

Comparison between HB 96 and Access rule requirements

Reference Links:

[Access Rule Interested Parties Advisory Group \(IPAG\)](#)

[Access Rule minimum provider performance](#)

[Access Rule key dates](#)

Date: April 2025

HB 96 CS	Access Rule provision	Comments and observations
Sec. 44.29.900. Home Care Employment Standards Advisory Board. The Home Care Employment Standards Advisory Board is established in the department.	Access rule: § 447.203(b)(6) The State agency must establish an advisory group for interested parties to advise and consult on provider rates with respect to service categories under the Medicaid State plan, 1915(c) waiver, and demonstration programs, as applicable, where payments are made to the direct care workers specified in § 441.311(e)(1)(ii) for the self-directed or agency-directed services found at § 440.180(b)(2) through (4) , and (6) .	
Sec. 44.29.905. Composition of the board. The board consists of (1) the commissioner of health or the commissioner's designee, who shall serve as the chair and is a nonvoting member, except in the case of a tie; (2) the commissioner of labor and workforce development or the	(ii) The interested parties advisory group must include, at a minimum, direct care workers, beneficiaries, beneficiaries' authorized representatives, and other interested parties impacted by the services rates in question, as determined by the State.	The proposed bill includes all of these parties, and meets standards in access rule

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<p>commissioner's designee, who is a nonvoting member; and</p> <p>(3) eight members appointed by the commissioner of health, as follows:</p> <p>(A) two voting members who represent covered providers, including at least one agency that provided at least 700,000 units of personal care services during the previous calendar year and one agency that provides habilitation services;</p> <p>(B) two voting members who represent direct care workers, at least one of whom is a labor representative of at least 300 direct care workers; a member appointed under this subparagraph may not be a representative of an organization or association that advocates for the interests of covered providers or agencies that provide covered services;</p> <p>(C) one voting member who is an enrollee or a representative of enrollees receiving covered services;</p> <p>(D) one voting member who represents the office within the department with responsibility for rate review;</p> <p>(E) one nonvoting member who represents the Alaska Commission on Aging or another organization that represents seniors in the state; and</p> <p>(F) one nonvoting member who represents the Governor's Council on Disabilities and</p>	<p>(iv) (...) The process by which the State selects interested party advisory group members and convenes its meetings must be made publicly available.</p>	

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Special Education established under AS 44.29.600 or another organization that represents people with disabilities in the state		
<p>Sec. 44.29.910. Term of office, vacancies, and removal of appointed members.</p> <p>(a) The members of the board appointed under AS 44.29.905(3) serve two-year terms and may be reappointed.</p> <p>(b) A member of the board appointed under AS 44.29.905(3) serves at the pleasure of the commissioner, except that the commissioner shall remove a member who no longer meets the qualifications of the seat for which the member was appointed.</p> <p>(c) The commissioner may appoint an individual to fill a vacancy under AS 44.29.905(3) only after providing public notice of the vacancy and soliciting applications for the appointment. The commissioner shall fill the vacancy within six months after the date the vacancy occurs. An appointment to fill the vacancy is for the remainder of the unexpired term.</p>	<p>Provisions around term of office and vacancies not included in Access rule.</p>	
<p>Sec. 44.29.915. Meetings. The board shall meet at the call of the chair. The board shall meet at least three times each year and shall hold additional meetings as often as necessary to accomplish the duties of the board. A meeting may be held by teleconference or other electronic means.</p>	<p>(iv) The interested parties advisory group shall meet at least every 2 years and make recommendations to the Medicaid agency on the sufficiency of State plan, 1915(c) waiver, and demonstration direct care worker payment rates, as applicable.</p> <p>The State agency will ensure the group has access to current and proposed payment</p>	<p>The bill complies with the federal access rule, and exceeds the requirement for the number of times the Board shall meet.</p>

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At each meeting, the board shall provide time for public testimony.	<p>rates, HCBS provider payment adequacy reporting information as described in § 441.311(e), and applicable access to care metrics as described in § 441.311(d)(2) for HCBS in order to produce these recommendations.</p> <p>The process by which the State selects interested party advisory group members and convenes its meetings must be made publicly available.</p>	
Sec. 44.29.920. Quorum. A majority of the voting members of the board constitute a quorum for the transaction of business, and a majority of a quorum present at a meeting is sufficient to approve a recommendation of the board.	N/A	Quorum is not referenced in the Access Rule.
Sec. 44.29.925. Compensation. Members of the board receive no compensation for service on the board but are entitled to per diem and travel expenses authorized for boards and commissions under AS 39.20.180.	N/A	Compensation for members of the Board is not reference in the access rule.
<p>Sec. 44.29.930. Powers and duties of the board.</p> <p>(a) The board shall</p> <p>(1) advise and consult with the department on the medical assistance program payment rates for covered services and payment rate adequacy and compliance with federal requirements regarding</p>	(iii) The interested parties advisory group will advise and consult with the Medicaid agency on current and proposed payment rates, HCBS payment adequacy data as required at § 441.311(e) , and access to care metrics described in § 441.311(d)(2) , associated with services found at § 440.180(b)(2) through (4) and (6) , to ensure	<p>The proposed bill complies with federal rules.</p> <p>(a)(2) of the bill describes duties in greater detail than is provided in the access rule, in order to avoid confusion and provide board members with clear directions.</p>

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<p>reporting of payment adequacy data;</p> <p>(2) investigate matters related to the wages, working conditions, and workforce adequacy of workers providing covered services in the state, including</p> <p>(A) the adequacy of wages, benefits, and other compensation to ensure the provision of quality services and sufficient levels of recruitment and retention;</p> <p>(B) the sufficiency of levels of recruitment for and retention of workers, particularly in an area that is not on a road system;</p> <p>(C) the sufficiency of service levels of and the effect of service level reductions on covered services, as the services pertain to wages and working conditions;</p> <p>(D) the adequacy and enforcement of training requirements;</p> <p>(E) the effect of workforce shortages on service recipients and on family members and friends of service recipients providing unpaid care, including compliance with federal requirements to report information to the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services, regarding wait times for covered services and the percentage of authorized hours for covered services;</p> <p>(F) the economic impact of achieving a living wage for direct care workers and</p>	<p>the relevant Medicaid payment rates are sufficient to ensure access to personal care, home health aide, homemaker, and habilitation services for Medicaid beneficiaries at least as great as available to the general population in the geographic area and to ensure an adequate number of qualified direct care workers to provide self-directed personal assistance services.</p> <p>(iv) The interested parties advisory group shall meet at least every 2 years and make recommendations to the Medicaid agency on the sufficiency of State plan, 1915(c) waiver, and demonstration direct care worker payment rates, as applicable. The State agency will ensure the group has access to current and proposed payment rates, HCBS provider payment adequacy reporting information as described in § 441.311(e), and applicable access to care metrics as described in § 441.311(d)(2) for HCBS in order to produce these recommendations. The process by which the State selects interested party advisory group members and convenes its meetings must be made publicly available.</p>	<p>(b) provides less specificity around data than is outlined in section (iv) of the access rule, to maximize flexibility for the department</p>

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<p>reducing levels of unpaid care; (G) the adequacy of payment practices and policies related to the payment rates of certified providers of covered services; and (H) the effect of the state's long-term care system on wages and working conditions. (b) A state agency that receives a reasonable request for data, information, or testimony from the board shall comply with the request as soon as is reasonably practicable, and, when the board requests direct testimony for a board meeting, the head of the agency or the designee of the head of the agency shall appear at the meeting and provide testimony.</p>		
<p>Sec. 44.29.935. Biennial report. (a) The board shall biennially prepare a written report in digital format, submit the report to the commissioner, the legislative committees having jurisdiction over health and social services, and the chief clerk of the house of representatives and the senate secretary, and notify the legislature that the report is available. The commissioner shall make the report available to the public on the department's Internet website. (b) The biennial report must be based on the results of the board's investigation under AS 44.29.930(a)(2) and must include</p>	<p>(v) The Medicaid agency must publish the recommendations produced under paragraph (b)(6)(iv) of the interested parties advisory group consistent with the publication requirements described in paragraph (b)(1) through (b)(1)(ii) of this section, within 1 month of when the group provides the recommendation to the agency.</p>	<p>The proposed bill complies with federal regulations. It exceeds the language in the access rule by describing which key findings must be included in the report, describing the parties to whom the report must be disseminated, and how recommendations are to be considered as part of a rate review process.</p>

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<p>key findings and recommendations regarding</p> <p>(1) rates and service levels of covered services;</p> <p>(2) adequacy of rates and service levels of covered services to ensure the provision of quality services, improved recruitment and retention, and compliance with federal standards;</p> <p>(3) safe and healthy working conditions for workers providing covered services;</p> <p>(4) reducing any barrier to recruiting for and retaining workers providing covered services throughout the state, particularly in an area that is not on a road system;</p> <p>(5) reducing the level of unpaid care in the state and systemic overreliance on family members and friends of service recipients who provide unpaid care; and</p> <p>(6) sufficiency of covered services payment adequacy data and access to care metrics.</p> <p>(c) The department shall take the recommendations of the board into consideration when setting rates for covered services. If the rate set by the department for a covered service differs significantly from the rate recommended by the board, the commissioner shall notify the board and the chair of each legislative committee having jurisdiction of health and social services in writing.</p>		

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<p>Sec. 44.29.945. Definitions. In AS 44.29.900 - 44.29.945,</p> <p>(1) "board" means the Home Care Employment Standards Advisory Board;</p> <p>(2) "commissioner" means the commissioner of health;</p> <p>(3) "covered provider" means an eligible Medicaid provider certified by the department to provide one or more covered services;</p> <p>(4) "covered services" means</p> <p>(A) chore services provided under a section 1915(k) option under 42 U.S.C. 1396n;</p> <p>(B) hourly respite services provided under a waiver in accordance with 42 U.S.C. 1396 - 1396p;</p> <p>(C) personal care services;</p> <p>(D) habilitation services;</p> <p>(5) "department" means the Department of Health;</p> <p>(6) "direct care worker" means an individual who is employed by a covered provider to provide one or more covered services;</p> <p>(7) "habilitation services" means services designed to assist individuals in acquiring, retaining, and improving the self-help, socialization, and adaptive skills necessary to reside successfully in home and community-based settings, provided under a waiver in accordance with 42 U.S.C. 1396 - 1396p;</p>	<p>(iv) Personal care, home health aide, homemaker, and habilitation services, as specified in § 440.180(b)(2) through (4) and (6), provided by individual providers and provider agencies.</p>	<p>The services covered by the bill are consistent with those in the access rule.</p>

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(8) "personal care services" means services provided under a section 1915(k) option under 42 U.S.C. 1396n, under AS 47.07.030, or under a waiver in accordance with 42 U.S.C. 1396 - 1396p.		
<p>* Section 2. AS 47.07.045 is amended by adding new subsections to read:</p> <p>(f) Except as provided in (g) of this section, an agency providing home and community-based services shall pay as compensation and benefits to its employees performing personal care services,</p> <p>(1) beginning July 1, 2026, at least 70 percent of the total annual amount of funding the agency receives for personal care services from the department; and</p> <p>(2) beginning July 1, 2030, at least 80 percent of the total annual amount of funding the agency receives for personal care services from the department.</p> <p>(g) The department may grant to an agency providing home and community-based services a hardship exemption from the requirements of (f) of this section if the agency is facing extraordinary circumstances or is a small provider, as defined by the department. The department shall adopt regulations establishing procedures and objective criteria for granting a hardship exemption under this subsection. An agency that is granted a hardship exemption shall pay as</p>	<p>Access Rule provision - § 447.203(b)(6)</p> <p>(3) Minimum performance at the provider level. Except as provided in paragraphs (k)(5) and (7) of this section, the State must meet the following minimum performance level as applicable, calculated as the percentage of total payment (not including excluded costs) to a provider for furnishing homemaker, home health aide, or personal care services, as set forth at § 440.180(b)(2) through (4), represented by the provider's total compensation to direct care workers:</p> <p>(i) Except as provided in paragraph (k)(3)(ii) of this section, the State must ensure that each provider spends 80 percent of total payments the provider receives for services it furnishes as described in paragraph (k)(3) of this section on total compensation for direct care workers who furnish those services.</p> <p>(ii) At the State's option, for providers determined by the State to meet its State-defined small provider criteria in paragraph (k)(4)(i) of this section, the State must ensure that each provider spends the percentage set by the State in accordance with paragraph</p>	<p>Bill and access rule are consistent in their scope (personal care services only) and exemptions for small providers and hardship. Key distinction: For non exempt providers, the bill requires 70% starting in 2026, and 80% starting in 2030 to comply with access rule. The Access rule requires 80% starting in 2030.</p>

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<p>compensation and benefits to its employees performing personal care services,</p> <p>(1) beginning July 1, 2026, at least 60 percent of the total annual amount of funding the agency receives for personal care services from the department; and</p> <p>(2) beginning July 1, 2036, at least 80 percent of the total annual amount of funding the agency receives for personal care services from the department.</p> <p>(h) The amount calculated under (f) and (g) of this section for compensation and benefits paid to employees may not include costs expended on employees by an agency for personal protective equipment, required training, and travel costs such as mileage reimbursement or public transportation.</p> <p>(i) In this section, "personal care services" has the meaning given in AS 44.29.945.</p>	<p>(k)(4)(ii) of this section of total payments the provider receives for services it furnishes as described in paragraph (k)(3) of this section on total compensation for direct care workers who furnish those services.</p> <p>(4) Small provider minimum performance level —</p> <p>(i) Small provider criteria. The State may develop reasonable, objective criteria through a transparent process to identify small providers that the State would require to meet the minimum performance requirement at paragraph (k)(3)(ii) of this section. The transparent process for developing criteria to identify providers that qualify for the minimum performance requirement in paragraph (k)(3)(ii) of this section must include public notice and opportunities for comment from interested parties.</p> <p>(ii) Small provider minimum performance level. The State must set the percentage for a small provider to meet the minimum performance level at paragraph (k)(3)(ii) of this section based on reasonable, objective criteria it develops through a transparent process that includes public notice and opportunities for comment from interested parties.</p> <p>(5) Hardship exemption. The State may develop reasonable, objective criteria through a transparent process to exempt from the minimum performance requirement at paragraph (k)(3) of this section a reasonable number of providers determined by the State to</p>	

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	be facing extraordinary circumstances that prevent their compliance with paragraph (k)(3) of this section. The State must develop these criteria through a transparent process that includes public notice and opportunities for comment from interested parties. If a provider meets the State's hardship exemption criteria, then the State does not include that provider in its calculation of the State's compliance with the minimum performance level at paragraph (k)(3) of this section	
<p>APPOINTMENTS, FIRST MEETING, AND PRELIMINARY REPORT.</p> <p>(a) The first meeting of the Home Care Employment Standards Advisory Board established under AS 44.29.900, added by sec. 1 of this Act, must take place on or before October 1, 2025.</p> <p>(b) The commissioner of health shall appoint all board members under AS 44.29.905(3), added by sec. 1 of this Act, before the board's first meeting.</p> <p>(c) The commissioner of health or the commissioner's designee and the commissioner of labor and workforce development or the commissioner's designee shall conduct a preliminary investigation into the wages, working conditions, and adequacy of the Medicaid workforce providing covered services in the</p>	<p>The first meeting must be held within 2 years after effective date of the final rule (then at least every 2 years).¹</p> <p>The rule was finalized on May 10, 2024. Effective date -> May 10, 2026.</p>	<p>The bill sets a first advisory board meeting date to October 1, 2025. The Access rule requires the first IPAG meeting to be held no later than May 10, 2026.</p> <p>The access rule does not require the preliminary investigation required in section (c) of the bill.</p>

Commented [AR1]: Starts in October in order to have recommendations ready before the legislative session begins in 2026, can adjust timeline to meet department's needs

Commented [AR2]: Can cut in amendments if it would reduce the fiscal note or burden on department or commissioner

¹ <https://www.medicaid.gov/medicaid/access-care/downloads/applicability-date-chart-ac.pdf>

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state and present the results of the preliminary investigation to the board at the board's first meeting.		
<p>* Section 4. The uncodified law of the State of Alaska is amended by adding a new section to read:</p> <p>MEDICAID STATE PLAN. To the extent necessary to implement this Act, the Department of Health shall amend and submit for approval by the United States Department of Health and Human Services the state plan under AS 47.07.045, as amended by sec. 2 of this Act.</p>	N/A	
<p>* Section 5. The uncodified law of the State of Alaska is amended by adding a new section to read:</p> <p>CONDITIONAL EFFECT; NOTIFICATION.</p> <p>(a) Section 2 of this Act takes effect only if, and to the extent that, on or before January 1, 2026, the United States Department of Health and Human Services</p> <p>(1) approves amendments submitted in accordance with sec. 4 of this Act; or</p> <p>(2) determines that approval of the amendments to the state plan under AS 47.07.045 is not necessary.</p> <p>(b) The commissioner of health shall notify the revisor of statutes in writing within 30 days after the United States Department of Health and Human Services approves amendments to the state plan or determines that approval is not necessary</p>	N/A	

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under this section.		
<p>* Section 6. If sec. 2 of this Act takes effect, it takes effect on the day after the date on which the United States Department of Health and Human Services approves the amendments to the state plan submitted under sec. 4 of this Act or determines that approval is not necessary under sec. 5 of this Act.</p> <p>* Section 7. Except as provided in sec. 6 of this Act, this Act takes effect July 1, 2025.</p>		