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, Department of Health and Social Services

FROM: Scott Meriwether, Office of the Lieutenant Governor

DATE: August 11, 2016

RE: Filed Permanent Regulations: Department of Health and Social Services

Emergency regulations re: cost containment measures for inflation adjustments to

Medicaid payment rates (7 AAC 145.012)

Attorney General File: JU2016200478

Regulation Filed: August 10, 2016

Effective Date: July 1, 2016

(Emergency regulations being made permanent.)

Print: 219, October 2016

cc with enclosures: Linda Miller, Department of Law

Dianne Blumer, Administrative Regulation Review Committee

Judy Herndon, LexisNexis

CERTIFICATION OF COMPLIANCE

I, Jon Sherwood, Deputy Commissioner, Department of Health & Social Services, certify that, as required by AS 44.62.260 in order to make the attached two pages of regulations permanent, as of this date a legal opinion of the Department of Law has been requested under AS 44.62.060, a notice conforming to AS 44.62.200 was issued in compliance with AS 44.62.190, and an opportunity for public comment was provided under AS 44.62.210, for the following emergency regulations:

7 AAC 145.012, related to Medicaid cost containment.

These regulations originally were filed as emergency regulations on June 21, 2016.

Although no public comments were received, the Department of Health & Social Services paid special attention to the cost to private persons of the regulatory action being taken.

DATE: July 16, 2016 Juneau, AK

Jon Sherwood

Deputy Commissioner

Department of Health & Social Services

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on 1, 2016, at

10 15 A .m., I filed the attached regulations according to the provisions of As 44.62.

Lieutenant Governor

Register:

219, October 2016



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 315+ day of August, 2015

[NOTARY SEAL]

Notary Public in and for the

State of Alaska

My commission expires:

Register 219, October 2016 HEALTH AND SOCIAL SERVICES

The emergency adoption of 7 AAC 145.012 is made permanent 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); All Publisher; These cross references are correct as set out

(4) inflation adjustments required under 7 AAC 145.520(g)(1);

strative Code and in

(5) inflation adjustments required under 7 AAC 145.700;

base, the numeral

(6) inflation adjustments required under 7 AAC 150.150;

"I" is invorsetly

(7) inflation adjustments required under 7 AAC 150.160(h) as that subsection

flease

relates to 7 AAC 150.150; and

the

errors.)))

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

Register 219, October 2016 HEALTH AND SOCIAL SERVICES

- (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.

 7/1/2015 Register 215; and
 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

Editor's note: The provisions [EMERGENCY ADOPTION] of 7 AAC 145.012

were first adopted as emergency regulations with an effective olde of July 1, 2015.

Those emergency regulations were [IS] made permanent [Effective August 14, 2015.].

The July 1, 2016 amendments to 7 AAC 145.012 took. Effect as emergency.

regulations to be made permanent. In reviewing the permanent amendments in accordance with AS 44.62.060 and 44.62.125(b), the regulations attorney requested that the publisher correct two unrelated manifest errors in 7AAC 145.012(a), as that subsection appeared in print in the Alaska Administrative Code.

The technical changes to correct the manifest errors appear in 7 AAC 145.012(a)

as published in Register 219

2

(October 2016). The history note for 7 AAC 145.012 does not reflect the corrections requested by the requiations attorney.

MEMORANDUM

State of Alaska

Department of Law

To: Hon. Byron Mallott Lieutenant Governor

Date: August 3, 2016

File No.: JU2016200478

Tel. No.: 465-3600

From: Steven C. Weaver

Sr. Assistant Attorney General and Assistant Regulations Attorney Legislation and Regulations Section

Re: Emergency regulations re: cost containment measures for inflation adjustments to Medicaid payment

rates (7 AAC 145.012)

We have reviewed the attached emergency regulations from the Department of Health and Social Services against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated August 3, 2016 from the Regulations Attorney. The department adopted the emergency regulations on June 21, 2016, your office filed them on June 21, 2016, they took effect July 1, 2016 under a special effective date set in the adoption order, and they expire October 28, 2016 unless they are made permanent. In response to reduced appropriations from the legislature, the regulations establish cost containment measures for inflation adjustments to Medicaid payment rates.

We find no legal problems. This memorandum constitutes the written statement of approval under AS 44.62.060(b) and (c) that authorizes your office to file the attached regulations as permanent regulations.

The June 21, 2016 adoption order and the June 24, 2016 public notice both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

We have made some technical corrections to the lead-in line, history note, and editor's note for the regulations, in accordance with AS 44.62.125 and as shown on the attached copy. Also, in the revisor's capacity under AS 44.62.125, we have requested that the publisher correct two manifest printing errors in 7 AAC 145.012(a)(3) and (4), as those paragraphs appear in the Alaska Administrative Code. In those paragraphs, the cross-references to "7 AAC 145.520(g)(l)" should instead read 7 AAC 145.520(g)(1): i.e., the numeral "1" should replace the letter "I". The agency's attached copy sets out the cross-references correctly. We have included an explanatory editor's note in the attached copy.

SCW

cc w/enc: (via email)

Hon. Valerie "Nurr'araaluk" Davidson, Commissioner Department of Health and Social Services

MEMORANDUM

State of Alaska

Department of Law

To: Hon. Valerie "Nurr'araaluk" Davidson

Commissioner

Department of Health and Social

Services

Date: August 3, 2016

File No.: JU2016200478

Tel. No.: 465-3600

From: Steven C. Weaver

Sr. Assistant Attorney General and Assistant Regulations Attorney Legislation and Regulations Section Re: Emergency regulations re: cost containment measures for inflation adjustments to Medicaid payment

rates (7 AAC 145.012)

Under AS 44.62.060, we have reviewed the attached changes by the Department of Health and Social Services, originally adopted by emergency action on June 21, 2016, and approve the changes for filing by the lieutenant governor as permanent regulations. The emergency regulations were filed June 21, 2016 and took effect July 1, 2016 under a special effective date set in the adoption order; they expire October 28, 2016 unless they are made permanent. I have reviewed this project under a specific delegation dated August 3, 2016 from the Regulations Attorney.

You might wish to contact the lieutenant governor's office to confirm the filing date and effective date of the attached regulations changes.

The June 21, 2016 adoption order and the June 24, 2016 public notice both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

We have made some technical corrections to the lead-in line, history note, and editor's note for the regulations, in accordance with AS 44.62.125 and as shown on the attached copy. Additionally, we have requested that the publisher correct two manifest printing errors in 7 AAC 145.012, as the section appears in the Alaska Administrative Code.

SCW

cc w/enc: (via email)

Triptaa Surve, Regulations Contact Department of Health and Social Services

Christine Goetz
Office of Rate Review
Department of Health and Social Services

Stacie L. Kraly, Chief Assistant Attorney General Human Services Section

MEMORANDUM

State of Alaska

Department of Law

To: Hon. Byron Mallott Lieutenant Governor **DATE:** August 3, 2016

FILE NO.: JU2016200478

TELEPHONE NO.: 465-3600

FROM: Susan R. Pollard SW

Chief Assistant Attorney General & Regulations Attorney

Legislation/Regulations Section—Juneau

SUBJECT: Specific delegation of authority

regarding regulations review on Department of Health and Social Services emergency regulations

being made permanent re: cost containment measures for inflation adjustments to Medicaid payment rates (7 AAC 145.012)

By this memorandum, I am delegating my authority as Regulations Attorney under AS 44.62 to Assistant Attorney General Steven C. Weaver for the above-referenced regulations project. Under this delegation of authority, Steven Weaver has my full authority under AS 44.62 to conduct the legal review under AS 44.62 and take necessary actions on this regulations project.

If you have questions, please let me know.

SRP:SCW

cc w/enc:

Scott C. Meriwether, AAC Coordinator Office of the Lieutenant Governor

Steven C. Weaver Assistant Attorney General

Legislation/Regulations Section—Juneau

AFFIDAVIT OF NOTICE OF ADOPTION OF EMERGENCY REGULATION AND FURNISHING OF ADDITIONAL INFORMATION

I, Triptaa Surve, Project Coordinator, of Department of Health & Social Services, being sworn, state the following:

As required by AS 44.62.250, notice of the July 1, 2016, emergency changes to 7 AAC 145.012, Medicaid Cost Containment Measures has been given under AS 44.62.190(a) by being

- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the regulation;
- (5) electronically transmitted to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Division of Legal and Research Services;
- (7) posted on the Alaska Online Public Notice System as required by AS 44.62.175(a)(1) and (b) and 44.62.190(a)(1);
- (8) furnished electronically, along with a copy of the regulations, to the Legislative Affairs Agency, the chair of the Finance and Health & Social Services Committees of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

As required by AS 44.62.190, additional regulation notice information regarding the July 1, 2016, emergency changes to the regulation described above has been furnished to interested persons and furnished to those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: MM MM

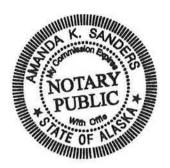
Triptal Surve, Project Coordinator

Subscribed and sworn to before me at Commissioners office, Archange

[date]

Notary Public in and for the State of Alaska

[NOTARY SEAL]



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Triptaa Surve, Project Coordinator for the Department of Health & Social Services, being duly sworn, state the following:

The Department of Health & Social Services did not receive any factual or other substantive information that was submitted in writing as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Health & Social Services regulation on Medicaid Cost Containment Measures.

Date: My My

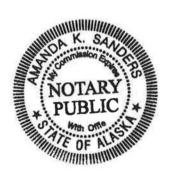
Triptaa Surve, Project Coordinator

Subscribed and sworn to before me at 10mm 185 oners office Anchorugen

144 28 2016.

Notary Public in and for the State of Alaska

[NOTARY SEAL]



NOTICE OF ADOPTION OF EMERGENCY REGULATION ON MEDICAID COST CONTAINMENT MEASURES OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

BRIEF DESCRIPTION

The Department of Health & Social Services proposes to make permanent regulation changes made by emergency regulation on Medicaid cost containment.

On June 21, 2016, the Department of Health & Social Services adopted, as an emergency regulation, changes in Title 7 of the Alaska Administrative Code dealing with Medicaid cost containment measures. Specifically, 7 AAC 145.012, related to cost containment measures, was amended.

The emergency regulation takes effect July 1, 2016, and will expire October 28, 2016. The Department of Health & Social Services intends to make the emergency regulation permanent.

You may comment on the proposed regulation changes, including the potential costs to private persons of complying with the proposed changes, by submitting written comments to Christine Goetz, Office of Rate Review, at 3601 C Street, Suite 978, Anchorage, AK 99503. Additionally, the Department of Health & Social Services will accept comments by electronic mail at Christine.Goetz@alaska.gov. The comments must be received not later than 5 p.m. on July 21, 2016.

You may submit written questions relevant to the proposed action to Christine Goetz, by electronic mail at Christine.Goetz@alaska.gov or at the Office of Rate Review, at 3601 C Street, Suite 978, Anchorage, AK 99503. The questions must be received at least 10 days before the end of the public comment period. The Department of Health & Social Services will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System. The Department of Health & Social Services may, but is not required to, answer written questions received after the 10-day cut-off date and before the end of the comment period.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Christine Goetz, at (907) 334-2476 not later than July 11, 2016, to ensure that any necessary accommodations can be provided.

A copy of the emergency regulation is available on the Alaska Online Public Notice System at https://aws.state.ak.us/OnlinePublicNotices/default.aspx and by contacting Christine Goetz, at Christine.Goetz@alaska.gov or at the Office of Rate Review, at 3601 C Street, Suite 978, Anchorage, AK 99503; telephone number (907) 334-2476.

The language of the permanent regulations may be different from that of the original emergency regulation and may include other provisions dealing with the same subject. You should comment during the time allowed if your interests could be affected.

Statutory authority: AS 47.05.010; AS 47.07.020; AS 47.07.030; AS 47.07.036.

Statutes being implemented, interpreted, or made specific: AS 47.05.010; AS 47.07.020; AS 47.07.030; AS 47.07.036.

Fiscal information: The regulations are not expected to require an increased appropriation.

DATE:

Jon Sherwood

Deputy Commissioner

Department of Health & Social Services

NOTICE OF ADOPTION OF EMERGENCY REGULATION ON MEDICAID COST CONTAINMENT MEASURES OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

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Fiscal information: The regulations are not expected to require an increased appropriation.

Jon Sherwood Deputy Commissioner Department of Health & Social Services

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:				
	to Medicaid payment rates 2.4%. Another state agency:	for SFY 17. In	I not receive cost of living increases (inflation creases would have ranged from 0.08% to		
	A municipality:				
8.	Cost of implementation to the state agency and available funding (in thousands of dollars):				
		Initial Year	Subsequent		
		FY_2017_	Years		
	Operating Cost	\$ 0	\$ <u>0</u>		
	Capital Cost	\$_0	\$ <u>0</u>		
	1002 Federal receipts	\$_0	\$ 0		
	1003 General fund match	\$_0	\$ 0		
	1004 General fund	\$_0	\$ 0		
	1005 General fund/	=			

	program	\$_0	\$ <u>0</u>				
	Other (identify)	\$ <u>0</u>	\$_0				
9.	The name of the contact person for the regulation:						
	Name: Christine Goetz						
	Title: Audit and Review Ana						
	rage, AK 99503_						
Telephone: (907) 334-2476 E-mail address: Christine.Goetz@alaska.gov							
	GOV						
10.	The origin of the proposed action:						
X Staff of state agency							
	Federal government General public Petition for regulation change						
	Other (identify):						
11.	2	Prepared by:	Christine Gock				
	121		[signature]				
		Name (printed	//				
		A1996. H-01	1): Audit & Review Analyst III				
	Telephone: 907-334-2476						
		reconione	10.041				

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Emma Dunlap

being first duly sworn on oath deposes and says that he/she is a representative of the Alaska Dispatch News, a daily newspaper. That said newspaper has been approved by the Third Judicial Court, Anchorage, Alaska, and it now and has been published in the English language continually as a daily newspaper in Anchorage, Alaska, and it is now and during all said time was printed in an office maintained at the aforesaid place of publication of said newspaper. That the annexed is a copy of an advertisement as it was published in regular issues (and not in supplemental form) of said newspaper on

June 24, 2016

and that such newspaper was regularly distributed to its subscribers during all of said period. That the full amount of the fee charged for the foregoing publication is not in excess of the rate charged private individuals.

Signed

Subscribed and sworn to before me this 24th day of <u>June</u>, 2016

Notary Public in and for The State of Alaska. Third Division Anchorage, Alaska MY COMMISSION EXPIRES

2/23/2019

NOTICE OF ADOPTION OF EMERGENCY REGULATION ON MEDICAID COST CONTAINMENT MEASURES OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

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Statutes being implemented, interpreted, or made specific: AS 47.05.010; AS 47.07.020; AS 47.07.030; AS 47.07.036.

Fiscal Information: The regulations are not expected to require an increased appropriation.

Date: 06/22/16

/s/Jon Sherwood, Deputy Commissioner Department of Health & Social Services

AO-16-109 Published: June 24, 2016

> Notary Public BRITNEY L. THOMPSON State of Alaska My Commission Expires Feb 23, 2019