

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS ON REFERRAL
BY THE COMMISSIONER OF HEALTH**

In the Matter of	)	
	)	
K.E	)	OAH No. 26-0320-MDX
_____	)	

FINAL DECISION¹

I. Introduction

K.E is a minor and Medicaid recipient. On March 6, 2026, Dr. S. S. prescribed Gamunex-C infusion services. These infusion services were to be provided by LUX Infusion, an enrolled Medicaid provider. The Division of Health Care Services (the Division) denied this request, solely on the basis that Dr. Roth is not an enrolled Medicaid provider.

L.E, K's mother and guardian, argued that the denial was inappropriate because she was not seeking payment for Dr. S.'s services, and only sought coverage for the infusion services provided by LUX Infusion.

In this case, 7 AAC 105.100 requires the prescribing provider *and* the service provider to be enrolled in Alaska Medicaid. As Dr. S. is not enrolled in Alaska Medicaid, and is not actively seeking enrollment, the Division's denial is affirmed.

II. Facts

K.E is 11 years old. Among other conditions, he is diagnosed with autism, ADHD, a learning disability, anxiety, OCD, Ehlers-Danlos syndrome, and pediatric acute-onset neuropsychiatric syndrome (PANS).²

Dr. S. S. is licensed as a family medicine physician in Alaska. Dr. S. is not affiliated with any clinic located in Alaska.³ Dr. S. and her clinic are based in Israel, and she is not enrolled in Alaska Medicaid.⁴ Dr. S. has only evaluated L via telemedicine.⁵

¹ A proposed decision was issued in this matter on June 1, 2026. The parties were provided an opportunity to file proposals for action, and this final decision is now issued. Pursuant to AS 44.64.060(e), the final decisionmaker modified the proposed decision to ensure clarity. These changes occur on page 3, paragraph 3. The holding of the decision remains unchanged.

² Testimony of Ms. E.

³ Testimony of Dr. Cutchins.

⁴ Testimony of Mr. Batch.

⁵ Testimony of Ms. E.

Dr. S. prescribed K Gamunex-C infusion services.⁶ On March 6, 2026, A4 Specialty Medical Group requested the prior authorization of Alaska Medicaid coverage for those infusion services to be provided by Advanced Registered Nurse Practitioner (ARNP) Cielito Marie Bowen with LUX Infusion.⁷ LUX Infusion is enrolled in Alaska Medicaid.⁸ As the original request was difficult to read, a follow-up request was submitted on March 18, 2026.⁹ On March 26, 2026, the Division denied this request solely on the basis that Dr. S. is not enrolled or seeking enrollment in Alaska Medicaid.¹⁰ L.E, K’s mother and guardian, timely requested a fair hearing.

At the hearing, the Division was represented by its fair hearing representative, Laura Baldwin. The Division presented testimony from Dr. Coleman Cutchins, a Board-certified Clinical Pharmacist and a clinical reviewer on the Division’s medical team. The Division also presented testimony from Michael Batch, a Division employee who oversees provider enrollment.

K was represented by Ms. E, who also testified. Ms. E submitted a letter of medical necessity from Dr. S..¹¹

III. Discussion

In a fair hearing involving a request for new or additional Medicaid benefits, the recipient seeking the benefit has the burden of proof.¹² The standard of proof is a preponderance of evidence.¹³ Here the facts are not in dispute and resolution of this matter requires interpreting Alaska and federal regulations.

The Division’s denial was based on one reason: Dr. S is not an enrolled provider nor is she currently seeking enrollment in Alaska Medicaid. At the hearing, Ms. E made arguments that this treatment is medically necessary for K. However, as the Division did not reach any conclusion on the medical necessity of this type of infusion service, only the “enrolled provider” argument will be addressed in this decision.

⁶ Ex. F.
⁷ Ex. F.
⁸ Testimony of Mr. Batch.
⁹ Ex. F, p. 3.
¹⁰ Ex. D. *See also* Ex. E.
¹¹ Ex. 1.
¹² 7 AAC 49.135.
¹³ *Id.*

Dr. S. and her clinic are not enrolled as Medicaid providers with the Department. However, LUX Infusion—the clinic providing the infusion—is enrolled in Alaska Medicaid. Ms. E is only seeking coverage for services provided by LUX Infusion and is paying for Dr. S.’s services out of pocket.

At the hearing, Ms. E argued that the services should be approved because the Division’s regulations do not require that a non-billing provider be enrolled in Alaska Medicaid. A review of the Division’s regulations and federal law does not support Ms. E’s argument.

States have broad discretion under Medicaid to adopt standards for determining the extent of medical assistance, with the Medicaid Act requiring only that the standards be reasonable and consistent with the objectives of Medicaid.¹⁴ As Dr. Cutchins explained, the infusion center and Dr. S. need to work closely together, as each provider shares equal responsibility for L’s care. This is especially important in the case of an infusion medication that is being provided for off-label use.¹⁵

Alaska Medicaid regulation 7 AAC 105.100 lays out some of the limitations on what services the Department may pay for. In its relevant portions, the Department may only pay for a service if that service:

- (3) is ordered or prescribed by a provider authorized to order or prescribe that service under applicable law;
- (4) is provided by a person who is enrolled as a Medicaid provider or rendering provider under 7 AAC 105.210, or otherwise eligible to receive payment for services under 7 AAC 105 - 7 AAC 160;

Federal law requires state Medicaid agencies to require that “each provider ... ordering, prescribing, referring, or certifying eligibility for, services for individuals eligible to receive [Medicaid] ... to enroll with the State agency.”¹⁶ Further, federal regulations also require State Medicaid agencies to “require all ordering or referring physicians ... to be enrolled as participating providers.”¹⁷ This statute and regulation apply broadly to physicians who order or refer services, not merely those who bill Medicaid directly. This provision was designed to prevent fraud, waste, and abuse by ensuring that those ordering services on behalf of Medicaid beneficiaries are qualified, identified, and not excluded from federal programs.

¹⁴ *In re E.Q.*, OAH No. 12-1008-MDS (Commissioner of Health and Social Services 2013) (available at <https://aws.state.ak.us/OAH/Decision/Display?rec=3345>).

¹⁵ Testimony of Dr. Cutchins.

¹⁶ 42 U.S.C. § 1396a(a)(78) (emphasis added).

¹⁷ 42 C.F.R. § 455.410(b).

Read together with federal law, it is clear that the requirement in 7 AAC 105.100(4) that a provider be enrolled in Alaska Medicaid before a service can be approved applies not just to the servicing provider but also to the prescribing provider, even in cases where the prescribing provider is not seeking reimbursement.

IV. Conclusion

7 AAC 105.100 and federal law require that a prescribing provider be enrolled or seeking enrollment in Alaska Medicaid before the Department can approve a service, even if the prescribing provider is not seeking reimbursement. It is undisputed that Dr. S. is not an enrolled provider. Accordingly, the Division's denial is affirmed.

Nothing in this decision prevents Ms. E from seeking a prescription from an enrolled provider. However, if an enrolled provider were to prescribe Gamunex-C infusion services, the Division would still need to review that request for medical necessity.

Dated: Nunc pro tunc June 1, 2026

Signed

Eric M. Salinger
Administrative Law Judge

Adoption

The undersigned, by delegation from the Commissioner of Health, adopts this Decision, under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 7th day of July 2026.

By: Signed
Name: Amanda Woody, MPH
Title: Policy Advisor to the Chief Medical Officer
Office of the Commissioner
Alaska Department of Health

[This document has been modified to conform to the technical standards for publication. Names may have been changed to protect privacy.]