

Byron Mallott
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520 465.5400 Fax
WWW.LTGOV.ALASKA.GOV




530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460 269.0263
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

MEMORANDUM

TO: Triptaa Surve, AAC Contact
Department of Health and Social Services

FROM: Scott Meriwether, Office of the Lieutenant Governor, 465.4081 

DATE: June 21, 2016

RE: Filed Emergency Regulations: Medicaid cost containment
(7 AAC 145.012)

Attorney General File:	Emergency Regulations
Regulation Filed:	June 21, 2016
Effective Date:	July 1, 2016
Expiration Date:	October 28, 2016 unless made permanent by the adopting agency
Print:	219, October 2016

cc with enclosures: Linda Miller, Department of Law
Dianne Blumer, Administrative Regulation Review Committee
Judy Herndon, LexisNexis

FINDING OF EMERGENCY

The Department of Health and Social Services finds that an emergency exists and that the attached regulation is 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 May 31, 2016 for fiscal year 2017. The Medicaid program, one of the largest components in the state budget, will be significantly underfunded in fiscal year 2017. Specifically, starting July 1, 2016, the Medicaid program's general fund budget will drop \$55.2 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 2017. Emergency regulations are the only vehicle for this action because several Medicaid payment rates are set to increase for

inflation on July 1, 2016, and there is significant uncertainty from participating providers on whether Medicaid payment rates will be reduced in fiscal year 2017. 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 2017 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.

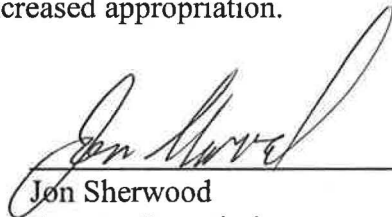
ADOPTION ORDER

Under the authority of AS 47.05.010, AS 47.07.020, AS 47.07.030, and AS 47.07.036, the attached two pages of regulation changes are therefore adopted as an emergency regulation to take effect July 1, 2016, as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

Date:

June 21, 2016



Jon Sherwood
Deputy Commissioner

Claire Richardson for

FILING CERTIFICATION

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

June 21, 2016, at 2:43p, I filed the attached regulation according to the provisions of AS 44.62.


Byron Mallott
Lieutenant Governor

Effective: July 1, 2016 and expiring October 28, 2016 unless made permanent.

Register: 219, October 2016



THE STATE
of **ALASKA**
GOVERNOR BILL WALKER

Department of
Health and Social Services

OFFICE OF THE COMMISSIONER

Anchorage
3601 C Street, Suite 902
Anchorage, Alaska 99503-5923
Main: 907.269.7800
Fax: 907.269.0060

Juneau
350 Main Street, Suite 404
Juneau, Alaska 99801-1149
Main: 907.465.3030
Fax: 907.465.3068

**DELEGATION OF AUTHORITY
FOR ADOPTING REGULATIONS**

UNDER AS 44.17.010, THE AUTHORITY AND RESPONSIBILITY FOR ADOPTING REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES UNDER THE ALASKA ADMINISTRATIVE PROCEDURE ACT ARE HEREBY DELEGATED TO JON SHERWOOD, DEPUTY COMMISSIONER.

SIGNED:



Commissioner

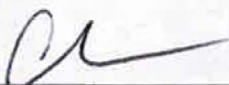


(Printed name)

SIGNED AND SWORN TO before me this 31st day of August, 2015.

[NOTARY SEAL]





Notary Public in and for the
State of Alaska
My commission expires: w/office

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, BYRON MALLOTT, 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:

Claire Richardson, Special Assistant

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on January 7th 2015.



A handwritten signature in dark ink, appearing to read "Byron Mallott", is written over a horizontal dotted line.

**BYRON MALLOTT
LIEUTENANT GOVERNOR**

EMERGENCY REGULATION

Register 29, October 2016 HEALTH AND SOCIAL SERVICES

7 AAC 145.012 is amended to read:

7 AAC 145.012. Cost containment measure for inflation adjustments to Medicaid payment rates. (a) To address that appropriations for fiscal year **2017** [2016] are insufficient to cover the costs of medical assistance for all persons eligible under AS 47.07 and 7 AAC 100, the department will implement cost containment measures that prohibit the following adjustments to Medicaid payment rates for Medicaid claims with dates of services after June 30, **2016**, [2015,] and before July 1, **2017** [2016]:

- (1) inflation adjustments required under 7 AAC 145.050(b)(3);
- (2) inflation adjustments required under 7 AAC 145.265(b)(9);
- (3) inflation adjustments required under 7 AAC 145.500(b) as that subsection relates to 7 AAC 145.520(g)(1);
- (4) inflation adjustments required under 7 AAC 145.520(g)(1);
- (5) inflation adjustments required under 7 AAC 145.700;
- (6) inflation adjustments required under 7 AAC 150.150;
- (7) inflation adjustments required under 7 AAC 150.160(h) as that subsection relates to 7 AAC 150.150; and
- (8) inflation adjustments required under 7 AAC 150.190(g) in accordance with 7 AAC 150.190(d)(2)(B).

(b) In this section, "inflation adjustment" means a revision that

EMERGENCY REGULATION

Register 219, October 2016 HEALTH AND SOCIAL SERVICES

(1) is required under a provision listed in (a)(1) - (8) of this section to an existing Medicaid payment rate; and

(2) results in a new Medicaid payment rate that differs from the existing Medicaid payment rate by a percentage value or overall average net change value that is either listed under this chapter or listed in

(A) the most recent annual *Consumer Price Index for all Urban Consumers (CPI-U)*, all items, for Anchorage, Alaska published by the United States Department of Labor, Bureau of Labor Statistics, adopted by reference in 7 AAC 160.900;

(B) the Global Insight's *Healthcare Cost Review*; or

(C) the Medicare Economic Index as required by 42 U.S.C. 1396a(bb)(3)(A), adopted by reference in 7 AAC 160.900. (Eff. 7/1/2016, Register 219)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.036
AS 47.07.020

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))¹

1. Adopting agency: Office of Rate Review
2. General subject of regulation: Medicaid cost containment
3. Citation of regulation (may be grouped): 7 AAC 145
4. Department of Law file number, if any: JU2016200478
5. Reason for the proposed action:

() Compliance with federal law or action (identify): _____

() Compliance with new or changed state statute

() Compliance with federal or state court decision (identify): _____

() Development of program standards

(X) Other (identify): The Medicaid program will be significantly underfunded in SFY 2017. The Department is initiating cost containment measures under AS 47.07.036 to preserve current services and eligibility.
6. Appropriation/Allocation: N/A
7. Estimated annual cost to comply with the proposed action to:

A private person: Medicaid providers will not receive cost of living increases (inflation to Medicaid payment rates for SFY 17. Increases would have ranged from 0.08% to 2.4%.

Another state agency: _____

A municipality: _____
8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY <u>2017</u>	Subsequent Years
Operating Cost	\$ <u>0</u>	\$ <u>0</u>
Capital Cost	\$ <u>0</u>	\$ <u>0</u>
1002 Federal receipts	\$ <u>0</u>	\$ <u>0</u>
1003 General fund match	\$ <u>0</u>	\$ <u>0</u>
1004 General fund	\$ <u>0</u>	\$ <u>0</u>
1005 General fund/		

program \$ 0 \$ 0
Other (identify) \$ 0 \$ 0

9. The name of the contact person for the regulation:

Name: Christine Goetz
Title: Audit and Review Analyst III, Office of Rate Review
Address: 3601 C Street, Suite 978, Anchorage, AK 99503
Telephone: (907) 334-2476
E-mail address: Christine.Goetz@alaska.gov

10. The origin of the proposed action:

X Staff of state agency
_____ Federal government
_____ General public
_____ Petition for regulation change
_____ Other (identify): _____

11. Date: 6/21/2016 Prepared by: Christine Goetz
[signature]
Name (printed): Christine Goetz
Title (printed): Audit & Review Analyst III
Telephone: 907-334-2476