adopted by reference in 7 AAC 160.900, may be obtained from the publisher, Wolters Kluwer Health, Inc., by telephone at 800-223-0554 or 314-216-2100. The book may also be ordered from the publisher at <http://www.drugfacts.com> or by writing to the following address: Wolters Kluwer Health, Inc., 111 West Port Plaza Drive, Suite 300, St. Louis, Missouri 63146-3098. A copy of this document is available for examination at the Department of Health and Social Services, Division of Health Care Services, 4501 Business Park Boulevard, Suite 24, Anchorage, Alaska 99503-7167.

Alternative Link's *ABC Coding Manual for Integrative Healthcare*, adopted by reference in 7 AAC 160.900, may be obtained from Alternative Link, 6121 Indian School Road NE, Suite

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131, Albuquerque, New Mexico 87110; telephone: (505) 875-0001, toll free: (877) 621-5465; fax: (505) 875-0002; or the following Internet address:

http://www.alternativelink.com/ali/contact_us/. A copy of this document is available for examination at the Department of Health and Social Services, Division of Health Care Services, 4501 Business Park Boulevard, Suite 24, Anchorage, Alaska 99503-7167.

The *Inventory for Client and Agency Planning*, adopted by reference in 7 AAC 160.900, is available for inspection at the Department of Health and Social Services, Division of Senior and Disabilities Services, Court Plaza Building, 240 Main Street, Suite 602, Juneau, Alaska.

A copy of the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services' (CMS) *DMEPOS Fee Schedule*, adopted by reference in 7 AAC 160.900, may be obtained from the Department of Health and Social Services, Division of Health Care Services, 4501 Business Park Boulevard, Suite 24, Anchorage, Alaska 99503-7167.

The United States Department of Health and Human Services, Centers for Medicare and Medicaid Services' (CMS) *Ambulatory Surgical Centers (ACS) Approved HCPCS Codes and Payment Rates* spreadsheet, adopted by reference in 7 AAC 160.900, may be obtained by contacting the Superintendent of Documents, United States Government Printing Office, Washington, D.C. 20402. A copy of this spreadsheet is available for examination at the Department of Health and Social Services, Division of Health Care Services, 4501 Business Park Boulevard, Suite 24, Anchorage, AK 99503-7167 or may be found at the following CMS Internet address: http://www.cms.hhs.gov/ASCPayment/01_Overview.asp.

The United States Department of Health and Human Services, Public Health Service's

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Quick Reference Guide for Clinicians: Treating Tobacco Use and Dependence, adopted by reference in 7 AAC 160.900, may be obtained by contacting any of the following Public Health Service clearinghouse telephone numbers: Agency for Healthcare Research and Quality (AHRQ), (800) 358-9295; Centers for Disease Control and Prevention (CDC), (800) CDC-1311 ((800) 232-1311); National Cancer Institute (NCI), (800) 4-CANCER ((800) 422-6237). The publication may also be obtained at the following Internet address:
www.surgeongeneral.gov/tobacco/tobaqrg.pdf.

The United States Internal Revenue Service optional standard mileage rate for medical purposes announcement IR-2008-82, published June 23, 2008, and adopted by reference in 7 AAC 160.900, may be obtained from the Internal Revenue Service at the following Internet address: <http://www.irs.gov/newsroom>.

The *Child and Adolescent Functional Assessment Scale*, adopted by reference in 7 AAC 160.900, may be obtained by writing to Functional Assessment Systems, 3600 Green Court, Suite 110, Ann Arbor, MI 48105, or may be inspected at the Department of Health and Social Services, Division of Behavioral Health, 3601 C Street, Suite 878, Anchorage, Alaska.

A copy of the *Wraparound Fidelity Index 4 (WFI-4)*, adopted by reference in 7 AAC 160.900, may be obtained by contacting the Wraparound Evaluation and Research Team, Division of Public Behavior Health and Justice Policy, University of Washington, 2815 Eastlake Avenue East, Suite 200, Seattle, WA 98102; e-mail: debruns@u.washington.edu.

The department's *Alaska Medicaid Preferred Drug List*, *Alaska Medicaid Prior-Authorized Medications List*, and *Select Diagnoses and Procedures Pre-certification List*, adopted by reference in 7 AAC 160.900, may be obtained from the Department of Health and

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Social Services, Division of Health Care Services, 4501 Business Park Boulevard, Suite 24, Anchorage, AK 99503-7167; or may be obtained at the department's Internet site at <http://www.hss.state.ak.us/dhcs/>.

The *Durable Medical Equipment Prior Authorization List*, adopted by reference in 7 AAC 160.900, may be obtained from the Department of Health and Social Services, Division of Health Care Services, 4501 Business Park Boulevard, Suite 24, Anchorage, Alaska 99503-7167.

The *Table of ICAP Scores by Age, Consumer Assessment Tool (CAT), and PCAT Authorized Services Plan*, adopted by reference in 7 AAC 160.900, are available for inspection at the Department of Health and Social Services, Division of Senior and Disabilities Services, Court Plaza Building, 240 Main Street, Suite 602, Juneau, Alaska.

The *Home and Community-Based Waiver Services Certification Application Packet*, adopted by reference in 7 AAC 160.900, may be obtained by writing to the Department of Health and Social Services, Division of Senior and Disabilities Services, P.O. Box 110680, Juneau, Alaska 99811-0680, or may be inspected at the Department of Health and Social Services, Division of Senior and Disabilities Services, Court Plaza Building, 240 Main Street, Suite 602, Juneau, Alaska.

The *Personal Care Assistant Agency Certification Application Packet*, adopted by reference in 7 AAC 160.900, may be obtained from the Department of Health and Social Services, Division of Senior and Disabilities Services, 3601 C Street, Suite 310, Anchorage, Alaska 99503.

[THE CURRENT WAIVER SERVICES REGULATORY RATES TABLE DATED

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JULY 1, 2008 AND ADOPTED BY REFERENCE IN 7 AAC 160.900, MAY BE OBTAINED BY CONTACTING THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DIVISION OF SENIOR AND DISABILITY SERVICES, P.O. BOX 110680, JUNEAU, ALASKA, 99811-0680. THE WAIVER SERVICE REGULATORY RATES TABLE IS ALSO POSTED ON THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DIVISION OF SENIOR AND DISABILITIES SERVICES' WEBSITE AT [HTTP://HSS.STATE.AK.US/DSDS/GRANTSERVICES/HCBPROVIDERRESOURCES.HTM](http://HSS.STATE.AK.US/DSDS/GRANTSERVICES/HCBPROVIDERRESOURCES.HTM).]

The FY 2010 - 2011 New Funding Formula for Title III and Title V Programs table, page 106, of the Alaska Commission on Aging *Alaska State Plan for Senior Services, FY 2008 - FY 2011*, adopted by reference in 7 AAC 160.900, may be obtained by contacting the Department of Health and Social Services, Division of Senior and Disability Services, P.O. Box 110680, Juneau, Alaska 99811-0680. The Alaska Commission on Aging *Alaska State Plan for Senior Services, FY 2008 - FY 2011* [STATE PLAN FOR SENIOR SERVICES] is also posted on the Department of Health and Social Services, Alaska Commission on Aging's Internet site at http://www.alaskaaging.org/documents/statePlanFinalFY08_FY11.pdf.

A copy of the *Alaska Immunization Recommendations*, adopted by reference in 7 AAC 160.900 may be obtained by contacting the Department of Health and Social Services, Division of Public Health, Section of Epidemiology, P.O. Box 240249, Anchorage, Alaska 99524 or visiting its web site at <http://www.epi.hss.state.ak.us/id/immune.stm>.

The *Alaska Periodicity Schedule for Child and Adolescent Health Screening*, with reference notes, adopted by reference in 7 AAC 160.900, is available for examination at the Department of Health and Social Services, Division of Health Care Services, 4501 Business Park

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Boulevard, Suite 24, Anchorage, AK 99503-7167.

The *Addresses for Second Level Provider Appeals list* [LIST], adopted by reference in 7 AAC 160.900, may be obtained from the Department of Health and Social Services, Division of Health Care Services, 4501 Business Park Boulevard, Suite 24, Anchorage, Alaska 99503-7167.

Sections of the Alaska *Provider Billing Manual*, adopted by reference in 7 AAC 160.900(d), may be obtained at the following Affiliated Computer Services, Inc. Internet site: <http://www.medicaidalaska.com/providers/Billing.shtml>, or may be obtained by contacting the Department of Health and Social Services, Division of Health Care Services, 4501 Business Park Boulevard, Suite 24, Anchorage, Alaska 99503-7167.

The *Specialized Medical Equipment Fee Schedule*, adopted by reference in 7 AAC 160.900, may be obtained by contacting the Department of Health and Social Services, Division of Senior and Disabilities Services, 3601 C Street, Suite 310, Anchorage, Alaska 99503-5684.

The *State of Alaska, Department of Health and Social Services, Behavioral Health Inpatient Psychiatric Review Provider Manual*, adopted by reference in 7 AAC 160.900, may be obtained by contacting Qualis Health, PO Box 243609, Anchorage, AK 99524-3609, or may be obtained at the following Qualis Health Internet site: <http://www.qualishealth.org> [WWW.QUALIS-HEALTH.ORG]/cm/alaska-medicaid/behavioral-health/. This manual is also available for inspection at the Department of Health and Social Services, Division of Behavioral Health, 3601 C Street, Suite 878, Anchorage, Alaska 99503.

The *Medicaid Hospital and Long-Term Care Facility Reporting Manual*, and the relevant pages from the Chart of Accounts for Hospitals, adopted by reference in 7 AAC 160.900, are

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available from the Office of Rate Review, Department of Health and Social Services, 3601 C Street, Ste 978, Anchorage, Alaska 99503.

The Medicaid Log of Uninsured Care Reporting Form, adopted by reference in 7 AAC 160.900, is available from the Department of Health and Social Services, DSH Program, P.O. Box 110660, Juneau, Alaska 99811-0660.

The department fee schedules, adopted by reference in 7 AAC 160.900(e), may be obtained by contacting the Department of Health and Social Services, Division of Health Care Services, 4501 Business Park Boulevard, Suite 24, Anchorage, Alaska 99503-7167, or may be obtained at the following Affiliated Computer Services, Inc.'s Internet site:

<http://www.medicaidalaska.com/providers/FeeSchedule.asp>

On October 5, 2010, as required by AS 44.62.245 and AS 47.05.012, the department gave notice that the following amended version of material, previously adopted by reference in 7 AAC 160.900, would be in effect on October 1, 2010: the 2011 version of the American Medical Association's International Classification of Diseases - 9th Revision, Clinical Modification, (ICD-9-CM). The amended version may be reviewed at the Department of Health and Social Services, Division of Health Care Services, 4501 Business Park Boulevard, Suite 24, Anchorage, Alaska, 99503-7167.

The Magellan Medicaid Administration *Alaska Medicaid MAC Price Research Request Form* may be obtained from First Health Services, Magellan Medicaid Administration at:

<http://www.medicaidalaska.com>

The department's *Orthodontia Services Statement of Coverage*, adopted by reference in 7 AAC 160.900, may be obtained from the department's Internet website at

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<http://www.hss.state.ak.us/dhcs/> or at the Department of Health and Social Services, Division of Health Care Services, 4501 Business Park Boulevard, Suite 24, Anchorage, Alaska, 99503-7167.

The *Chart of Personal Care Attendant and Waiver Services Rates*, adopted by reference in 7 AAC 160.900, may be obtained by contacting the Department of Health and Social Services, Division of Senior and Disabilities Services, P.O. Box 110680, Juneau, Alaska 99811-0680. The *Chart of Personal Care Attendant and Waiver Services Rates* is also posted on the Division of Senior and Disabilities Services' website at <http://www.hss.state.ak.us/dsds/providerresources.html>.

The *Cost Survey and Cost Survey 2011 Instructions*, adopted by reference in 7 AAC 160.900, may be obtained by contacting the Department of Health and Social Services, Division of Senior and Disabilities Services, P.O. Box 110680, Juneau, Alaska 99811-0680. The materials are also posted on the Division of Senior and Disabilities Services' website at <http://www.hss.state.ak.us/dsds/providerresources.html>.