

AADD
ALASKA ASSOCIATION ON
DEVELOPMENTAL DISABILITIES
P.O. Box 241742
Anchorage, Alaska 99524

To facilitate a united provider voice for best practices, advocacy, partnerships and networking.

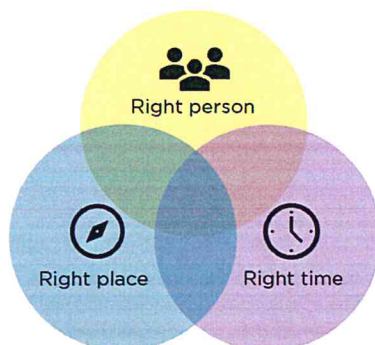
September 27, 2019

Ms. Jetta Whitaker
Division of Senior & Disability Services
P.O. Box 110680
Juneau, AK. 99811

Comments on Proposed Changes to 7AAC.1300 Medicaid Coverage, Home and Community-Based Waiver Services, Day Habilitation Services Amendments

Dear Ms. Whittaker:

The Alaska Association on Developmental Disabilities (AADD) is the voice of almost 50 organizations providing services to those who experience developmental disabilities from Ketchikan to Kotzebue through the Home and Community Based waiver system.



For the past decade, the Department of Health and Social Services has emphasized the mantra “the right service to the right person in the right place at the right time (& the right price)”. AADD has worked collaboratively with the Senior and Disabilities Services in striving for this goal.

During 2016, extensive stakeholder workgroups were convened to identify more cost effective services than day habilitation that would meet community integration goals for recipients needing safety and monitoring supports. Consensus was reached that replacing portions of the “active teaching and training” components at lower cost (between hourly respite & day habilitation), “Companion Services” also aligned with the Shared Vision of flexible services and meaningful lives.

In the absence of the “right” companion service, day habilitation becomes the primary default for recipients to safely integrate into the community without natural supports. Although day habilitation caps were regulated in 2017, the lack of companion services availability was recognized by legislative directive HB286 – Operating Budget (SLA 2018) that companion services should be established.

The proposed day habilitation regulations specifically prohibit “only companionship for or supervision of a recipient” 7 AAC 130.260(b)(5)(B) which is unreasonable without the appropriate companion service being offered in the same regulation package. These conditions further restrict access to a community engagement service which has been significantly reduced through caps.

Recommendation: Suspend the proposed day habilitation changes until companion services are included as a viable alternative

AADD supports the effort to clarify habilitation definitions. For example, “active teaching or training that assists the recipient to acquire, retain or improve skills related to self-help, socialization, appropriate behavior and adaption..... to promote, reinforce, or retain skills” as in 7 AAC 130.260(b). Researching recommendations for optimal length of training sessions within educational systems reveal intervals varying from 30 minutes to 1 hour but 15 minute units are conspicuously absent. Teaching and training requires repetition and practice, which are rarely accomplished in such short intervals, especially for individuals with developmental disabilities. Documenting active teaching or training for 15 minute intervals is not an educational norm, and detracts from individuals to participating in the community in a meaningful ways.

Recommendation: Increase day habilitation to 30 minute or 1 hour units instead of 15 minute units

Another concern expressed by AADD members is the proposed reduction of flexible utilization of the annualized day habilitation hours approved. Noteworthy, is the removal of “soft” cap language (which was an important concept to the legislature) when the original service caps were proposed. Providers advocated strongly against a weekly average authorization in the previous regulations but during person-centered planning, using a weekly average to calculate the total number of annual hours needed is appropriate. We understood this approach would allow for the authorized service to align with the varying needs of the individual throughout a plan year. Additional clarity in the regulation is needed to prevent rigidity and misinterpretation by support plan approvers if a partial year utilization review is necessary.

Recommendation: Specify in regulation that a variation in weekly utilization of hours is allowable and expected but may not exceed the annual amount authorized.

AADD objects to the addition of a narrow definition of “critical need” in the new section 7 AAC 130.260 (e) that would result in institutionalization within 30 days if additional units were not approved. This does not align with a person-centered approach towards crisis stabilization and habilitation approaches to maintaining the most cost-effective, least restrictive life in home and community based settings for recipients.

Recommendation: Remove this amendment as the need for additional units of service is already addressed in 7 AAC 130.260 (c)

AADD is concerned about the implication in 7 AAC 130.260(b)(5)(C) that day habilitation would displace activities or opportunities that natural supports would typically provide. This could be interpreted that waiver recipients have the same availability to natural supports. The proposed language is very subjective and not person-centered in identifying individual recipient needs.

Recommendation: The language should be changed to read “that natural supports provide”, deleting the words “would typically”.

AADD disagrees with the habilitation definition in 7 AAC 130.319 (B) which includes increasing “functioning of the recipient to the level comparable to that of the recipient’s peer.” This is extremely subjective and not person-centered. Each recipient is an individual with differing abilities and functioning levels so the term “peer” cannot be accurately defined.

Recommendation: Remove this language from the proposed regulations.

Round-trip transportation in 7AAC 130.260(b)(2) contradicts the expectation of delivering “active teaching and training” while paying proper attention to driving safely. Safety in transportation should minimize distractions, and transportation time detracts from teaching and training time without an alternative non-habilitative transportation authorized.

Recommendation: Allow transportation to be a part of day habilitation if written into the Plan of Care, when they have goals related to skill acquisition during transportation, but not as a required part of all day habilitation.

AADD appreciates the opportunity to provide collective public comment on behalf of its members and concludes that the proposed regulatory language fails to honor the explicit intent of SB 174 signed into law on August 25, 2018 to create a flexible, person-centered service delivery system towards meaningful lives, within available resources:

19 * Sec. 2. AS 47.80.130 (a) is amended to read:
20 (a) The department shall
21 (1) develop budgets and receive and distribute appropriations and
22 funds under this section;
23 (2) adopt regulations regarding standards of services and facilities for
24 persons with disabilities and the quality of services and the process by which services
25 are to be delivered;
26 (3) adopt any other regulations necessary to implement this chapter;
27 (4) provide technical assistance to public and private agencies in
28 planning, developing, and implementing programs to serve persons with disabilities;
29 (5) operate programs and facilities and enter into agreements,
30 contracts, or grants necessary to provide services required under this chapter;
31 (6) take the actions and undertake the obligations that are necessary to
01 participate in federal grant-in-aid programs and accept federal or other financial aid
02 for the study, examination, care, and treatment of persons with disabilities;
03 (7) take a flexible approach to administering programs for persons
04 with disabilities that allows each person to participate actively, with assistance
05 based on the person's strengths and abilities, in managing the person's support
06 services so that the person can achieve a meaningful life in the person's home,
07 job, and community.

AADD requests the revision of the proposed regulations to reflect these statutory requirements, and to incorporate these recommendations and other comments. AADD requests that the revisions are reissued for additional public comment.

Sincerely,



Michael Bailey
AADD President