

Byron Mallott  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
907.465.3520  
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Anchorage, Alaska 99501  
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**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Tally Teal  
Department of Labor & Workforce Development

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

**DATE:** October 31, 2017

**RE:** Filed Permanent Regulations: Department of Labor & Workforce Development  
  
Alaska Workers' Compensation Board and Department of Labor and Workforce Development update to regulations re: fees for medical treatment and services (8 AAC 45.083(a),(m))

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Attorney General File:	JU2017200535
Regulation Filed:	10/30/2017
Effective Date:	1/1/2018
Print:	224, January 2018

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

ORDER ADOPTING CHANGES TO REGULATIONS OF THE  
ALASKA DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT

The attached 1 page of regulations, dealing with fees for medical treatment and services, is adopted and certified to be a correct copy of the regulation changes that the Alaska Department of Labor and Workforce Development adopts under the authority of AS 23.30.005 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 Alaska Department of Labor and Workforce Development paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on January 1, 2018, as provided in AS 44.62.180.

Date: October 16, 2017

  
Heidi Drygas, Commissioner

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on October 30, 2017, at 3:45 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

  
Lieutenant Governor

Effective: January 1, 2018

Register: 224, January 2018

ORDER CERTIFYING THE CHANGES TO  
REGULATIONS OF THE ALASKA WORKERS' COMPENSATION BOARD

The attached 1 page of regulations, dealing with fees for medical treatment and services, is certified to be a correct copy of the regulation changes that the Alaska Workers' Compensation Board adopted at its October 5-6, 2017 meeting, under the authority of AS 23.30.005 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.

On the record, in considering public comments, the Alaska Workers' Compensation Board paid special attention to the cost to private persons of the regulatory action being taken.


The regulation changes described in this order take effect on January 1, 2018, as provided in AS 44.62.180.

Date: 10/12/17

  
Marie Marx, Director

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that on October 30, 2017 at 347p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

  
Lieutenant Governor

Effective: January 1, 2018

Register: 224, January 2018

Register 224, January 2018 LABOR AND WORKFORCE DEV.

8 AAC 45.083(a) is amended to read:

(a) A fee or other charge for medical treatment or service may not exceed the maximums in AS 23.30.097. The fee or other charge for medical treatment or service

(1) provided on or after December 1, 2015, but before April 1, 2017, may not exceed the fee schedules set out in (b) – (l) of this section;

(2) provided on or after April 1, 2017, but before January 1, 2018, may not exceed the maximum allowable reimbursement established in the *Official Alaska Workers' Compensation Medical Fee Schedule*, effective April 1, 2017, and adopted by reference;

**(3) provided on or after January 1, 2018, may not exceed the maximum allowable reimbursement established in the Official Alaska Workers' Compensation Medical Fee Schedule, effective January 1, 2018, and adopted by reference.**

8 AAC 45.083(m)(10) is amended to read:

(10) *Hospital Outpatient Prospective Payment System*, effective January 1, 2018 [2017], produced by the federal Centers for Medicare and Medicaid Services; [ , ]

↑  
"bold/  
underline" //

8 AAC 45.083(m)(11) is repealed:

(11) repealed 1 / 1 / 2018.

(Eff. 12/1/2015, Register 216; am 3/11/2016, Register 217; am 4/1/2017, Register 221; am

1 / 1 / 2018, Register 224)

**Authority:** AS 23.30.005 AS 23.30.097 AS 23.30.098

# MEMORANDUM


State of Alaska  
Department of Law

To: Hon. Byron Mallott  
Lieutenant Governor

Date: October 30, 2017

File No.: JU2017200535

Tel. No.: 465-3600

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

Re: Alaska Workers' Compensation Board  
and Department of Labor and  
Workforce Development update to  
regulations re: fees for medical  
treatment and services (8 AAC  
45.083(a), (m))

We have reviewed the attached regulations from the Alaska Workers' Compensation Board and the Department of Labor and Workforce Development against the statutory standards of the Administrative Procedure Act. I have reviewed this project under a specific delegation dated October 30, 2017 from the Regulations Attorney. The regulations update the requirements regarding fees for medical treatment of and medical services to injured employees.

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 Department of Labor and Workforce Development adoption order and the Alaska Workers' Compensation Board certification of adoption order both set a special effective date of January 1, 2018 for these regulations.

The August 21, 2017 public notice, the October 12, 2017 certification of adoption order from the Alaska Workers' Compensation Board, and the October 16, 2017 adoption order from the Department of Labor and Workforce Development all 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: JU2017200535

October 30, 2017  
Page 2

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

SCW

cc w/enc: (via email)

Hon. Heidi Drygas, Commissioner  
Department of Labor and Workforce Development

Natalie "Tally" Teal, Special Assistant and Regulations Contact  
Department of Labor and Workforce Development

Marie Y. Marx, Director  
Division of Workers' Compensation  
Department of Labor and Workforce Development

Kimber D. Rodgers, Assistant Attorney General  
Labor and State Affairs Section

# MEMORANDUM


## State of Alaska Department of Law

**TO:** Hon. Byron Mallott  
Lieutenant Governor

**DATE:** October 30, 2017

**FILE NO.:** JU2017200535

**TELEPHONE NO.:** (907) 465-3600

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

**SUBJECT:** Specific delegation of authority  
regarding regulations review on  
Alaska Workers' Compensation  
Board and Department of Labor  
and Workforce Development  
regulations re: fees for medical  
treatment and services (8 AAC  
45.083)

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

NOTICE OF PROPOSED CHANGES RELATING TO FEES FOR MEDICAL TREATMENT  
AND SERVICES IN THE REGULATIONS OF THE ALASKA DEPARTMENT OF LABOR  
AND WORKFORCE DEVELOPMENT AND THE ALASKA WORKERS' COMPENSATION  
BOARD

BRIEF DESCRIPTION

The Alaska Department of Labor and Workforce Development and the Alaska Workers' Compensation Board propose to change regulations relating to fees for medical treatment and services.

The Alaska Department of Labor and Workforce Development and the Alaska Workers' Compensation Board propose to adopt regulation changes in Title 8 of the Alaska Administrative Code, dealing with fees for medical treatment and services, including the following:

- (1) 8 AAC 45.083 is proposed to be changed as follows: amend to update and clarify the medical fee schedule for treatment and services provided to injured workers.

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 the Department of Labor and Workforce Development, Division of Workers' Compensation at P.O. Box 115512, Juneau, AK 99811-5512. Additionally, the Department of Labor and Workforce Development, Division of Workers' Compensation will accept comments by facsimile at (907) 465-2797 and by electronic mail at Marie.Marx@alaska.gov. Comments may also be submitted through the Alaska Online Public Notice System, by accessing this notice on the system and using the comment link. The comments must be received not later than 5:00 p.m. on September 25, 2017.

Oral comments may be submitted at a hearing to be held on October 5, 2017, in Room 208, 3301 Eagle St., Anchorage, Alaska 99503. Public comment will be heard from 10:15am to 11:15am, and might be extended to accommodate those present before 10:15am who did not have an opportunity to comment.

You may submit written questions relevant to the proposed action to the Department of Labor and Workforce Development, Division of Workers' Compensation at P.O. Box 115512, Juneau, AK 99811-5512. The questions must be received at least 10 days before the end of the public comment period. The Department of Labor and Workforce Development, Division of Workers' Compensation will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and the Division of Workers' Compensation's website.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Alexis Hildebrand at (907) 465-6059 not later than September 25, 2017 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes and the material proposed for adoption by reference



is available on the Alaska Online Public Notice System and by contacting Marie Marx at Marie.Marx@alaska.gov and (907) 465-2790.

After the public comment period ends, the Department of Labor and Workforce Development and the Workers' Compensation Board 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 23.30.005; AS 23.30.097; AS 23.30.098

**Statutes being implemented, interpreted, or made specific:** AS 23.30.097; AS 23.30.098

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

Date: August 14, 2017

  
\_\_\_\_\_  
Heidi Drygas, Commissioner  
Department of Labor and Workforce Development

ADDITIONAL REGULATION NOTICE INFORMATION

(AS 44.62.190(d))

1. Adopting agencies: Department of Labor and Workforce Development and Alaska Workers' Compensation Board
2. General subject of regulation: Fees for medical treatment and services
3. Citation of regulation: 8 AAC 45.083
4. Department of Law file number: JU2017200535
5. Reason for the proposed action: Compliance with state statute relating to medical fee schedules.
6. Appropriation/Allocation: Workers' Compensation - #344.
7. Estimated annual cost to comply with the proposed action to:

A private person: The Department and the Board anticipate that complying with the regulations will not increase costs to private persons. The proposed medical fee schedules are anticipated to lower payments made to healthcare providers who treat workers' compensation claimants. If medical costs decrease, it is anticipated that will help reduce workers' compensation insurance premium rates paid by employers.

Another state agency: The Department and the Board anticipate that complying with the regulations will not increase costs to other state agencies. The State of Alaska is self-insured for workers' compensation. Lower workers' compensation medical costs will benefit the State of Alaska as an employer.

A municipality: The Department and the Board anticipate that complying with the regulations will not increase costs to municipalities. As employers, municipalities will benefit from lower workers' compensation medical costs.

8. Cost of implementation to the state agency and available funding: No costs are expected in FY 2018 or in subsequent years.
9. The name of the contact person for the regulation:

Marie Marx  
Director  
Division of Workers' Compensation  
Department of Labor and Workforce Development  
1111 W. 8<sup>th</sup>, Suite 305  
Juneau, AK 99811  
Telephone: (907) 465-2790  
E-mail: Marie.Marx@alaska.gov

10. The origin of the proposed action: Staff of state agency

11. Date: August 11, 2017      Prepared by: Marie Marx

Marie Marx  
Director  
(907) 465-2790

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION  
AND FURNISHING OF ADDITIONAL INFORMATION

I, Natalie Teal, Legislative Liaison, of the Alaska Department of Labor and Workforce Development, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 8 AAC 45.083 relating to fees for medical treatment and services 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 Labor and Commerce Committee of the Alaska Senate and the 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.

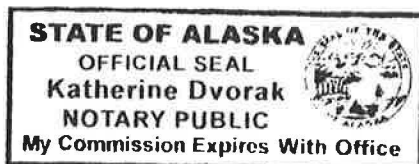
Date: 22 Aug 2017

  
\_\_\_\_\_  
Natalie Teal, Legislative Liaison

Subscribed and sworn to before me at DOLWD-Juneau Commiss. Office

8.22.17

  
\_\_\_\_\_  
Notary Public in and for the State of Alaska



AFFIDAVIT OF ORAL HEARING

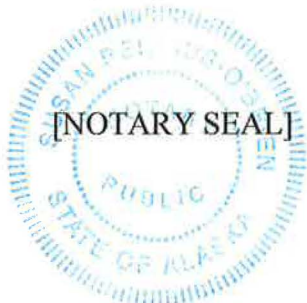
I, Marie Marx, Director of the Alaska Department of Labor and Workforce Development Division of Workers' Compensation, being sworn, state the following:

On October 5, 2017, at 10:15am, in Room 208, 3301 Eagle Street, Anchorage, Alaska, I presided over a public hearing held under AS 44.62.210 for the purpose of taking testimony in connection with the adoption of changes to 8 AAC 45.083, dealing with fees for medical treatment and services.

Date: 10/12/17

Marie Marx  
Marie Marx, Director

Subscribed and sworn to before me at Juneau, Alaska on  
10/12/17  
(date)



Susan Reishus-O'Brien  
Notary Public in and for the State of Alaska  
exp. 6/1/19  
# 150601001



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Marie Marx, Director for the Alaska Department of Labor and Workforce Development Division of Workers' Compensation, being duly sworn, state the following:

In compliance with AS 44.62.215, the Alaska Department of Labor and Workforce Development has kept a record of its use or rejection of factual or other substantive information that was submitted in writing and orally as public comment and that was relevant to the accuracy, coverage, or other aspect of the Alaska Department of Labor and Workforce Development regulation on fees for medical treatment and services.

Date: 10/12/17

Marie Marx  
Marie Marx, Director

Subscribed and sworn to before me at Juneau, Alaska on  
10/12/17  
(date)



Susan Reishus-O'Brien  
Notary Public in and for the State of Alaska  
exp. 6/1/19  
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Services

# AFFIDAVIT OF PUBLICATION

STATE OF ALASKA

THIRD JUDICIAL DISTRICT

Joleesa Stepetin

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

August 21, 2017

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

*Joleesa Stepetin*

Subscribed and sworn to before me  
this 21st day of August, 2017

*Britney Thompson*

Notary Public in and for  
The State of Alaska.  
Third Division

Anchorage, Alaska  
MY COMMISSION EXPIRES

2/23/2019  
Notary Public  
BRITNEY L. THOMPSON  
State of Alaska  
My Commission Expires Feb 23, 2019

## NOTICE OF PROPOSED CHANGES RELATING TO FEES FOR MEDICAL TREATMENT AND SERVICES IN THE REGULATIONS OF THE ALASKA DEPARTMENT OF LABOR AND WORKFORCE DEVELOPMENT AND THE ALASKA WORKERS' COMPENSATION BOARD

The Alaska Department of Labor and Workforce Development and the Alaska Workers' Compensation Board propose to adopt regulation changes in Title 8 of the Alaska Administrative Code, dealing with fees for medical treatment and services, including the following:

- (1) 8 AAC 45.083 is proposed to be changed as follows: amend to update and clarify the medical fee schedule for treatment and services provided to injured workers.

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Oral comments may be submitted at a hearing to be held on October 5, 2017, in Room 208, 3301 Eagle St., Anchorage, Alaska 99503. Public comment will be heard from 10:15am to 11:15am, and might be extended to accommodate those present before 10:15am who did not have an opportunity to comment.

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If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Alexis Hildebrand at (907) 465-6059 not later than September 25, 2017 to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes and the material proposed for adoption by reference is available on the Alaska Online Public Notice System and by contacting Marie Marx at Marie.Marx@alaska.gov and (907) 465-2790.

After the public comment period ends, the Department of Labor and Workforce Development and the Workers' Compensation Board 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 23.30.005; AS 23.30.097; AS 23.30.098

**Statutes being implemented, interpreted, or made specific:** AS 23.30.097; AS 23.30.098

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

Heidi Drygas, Commissioner  
Department of Labor and Workforce Development

Published: August 21, 2017

AFFIDAVIT OF BOARD ACTION

I, Marie Marx, Director of the Alaska Department of Labor and Workforce Development  
Division of Workers' Compensation, being duly sworn, state the following:

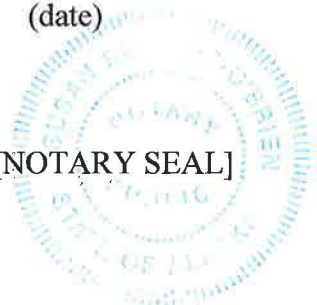
The attached motion dealing with fees for medical treatment and services was passed by the  
Alaska Workers' Compensation Board during its October 5-6, 2017 meeting.

Date: 10/12/17

Marie Marx  
Marie Marx, Director

Subscribed and sworn to before me at Juneau, Alaska on  
10/12/17  
(date)

[NOTARY SEAL]



Susan Reishus-O'Brien  
Notary Public in and for the State of Alaska  
Exp. 6/1/19  
#150601001



Alaska Workers' Compensation Board  
October 5, 2017  
Excerpt from Unapproved Minutes

Board member Robert Weel moved and member Linda Murphy seconded the following motion:

“I move to adopt fee schedule regulations at 8 AAC 45.083.”

The motion carried unanimously.