

DEPARTMENT OF HEALTH & SOCIAL SERVICES



PROPOSED CHANGES TO REGULATIONS

RATE CHANGES- FACILITIES, HOSPITALS, PROFESSIONAL SERVICES, & WAIVERS.

- 7 AAC 130. Medicaid Coverage; Home and Community-Based Waiver Services;
- 7 AAC 145. Medicaid Payment Rates; &
- 7 AAC 150. Prospective Payment System; Other Payment.



PUBLIC REVIEW DRAFT

April 6, 2017

COMMENT PERIOD ENDS: June 15, 2017

Please see the public notice for details about how to comment on these proposed changes.

Notes to reader:

1. Except as discussed in note 2, new text that amends an existing regulation is **bolded and underlined**.
2. If the lead-in line above the text of each section of the regulations states that a new section, subsection, paragraph, or subparagraph is being added, or that an existing section, subsection, paragraph, or subparagraph is being repealed and readopted (replaced), *the new or replaced text is not bolded or underlined*.
3. [ALL-CAPS TEXT WITHIN BRACKETS] indicates text that is to be deleted.
4. When the word “including” is used, Alaska Statutes provide that it means “including, but not limited to.”
5. Only the text that is being changed within a section of the current regulations is included in this draft. Refer to the text of that whole section, published in the current Alaska Administrative Code, to determine how a proposed change relates within the context of the whole section and the whole chapter.

Title 7 Health and Social Services.**Chapter 130. Medicaid Coverage; Home and Community-Based Waiver Services.****Sec 260. Day habilitation services.**

7 AAC 130.260(c) is amended to read:

(c) **The** [IF THE RECIPIENT OF DAY HABILITATION SERVICES IS ALSO PROVIDED GROUP-HOME HABILITATION SERVICES UNDER 7 AAC 130.265(f), THE] department will not pay for more than **416 hours per year of any type** [15 HOURS PER WEEK] of day habilitation services from all providers combined, unless the [DEPARTMENT DETERMINES], **the provider has documented to the department’s satisfaction, in a format approved by the department, that a limited amount of additional day habilitation hours are necessary to protect a recipient’s health and safety, and to prevent institutionalization** [THAT THE RECIPIENT IS UNABLE TO BENEFIT FROM ANY OTHER COMMUNITY SERVICE OR ACTIVITIES].

(Eff. 2/1/2010, Register 193; am 7/1/2013, Register 206; am ___/___/___, Register ___)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

Chapter 130. Medicaid Coverage; Home and Community-Based Waiver Services.

Sec. 270. Supported-employment services.

7 AAC 130.270. Supported-employment services

The introductory language of 7 AAC 130.270(c)(4) is amended to read:

(4) more than three months of services under (b)(1), **(b)(3), or (b)(4)** of this section during a recipient's term of eligibility for home and community-based waiver services, unless the home and community-based waiver services provider demonstrates that the recipient (Eff. 2/1/2010, Register 193; am 7/1/2013, Register 206; am 7/1/2015, Register 214; am ___/___/____, Register _____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

Chapter 145. Medicaid Payment Rates.

7 AAC 145.012. Cost containment measure for inflation adjustments to Medicaid payment rates

The introductory language of 7 AAC 145.012(a) is amended to read:

(a) To address that appropriations for fiscal year **2018** [2017] 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, 2017** [JUNE 30, 2016], and before **July 1, 2018** [JULY 1, 2017]:

(Eff. 7/1/2015, Register 215; am 7/1/2016, Register 219; am ___/___/____, Register _____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.036

AS 47.07.020

7 AAC 145.050. Resource-based relative value scale rate-setting methodology.

7 AAC 145.050(b)(3) is amended to read:

(b) The RBRVS methodology set out in this section applies to procedures that have a Medicare nonfacility individual relative value unit (RVU) established for Medicare by CMS. Medicare nonfacility individual RVUs are adopted by reference in 7 AAC 160.900. The RBRVS payment for these procedures consists of

• • •

(3) a conversion factor (CF), that is a dollar amount used to convert new and existing CPT and HCPCS codes described in this subsection into a fee amount; this conversion factor as of **July 1, 2017**, [DECEMBER 1, 2011] is **\$40.573** [\$45.90]; the CF will be adjusted effective **July 1, 2017**, [DECEMBER 1, 2011] and annually thereafter on July 1 so that an adjustment provision results in an overall average net change for all procedures described in this subsection that equals the percent change from the previous year in 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; the department will announce and post the CF adjusted under this paragraph at the department's Internet website or at a designated contractor's Internet website;

and

7 AAC 145.050(b) is amended by adding a new paragraph to read:

(4) for state fiscal year 2018, the inflation referenced in (3) of this subsection will not be applied.

(Eff. 2/1/2010, Register 193; am 12/1/2011, Register 200; am 5/11/2012, Register 202; am 3/22/2014, Register 209; am ___/___/____, Register _____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.265. Targeted case management payment rates.

7 AAC 145.265(b) is amended by adding a new paragraph to read:

(b) The department will base payment for targeted case management services on a prospective monthly encounter rate, computed with data from base year 2004, as follows:

• • •

(10) for state fiscal year 2018, the inflation referenced in (9) of this subsection will not be applied.

(Eff. 2/1/2010, Register 193; am ___/___/____, Register _____)

Authority: AS 47.05.010 AS 47.07.040 AS 47.20.070
AS 47.07.030 AS 47.20.060 AS 47.20.110

7 AAC 145.500. Personal care services payment rates

7 AAC 145.500(b) is amended to read:

(b) Each July 1, rates established in the *Chart of Personal Care Attendant and Waiver Services Rates* will be adjusted as provided in 7 AAC 145.520(g). **For state fiscal year 2018, the inflation referenced in this subsection will not be applied.**

(Eff. 2/1/2010, Register 193; am 3/1/2011, Register 197; am 8/18/2015, Register 215; am ___/___/____, Register _____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.520. Home and community-based waiver services payment rates.

7 AAC 145.520(g)(1) is amended to read:

(g) Each July 1, rates established in the *Chart of Personal Care Attendant and Waiver Services Rates* will be adjusted as follows:

(1) the department will first adjust the rates for inflation, using the CMS Home Health Agency Market Basket in the most recent quarterly publication of Global Insight's Healthcare Cost Review available 60 days before July 1; **for state fiscal year 2018, the inflation referenced in in this paragraph will not be applied;**

(Eff. 2/1/2010, Register 193; am 3/1/2011, Register 197; am 4/1/2012, Register 201; am 7/1/2013, Register 206; am 1/1/2014, Register 208; am 7/1/2015, Register 214; am 8/18/2015, Register 215; am ___/___/___, Register ___)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.700. Health clinic payment rates.

7 AAC 145.700(b) is amended to read:

(b) Unless the department and a health clinic make an agreement for the department to pay the clinic at the rates calculated under (g) of this section, the department will pay the clinic in accordance with 42 U.S.C. 1396a(bb)(1) - (5), adopted by reference in 7 AAC 160.900. **For state fiscal year 2018, the payment rate under this subsection will not be adjusted for inflation.**

7 AAC 145.700(c)(2)(A) is amended to read:

(A) increased in that fiscal year by using the first quarter publication of Global Insight's Health-Care Cost Review, Skilled Nursing Facility Total Market Basket for yearly adjustment factors applied to health clinics; **for state fiscal year 2018, the payment rate under this subparagraph will not be adjusted for inflation;** and

7 AAC 145.700(c)(3) is amended to read:

(3) the payment rate calculated under this subsection must result in a payment to the health clinic that is equal to or greater than the amount required to be paid to the clinic under 42 U.S.C. 1396a(bb)(1) - (6), adopted by reference in 7 AAC 160.900; if the payment rate calculated under this subsection is less than that amount, the department will pay the health clinic under (b) of this section; **for state fiscal year 2018, the payment rate under (A) and (B) of this paragraph will not be adjusted for inflation;** to ensure compliance with this paragraph, the department will evaluate annually the

(A) Medicare Economic Index as required by 42 U.S.C. 1396a(bb)(3)(A), adopted by reference in 7 AAC 160.900; and

(B) number set out in the first quarter publication of Global Insight's *Health-Care Cost Review*, Skilled Nursing Facility Total Market Basket;

(Eff. 2/1/2010, Register 193; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.073
AS 47.07.030 AS 47.07.070

7 AAC 145.720. Health clinic re-basing.

7 AAC 145.720(a) is amended to read:

(a) The base years used to establish rates in future rate years for a rural health clinic or federally qualified health center will be changed periodically to more current years, and re-basing may be subject to audit. The department may determine the timing for a re-basing under this section and whether and when to conduct an audit. The department

(1) will perform a re-basing no less than every four years; and

(2) may perform a re-basing sooner than every four years;

(3) will not implement rebasing for state fiscal year 2018;

(4) will not apply (3) of this subsection to facilities that are currently under a state weighted average that are scheduled to have their first cost based rate established in state fiscal year 2018 because a facility receiving its first cost based rate is not considered as being re-based.

(Eff. 2/1/2010, Register 193; am ___/___/____, Register _____)

Authority: AS 47.05.010 AS 47.07.073 AS 47.07.074
AS 47.07.070

Chapter 150. Prospective Payment System; Other Payment.

Sec 150. Adjustment factors.

7 AAC 150.150 is amended by adding a new subsection to read:

(g) For state fiscal year 2018, the non-capital and capital components of the payment rate will not be adjusted for inflation.

(Eff. 2/1/2010, Register 193; am ___/___/____, Register _____)

Authority: AS 47.05.010 AS 47.07.071 AS 47.07.073
AS 47.07.070

7 AAC 150.160. Methodology and criteria for approval or modification of a payment rate.

7 AAC 150.160(a)(4) is amended to read:

(a) The department will use the following methodology and criteria in reviewing and establishing prospective payment rates for the Medicaid program:

...

(4) for all facilities, except facilities with rate agreements established under 7 AAC 150.190, the department

(A) will perform a re-basing for the first fiscal year beginning after notification to the facilities that a re-basing will be done;

(B) will perform a re-basing no less than every four years; [AND]

(C) may perform a re-basing sooner than every four years;

(D) will not implement re-basing for state fiscal year 2018;

(E) will not apply (D) of this paragraph to facilities that are currently under a swing bed rate or a state weighted average that are scheduled to have their first cost based rate established in state fiscal year 2018 because a facility receiving its first cost based rate is not considered as being re-based;

(F) will not apply (D) of this paragraph to facilities that are currently receiving exceptional relief per 7 AAC 150.240 and are scheduled to be re-based in state fiscal year 2018.

(Eff. 2/1/2010, Register 193; am ___/___/____, Register _____)

Authority: AS 47.05.010 AS 47.07.070

7 AAC 150.160. Methodology and criteria for approval or modification of a payment rate.

7 AAC 150.160(b) is amended by adding a new paragraph to read:

(b) The department will express the inpatient hospital payment rate for general acute care, specialty, and inpatient psychiatric hospitals as a per-day rate. The per-day inpatient hospital payment rate will be based on allowable costs calculated from the appropriate base year adjusted Medicare cost report as follows:

...

(10) in state fiscal year 2018, the payment rate will be set at 95 percent of the rate calculated in (1) – (9) of this subsection; facilities licensed as specialized psych hospitals through the state division of health care services, Health Facilities Licensing Certification List, updated April 2017, will be exempt from this provision and will be reimbursed at 100 percent of the rate calculated in (1) – (9) of this subsection.

7 AAC 150.160(c) is amended by adding a new paragraph to read:

(c) The department will express outpatient general acute care hospital payment rates as a percentage of charges calculated as follows:

...

(7) in state fiscal year 2018, the payment rate will be set at 95 percent of the rate calculated in (1) – (6) of this subsection.

7 AAC 150.160(h) is amended to read:

(h) The department will determine a rate of payment for ambulatory surgical centers based on the federal Medicare ambulatory surgical center payment rates for federal fiscal year 2000, adopted by reference in 7 AAC 160.900, and as adjusted annually by the adjustment

factors in 7 AAC 150.150. **In state fiscal year 2018, the payment rate will be set at 95 percent of the rate calculated in in this subsection.**

(Eff. 2/1/2010, Register 193; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.070

7 AAC 150.190. Optional payment rate methodology and criteria for small facilities

7 AAC 150.190(g)(1) is amended to read:

(g) The first year payment rate established under a rate agreement made under (d) of this section will be calculated as follows, except that the adjustment factors identified in 7 AAC 150.150 will not be applied:

(1) the first year payment rate for inpatient acute care services will be expressed as a per-day rate calculated under 7 AAC 150.160(b); for each complete fiscal year of the small facility that begins during the period after the first payment year of the rate agreement made under (d) of this section and that ends at the expiration of the rate agreement, the first year payment rate will be increased by updating the noncapital portion of the payment rate annually at the rate of three percent per year and by updating the capital portion of the payment rate annually at the rate of 1.1 percent per year; **for state fiscal year 2018, the inflation referenced in this paragraph will not be applied;**

7 AAC 150.190(g)(3) is amended to read:

(3) a first year payment rate for long-term care will be expressed as a per-day rate as calculated in 7 AAC 150.160(e); for each complete fiscal year of the small facility that begins during the period after the first payment year of the rate agreement made under (d) of this section

and that ends at the expiration of the rate agreement, the first year payment rate will be increased by updating the noncapital portion of the payment rate annually at the rate of three percent per year and by updating the capital portion of the payment rate annually at the rate of 1.1 percent per year; **for state fiscal year 2018, the inflation referenced in this paragraph will not be applied;**

(Eff. 2/1/2010, Register 193; am ___/___/____, Register _____)

Authority: AS 47.05.010 AS 47.07.071 AS 47.07.073
AS 47.07.070