

## FINDING OF EMERGENCY

The Department of Health and Social Services finds that an emergency exists and that the attached regulations are necessary for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency include the following:

The commissioner of health and social services finds that the costs of medical assistance for all persons eligible under Alaska Statute (AS) 47.07 will exceed the amount allocated in the state budget as passed by the legislature on June 11, 2015 for fiscal year 2016. The Medicaid program, one of the largest components in the state budget, will be significantly underfunded in fiscal year 2016. Specifically, starting July 1, 2015, the Medicaid program's general fund budget will drop \$51.9 million. While the Medicaid program anticipates reducing some of its expenditures through reform and other action, it cannot absorb the full general fund reduction and maintain Medicaid services at current levels.

As a result, the Medicaid program faces a fiscal reality that requires the immediate adoption of emergency regulations to preserve the health and general welfare of thousands of Medicaid recipients. The Medicaid program and participating providers ensure that services are available and delivered to over 120,000 Alaskans. If the Medicaid program simply stops providing services to its recipients due to a budget shortfall, or if providers stop participating in the Medicaid program due to uncertainty in reimbursement for services by the department, there will be an immediate danger to the health and general welfare of these recipients. Implementing emergency regulations at this time will help preserve services and eligibility while providing certainty to all participants and providers about reimbursement for services.

Furthermore, both optional and mandatory Medicaid services are critical to recipients' health and general welfare. If optional services were to cease in less than 30 days, Alaskans who receive Medicaid services would be denied access to critical medications and supports, including wheelchairs and prosthetics. Alaskans who receive Medicaid personal care attendant services would be stranded at home with no ability to complete basic activities of daily living. Alaskans with developmental disabilities would be denied essential care that is currently provided under Medicaid waivers. Finally, younger Alaskans with psychiatric issues would be denied inpatient psychiatric care that would otherwise be covered under Medicaid.

If the costs of medical assistance for all persons eligible under AS 47.07 exceed the amount allocated in the state budget for a fiscal year, the Department of Health and Social Services may implement under AS 47.07.036 cost containment measures to reduce anticipated program costs. The purpose of implementing cost containment measures under AS 47.07.036 is to take all reasonable steps to avoid eliminating program eligibility and services. If the department adopts cost containment measures by emergency regulations, it will avoid the fiscal emergency, immediately preserve the health and general welfare of Medicaid recipients, and ensure the state's compliance with federal and state law by maintaining existing Medicaid services.

The emergency regulations implement a freeze to inflation adjustments for Medicaid payments rates that would otherwise be increased for inflation in fiscal year 2016. Emergency regulations are the only vehicle for this action because several Medicaid payment rates are set to increase for

inflation on July 1, 2015, and there is significant uncertainty from participating providers on whether Medicaid payment rates will be reduced in fiscal year 2016. This cost containment measure is preferable because from a practical standpoint, it ensures certainty to Medicaid providers and neither reduces rates or payments nor results in the elimination of program eligibility or services.

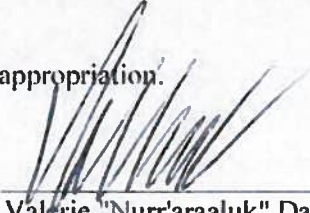
Accordingly, given the immediate danger to the health and general welfare of the state's Medicaid recipients, the commissioner of health and social services directs the department to implement cost containment measures to reduce program costs for fiscal year 2016 as authorized under AS 47.07.036. Additionally, the commissioner finds that the cost containment measures implemented in the attached emergency regulations are the most reasonable steps to contain costs in a way that will not eliminate program eligibility or the scope of services required or authorized under AS 47.07.020 and 47.07.030.

#### ADOPTION ORDER

Under the authority of AS 47.05.010, AS 47.07.020, 47.07.030, and 47.07.036, the attached two pages of regulation changes are therefore adopted as emergency regulations to take effect July 1, 2015, as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

DATE: 6/25/15  
Bethel, Alaska

  
Valerie "Nurr'araaluk" Davidson  
Commissioner  
Department of Health & Social Services

*✓ Scott Meriwether for*

#### FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on

June 29, 2015, at 9:54a .m., I filed the attached regulations according to the provisions of AS 44.62.

*for*   
Byron Mallott  
Lieutenant Governor

Effective: July 1, 2015  
Register: 215, October 2015

Expires October 28, 2015  
unless made "permanent"  
by the adopting agency.