

Byron Mallott
Lieutenant Governor
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**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Triptaa Surve
Department of Health & Social Services

FROM: Scott Meriwether, Office of the Lieutenant Governor 465.4081 

DATE: January 31, 2017

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

Department of Health and Social Services update to regulations re: Alaska Medicaid
electronic health record incentive program (7 AAC 165.030(e); 7 AAC 165.080(a)(5),(e))

Attorney General File:	JU2016200039
Regulation Filed:	1/31/2017
Effective Date:	4/1/2017
Print:	221, April 2017

cc with enclosures: Linda Miller, Department of Law
Judy Herndon, LexisNexis

ORDER ADOPTING CHANGES TO REGULATIONS
OF DEPARTMENT OF HEALTH & SOCIAL SERVICES

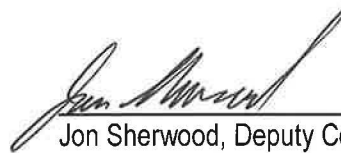
The attached two pages of regulations, dealing with the Alaska Medicaid Electronic Health Record Incentive Program, are adopted and certified to be a correct copy of the regulation changes that the Department of Health & Social Services adopts under the authority of AS 47.05.010, AS 47.07.030, and AS 47.07.040, and after compliance with the Administrative Procedure Act (AS 44.62), specifically including notice under AS 44.62.190 and 44.62.200 and opportunity for public comment under AS 44.62.210.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Health & Social Services paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes adopted under this order take effect on April 1, 2017, as provided in AS 44.62.180.

Date: 12-30-16



Jon Sherwood, Deputy Commissioner
Department of Health & Social Services

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that¹ on January 31,
2017 at 230p m., I filed the attached regulations according to the provisions of AS 44.62.040 -
44.62.120.



Byron Mallott, Lieutenant Governor

Effective: April 1, 2017

Register: 221, April 2017



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

Title 7 Health and Social Services.

Chapter 165. Alaska Medicaid Electronic Health Record Incentive Program.

~~7 AAC 165.020. Provider registration and attestation~~

7 AAC 165.020(e) is amended to read:

(e) The electronic registration process is not complete until

(1) the provider sends the attestation and all supporting documentation to the department as an electronic document through the Alaska Medicaid state-level registry for provider incentive

payments, [✓][OR AS A FACSIMILE COPY] [✓]and

[✓](2) [THE PROVIDER MAILS TO THE DEPARTMENT THE ORIGINAL SIGNED ATTESTATION; AND]

[✓](2) [(3)] the department has received the material submitted under (1) [AND (2)] of this subsection.

(Eff. 6/1/2011, Register 198; am 1/20/2013, Register 205; am 4/1/2017, Register 221)

Authority: AS 47.05.010

AS 47.07.030

AS 47.07.040

~~7 AAC 165.080. Appeals~~

7 AAC 165.080(a)(5) is amended to read:

(a) A provider may appeal the department's decision to do any of the following:

(5) terminate or suspend participation in the Medicaid program in this state under 7 AAC

105.400-490 # - #7 AAC 105.490.

7 AAC 165.080(e) is amended to read:

^{None O.S"}
^{Tab 111} (e) A provider who is not satisfied with the first-level appeal decision under (d) of this section may request a second-level appeal by submitting a written request to the commissioner no later than 30 days after the date of the first-level appeal decision. The request for second-level appeal must include

ADOPTED REGULATIONS

Alaska Medicaid Electronic Health Record Incentive Program: Provider Registration & Attestation, Appeals (JU2016200039)
December 28, 2016

- (1) a copy of the department's first-level appeal decision;
- (2) a description of the basis upon which the decision is being appealed;
- (3) a copy of the first-level appeal submitted by the provider; and
- (4) any additional supporting documentation that supports the basis upon which the

provider is making [MALTING] the appeal. *(I retain the period)*

~~(5) send the appeal to the State of Alaska, Department of Health & Social Services,~~

~~Commissioner's Office, Attention: EHR Appeals, PO Box 110601, Juneau, AK 99811-0601.~~

(Eff. 6/1/2011, Register 198; am 1/20/2013, Register 205; am 4/1/2017, Register 221)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

Editor's note: The address for sending an appeal under 7 AAC 165.080 is State of Alaska, Department of Health and Social Services, Commissioner's Office, Attention: EHR Appeals, P.O. Box 110601, Juneau, AK 99811-0601.

ADOPTED REGULATIONS

Alaska Medicaid Electronic Health Record Incentive Program: Provider Registration & Attestation; Appeals (JU2016200039)
December 28, 2016

MEMORANDUM


State of Alaska Department of Law

To: Hon. Byron Mallott
Lieutenant Governor

Date: January 30, 2017

File No.: JU2016200039

Tel. No.: 465-3600

From: Steven C. Weaver 
Sr. Assistant Attorney General
and Assistant Regulations Attorney
Legislation and Regulations Section

Re: Department of Health and Social
Services update to regulations re:
Alaska Medicaid electronic health
record incentive program (7 AAC
165.020(e); 7 AAC 165.080(a)(5), (e))

We have reviewed the attached 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 January 30, 2017 from the Regulations Attorney. The regulations update the Alaska Medicaid electronic health record incentive program, in particular deleting a requirement that an attestation relating to program participation be sent in hard-copy form: a duplicative item not necessary under related federal regulations. *See generally* 42 C.F.R. Part 495 (standards for the electronic health record technology incentive program).

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. We note that the adoption order sets a special effective date of April 1, 2017 for these regulations.

The November 10, 2016 public notice and the December 30, 2016 adoption order 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.

Hon. Byron Mallott, Lieutenant Governor
Our file: JU2016200039

January 30, 2017
Page 2

We have made some technical corrections to the regulations, in accordance with AS 44.62.125 and as shown on the attached copy.

SCW

cc w/enc: (via email)

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

Triptaa Surve, Regulations Contact
Department of Health and Social Services

Jon Sherwood, Deputy Commissioner
Department of Health and Social Services

JoLynn Cagle
Division of Health Care Services
Department of Health and Social Services

Kelly E. Henriksen, Assistant Attorney General
Human Services Section

MEMORANDUM

State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: January 30, 2017

FILE NO.: JU2016200039

TELEPHONE NO.: 465-3600

FROM: Susan R. Pollard *SRP*
Chief Assistant Attorney General
and Regulations Attorney
Legislation/Regulations Section

SUBJECT: Specific delegation of authority
regarding regulations review on
Department of Health and Social
Services update to regulations re:
Alaska Medicaid electronic
health record incentive program
(7 AAC 165.020(e); 7 AAC
165.080(a)(5), (e))

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.

SCW

cc w/enc: Scott C. Meriwether, AAC Coordinator
Office of the Lieutenant Governor

Steven C. Weaver
Assistant Attorney General and Assistant Regulations Attorney
Legislation/Regulations Section

NOTICE OF PROPOSED CHANGES ON ALASKA MEDICAID ELECTRONIC HEALTH RECORD
INCENTIVE PROGRAM IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL
SERVICES

BRIEF DESCRIPTION

The Department of Health and Social Services proposes to change regulations on electronic health record incentive and requirements for Medicaid providers.

The Department of Health & Social Services proposes to adopt regulation changes in Title 7 of the Alaska Administrative Code dealing with the Alaska Medicaid Electronic Health Record Incentive Program, including the following:

- (1) **7 AAC 165.020 Provider registration and attestation** is proposed to be changed as follows: Amend the method of submitting the attestation and all supporting documentation to the department.
- (2) **7 AAC 165.050 Program standards for continuing participation** is proposed to be changed as follows: Add the requirement to participate in the Alaska Health Information Exchange.
- (3) **7 AAC 165.080 Appeals** is proposed to be changed as follows: Add clarification to include specific Alaska Administrative Codes to the appeals process and add an address to send appeals.

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 JoLynn Cagle, Division of Health Care Services, 3601 C Street, Suite 902, Anchorage, AK 99503. Additionally, the Department of Health & Social Services will accept comments by facsimile at (907) 269-0060 and by electronic mail at jolynn.cagle@alaska.gov. The comments must be received not later than 5 p.m. on December 23, 2016.

You may submit written questions relevant to the proposed action to JoLynn Cagle at jolynn.cagle@alaska.gov or Division of Health Care Services, 3601 C St., Suite 902, 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 and agency website at <http://dhss.alaska.gov/dhcs/Pages/default.aspx>.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact JoLynn Cagle at jolynn.cagle@alaska.gov or (907) 334-4489 not later than December 14, 2016, to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting JoLynn Cagle at jolynn.cagle@alaska.gov or (907) 334-4489.

After the public comment period ends, the Department of Health & Social Services will either adopt the proposed regulation changes or other provisions dealing with the same subject, without further notice, or

decide to take no action. The language of the final regulation may be different from that of the proposed regulation. **You should comment during the time allowed if your interests could be affected.**

Statutory authority: AS 47.05.010; AS 47.07.030; AS 47.07.040.

Statutes being implemented, interpreted, or made specific: AS 47.05.010; AS 47.07.030; AS 47.07.040.

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: 11-7-16


Jon Sherwood
Deputy Commissioner
Department of Health & Social Services

NOTICE OF PROPOSED CHANGES ON ALASKA MEDICAID ELECTRONIC HEALTH RECORD
INCENTIVE PROGRAM IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL
SERVICES

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Statutory authority: AS 47.05.010; AS 47.07.030; AS 47.07.040.

Statutes being implemented, interpreted, or made specific: AS 47.05.010; AS 47.07.030; AS 47.07.040.

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: 11-7-16


Jon Sherwood
Deputy Commissioner
Department of Health & Social Services

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

1. Adopting agency: Department of Health and Social Services
2. General subject of regulation: Alaska Medicaid Electronic Health Record Incentive Program.
3. Citation of regulation (may be grouped): 7 AAC 165.020, .080.
4. Department of Law file number, if any: JU2016200039
5. Reason for the proposed action:
☒ (X) Compliance with federal law or action (identify): Federal law does not require submission of hard copy attestations; the proposed regulation changes will eliminate current duplicative work done by the providers/hospitals.
☐ () compliance with new or changed state statute
☐ () compliance with court order
☒ (X) Development of program standards
☐ () Other (identify)

6. Appropriation/Allocation: Health Care Services/Medical Assistance Administration

7. Estimated annual cost to comply with the proposed action to:

A private person: \$0

Another state agency: \$0

A municipality: \$0

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

	Initial Year FY <u>17</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	<u>\$0</u>	<u>\$0</u>
Other (identify)	<u>\$0</u>	<u>\$0</u>

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

Name: JoLynn Cagle
Title: Medical Assistance Administrator III
Address: 3601 C Street, Suite 902, Anchorage, AK 99503
Telephone: (907) 334-4489
E-mail address: JoLynn.Cagle@alaska.gov

10. The origin of the proposed action:

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

11. Date: 12/28/16

Prepared by: JoLynn Cagle
[signature]

Name (printed): JoLynn Cagle

Title (printed): Medical Assistance Administrator III

Telephone: (907) 334-4489

AFFIDAVIT OF NOTICE OF PROPOSED 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 44.62.190, notice of the proposed adoption of changes to 7 AAC 165.020, and .080, and dealing with the Alaska Medicaid Electronic Health Record Incentive Program, has been given by being

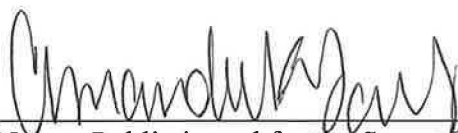
- (1) published in a newspaper or trade publication;
- (2) furnished to interested persons;
- (3) furnished to appropriate state officials;
- (4) furnished to the Department of Law, along with a copy of the proposed regulation;
- (5) furnished electronically to incumbent State of Alaska legislators;
- (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 proposed regulation, to the Legislative Affairs Agency, the chair of the Health & Social Services and Finance Committees of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

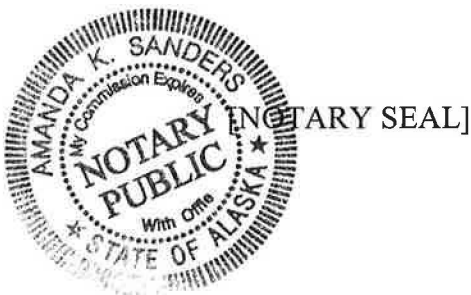
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the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

Date: January 4, 2017


Triptaa Surve, Project Coordinator

Subscribed and sworn to before me at DHSS Commissioners office on
1-4-2017
(date)


Notary Public in and for the State of Alaska



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:


In compliance with AS 44.62.215, the Department of Health & Social Services has kept a record of its use or rejection of 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 Service regulation on the Alaska Medicaid Electronic Health Records Incentive Program..

Date: January 4, 2017.


Triptaa Surve, Project Coordinator

Subscribed and sworn to before me at DHSS Commissioners office on

1-4-2017
(date)


Notary Public in and for the State of Alaska

[NOTARY SEAL]



270229
0001395721
\$333.68

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

November 10, 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

Emma Dunlap

Subscribed and sworn to before me
this 10th day of November, 2016

Britney Thompson

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

2/23/2019

NOTICE OF PROPOSED CHANGES ON ALASKA MEDICAID ELECTRONIC HEALTH RECORD INCENTIVE PROGRAM IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

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Statutory authority: AS 47.05.010; AS 47.07.030; AS 47.07.040.

Statutes being implemented, interpreted, or made specific:
AS 47.05.010; AS 47.07.030; AS 47.07.040.

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

DATE: November 7, 2016
/s/ Jon Sherwood
Deputy Commissioner
Department of Health & Social Services

Published: November 10, 2016

Notary Public
BRITNEY L. THOMPSON
State of Alaska

My Commission Expires Feb 23, 2019