

DEPARTMENT OF HEALTH & SOCIAL SERVICES



PROPOSED CHANGES TO REGULATIONS

MEDICAID PHARMACY PREFERRED DRUG LIST

- **7 AAC 105. Medicaid Provider and Recipient Participation.**
 - *Sec. 610. Recipient cost-sharing.*

- **7 AAC 120. Medicaid Coverage; Prescription Drugs and Medical Supplies; Durable Medical Equipment; Transportation Services.**
 - *Sec. 100. Provider requirements; enrollment; general provisions;*
 - *Sec. 110. Covered outpatient drugs and home infusion therapy;*
 - *Sec. 140. Preferred drug list;*
 - *Sec. 199. Definitions.*

- **7 AAC 145. Medicaid Payment Rates.**
 - *Sec. 410.*

- **7 AAC 160. Medicaid Program; General Provisions.**
 - *Sec 900. Requirements adopted by reference.*



PUBLIC REVIEW DRAFT

January 17, 2018

COMMENT PERIOD ENDS: March 14, 2018.

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paragraph, or subparagraph is being added, or that an existing section, subsection, paragraph, or subparagraph is being repealed and readopted (replaced), *the new or replaced text is not bolded or underlined.*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 105. Medicaid Provider and Recipient Participation.

7 AAC 105.610. Recipient cost-sharing.

7 AAC 105.610(b) is amended to read:

(b) The following services are not subject to recipient cost-sharing requirements under this section:

...

(8) a service provided to an individual who is eligible for both Medicaid and Medicare, if Medicare is the primary payer for that service;

(9) nicotine cessation products;

(10) opioid reversal agents.

(Eff. 2/1/2010, Register 193; am 5/18/2014, Register 210; am ____/____/____, Register____)

Authority: AS 47.05.010 AS 47.07.020 AS 47.07.042

**Chapter 120
Medicaid Coverage; Prescription Drugs and Medical Supplies; Durable Medical Equipment;
Transportation Services.**

Article 1
Prescription Drugs and Medical Supplies.

7 AAC 120.100. Provider requirements; enrollment; general provisions.

7 AAC 120.100 is repealed and readopted to read:

(a) To be eligible for payment under 7 AAC 105 – 7 AAC 160 for providing pharmacy services, a pharmacy and pharmacy located outside of the state, must

(1) be enrolled as a pharmacy in accordance with 7 AAC 105.210;

(2) hold and maintain an active pharmacy license issued under AS 08.80 unless 7 AAC 120.100(a)(8)(D) does not apply;

(3) identify the floor space of the pharmacy in square feet;

(4) provide the pharmacy’s NPI taxonomy code;

(5) provide, during enrollment and updated as necessary thereafter, the pharmacy’s 340B provider status as described in 7 AAC 145.400;

(6) provide whether they are a pharmacy purchasing drugs through the Federal Supply Schedule as described in 7 AAC 145.400;

(7) provide, during enrollment and updated as necessary thereafter, an intention to dispense hemophilia factor products; and

(8) a pharmacy located outside the state seeking payment for providing pharmacy services under 7 AAC 105 - 7 AAC 160 must

(A) be enrolled in accordance with 7 AAC 105.210;

(B) be enrolled in the Medicaid program in the jurisdiction where pharmacy services are performed and provided;

(C) submit verification of an active pharmacy license in the jurisdiction where the pharmacy is located; and

(D) if the pharmacy ships, mails, or delivers prescription drugs to consumers in this state more than twice a year, submit verification of a valid pharmacy registration issued under AS 08.80.158.

(b) To be eligible for payment under 7 AAC 105 – 7 AAC 160 for providing pharmacy services under 7 AAC 105 - 7 AAC 160, a pharmacist must

(1) be enrolled as a pharmacist in accordance with 7 AAC 105.210;

(2) hold and maintain an active pharmacist license issued under AS 08.80;

(3) provide a list of the Medicaid enrolled pharmacies where the pharmacist works more than 25% of their standard work week to establish affiliations.

(c) Pharmacists without an active pharmacist license issued under AS 08.80 may not enroll in Alaska Medicaid, except

(1) a pharmacist employed by a tribal health program or the Indian Health Service (IHS) working solely within the tribal health organization or IHS may enroll and

(2) the pharmacist-in-charge at an Alaska Medicaid enrolled home infusion therapy provider or Alaska Medicaid enrolled pharmacy dispensing hemophilia factor must enroll but may not independently prescribe unless he or she holds an active pharmacist license issued under AS 08.80.

(d) A pharmacist who fails to provide a list of his or her pharmacy affiliations or who is not affiliated with an Alaska Medicaid enrolled pharmacy may not enroll or be enrolled in Alaska Medicaid.

(e) A pharmacist that is authorized to prescribe drugs under the scope allowed by the State of Alaska must be enrolled as a provider and be affiliated with a pharmacy provider. A pharmacist may not enroll as an independent dispensing provider.

(f) A physician, a podiatrist, a physician assistant, an advanced nurse practitioner, a tribal health program, a federally qualified health center, or a rural health clinic that is authorized to prescribe drugs, who dispenses or plans to dispense drugs, and who seeks payment under 7 AAC 105 - 7 AAC 160 for dispensing drugs, must be enrolled as a dispensing provider. To enroll as a dispensing provider, the

physician, podiatrist, physician assistant, advanced nurse practitioner, tribal health program, federally qualified health center, or rural health clinic must

(1) be enrolled in accordance with 7 AAC 105.210 and the applicable provisions of 7 AAC 105 - 7 AAC 160; and

(2) submit a copy of the provider's United States Drug Enforcement Administration (DEA) certification of prescriptive authority.

(g) A pharmacy who intends to dispense hemophilia factor products under this section shall declare this intention to the Department and agree to the standards of care set forth by the Department through the Drug Utilization Review Committee, 7 AAC 120.120, prior to being eligible for payment for hemophilia factor products and services.

(Eff. 2/1/2010, Register 193; am 10/1/2011, Register 199; am ____/____/____, Register____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 120.110. Covered outpatient drugs and home infusion therapy.

7 AAC 120.110(b)(4) is amended to read:

(b) To be a covered outpatient drug, a drug must be one

...

(4) for which the manufacturer has **an approved** [OBTAINED A] new drug application, [OR] an abbreviated new drug application, **or a biologics license application** from the FDA; and

...

(Eff. 2/1/2010, Register 193; am 6/13/2010, Register 194; am 7/7/2010, Register 195; am 1/1/2011, Register 196; am 9/7/2011, Register 199; am 1/4/2012, Register 201; am 5/18/2014, Register 210; am ____/____/____, Register____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 120.140. Preferred drug list.

7 AAC 120.140 is repealed and readopted to read:

(a) The department will pay for preferred drugs on the Alaska Medicaid Preferred Drug Lists, adopted by reference in 7 AAC 160.900 and established by the department under this section.

(b) The department will pay for drugs that are identified as non-preferred on the Alaska Medicaid Preferred Drug Lists, adopted by reference in 7 AAC 160.900, if

(1) the prescriber writes the prescription in accordance with 7 AAC 120.112(7);

(2) the pharmacy or dispensing provider is a tribal health program pharmacy or dispensing provider with access to a federal supply of prescription drugs;

(3) the non-preferred dispensed drug is the reference listed drug of a preferred drug; and

(A) the non-preferred dispensed drug was purchased through the 340B program;

and

(B) the acquisition cost of the dispensed drug is less than the preferred equivalent product;

(4) the physician or pharmacy obtains a prior authorization for drugs included in the Alaska Medicaid Prior-authorized Medications List, adopted by reference in 7 AAC 160.900; or

(5) the department gives prior authorization under 7 AAC 120.130(e).

(Eff. 2/1/2010, Register 193; am 2/9/2011, Register 197; am 5/18/2014, Register 210; am

_____/_____/_____, Register_____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 120 is amended by adding a new section to read:

7 AAC 120.199. Definitions. In 7 AAC 120.100 – 7 AAC 120.199,

(1)“Pharmacist” has the meaning outlined in AS.08.80.480;

(2)“Pharmacist-in-charge” has the meaning outlined in AS.08.80.480;

(3)“Pharmacy” has the meaning outlined in AS.08.80.480;

(4)“Pharmacy located outside of the state” has the meaning outlined in AS.08.80.480;

(5)“Practice of pharmacy” has the meaning outlined in AS.08.80.480.

(Eff. 2/1/2010, Register 193; am 2/9/2011, Register 197; am 5/18/2014, Register 210; am
____/____/____, Register____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.410. Dispensing fee.

7 AAC 145.410(a) is amended by adding a new paragraph to read:

(7) partial fills will be paid as follows,

(i) the initial fill of a partial fill will pay the full dispensing fee allowed under (1) – (5) of this subsection plus the ingredient cost determined under 7 AAC 145.400 minus any recipient cost-sharing amounts imposed under AS 47.07.042;

(ii) the ingredient cost of a partial fill will be calculated based on only the actual quantity of product dispensed under the partial fill, as allowed under 7 AAC 145.400;

(iii) subsequent fills of a partial fill will be reimbursed based on the ingredient cost of the actual quantity of product dispensed with no additional dispensing fee;

(iv) the total reimbursement of all partial fills may not exceed the ingredient cost, as determined under 7 ACC 145.400, of the maximum quantity authorized by the prescriber on the prescription drug order plus the dispensing fee minus any recipient cost-sharing amounts imposed under AS 47.07.042.

7 AAC 145.410(h)(4) is amended to read:

(5) [(4)] "out-of-state pharmacy" **is** [MEANS] a pharmacy that is physically located in a state other than this state, **and has the meaning of ‘pharmacy located outside of the state’ defined in AS 08.80.480;**

7 AAC 145.410(h)(5) is amended to read:

(7) [(5)] "pharmacy located on the road system" means a pharmacy that is located in this state and is connected to Anchorage by road;

7 AAC 145.410(h)(6) is amended to read:

(8) [(6)] "pharmacy not located on the road system" means a pharmacy that is located in this state and is not connected to Anchorage by road;

7 AAC 145.410(h)(7) is amended to read:

(9) [(7)] "unit dose" means a quantity of a covered outpatient drug that the provider repackages into single dosage packing.

7 AAC145.410(h) is amended by adding a new paragraph to read:

(4) “NCPDP” means National Council for Prescription Drug Programs, an ANSI-accredited, standards development organization;

7 AAC145.410(h) is amended by adding a new paragraph to read:

(6) “partial fill claims” means an NCPDP compliant claim submitted for a prescription filled with a quantity less than the full amount authorized by the prescriber on the prescription drug order;

7 AAC145.410(h) is amended by adding a new paragraph to read:

(9) “prescription drug order” has the meaning outlined in AS.08.80.480;

(Eff. 2/1/2010, Register 193; am 1/1/2011, Register 196; am 9/7/2011, Register 199; am 1/4/2012, Register 201; am 5/18/2014, Register 210; am 6/16/2016, Register 218; am ____/____/____, Register____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 160.900. Requirements adopted by reference.

7 AAC 160.900(d)(1) is repealed and readopted to read:

(d) The following department documents are adopted by reference:

(1) the Alaska Medicaid Preferred Drug List, revised as follows:

- (A) Group A, revised as of November 29, 2017;
- (B) Group B, revised as of November 29, 2017;
- (C) Group C, revised as of November 29, 2017;
- (D) Group D, revised as of November 29, 2017.

7 AAC 160.900(d)(2) is amended to read:

(d) The following department documents are adopted by reference:

(2) the Alaska Medicaid Prior-Authorization Medications List, dated **January 15, 2018** [MAY 8, 2013];

7 AAC 160.900(d)(51) is amended to read:

(51) the Alaska Medicaid 90 Day Generic Prescription Medication List, dated **November 24, 2017** [JUNE 27, 2013].

(Eff. 2/1/2010, Register 193; am 8/25/2010, Register 195; am 12/1/2010, Register 196; am 1/1/2011, Register 196; am 1/15/2011, Register 197; am 2/9/2011, Register 197; am 3/1/2011, Register 197; am

10/1/2011, Register 199; am 12/1/2011, Register 200; am 1/26/2012, Register 201; am 3/8/2012, Register 201; am 4/1/2012, Register 201; add'l am 4/1/2012, Register 201; am 5/11/2012, Register 202; am 10/16/2012, Register 204; am 11/3/2012, Register 204; am 12/1/2012, Register 204; am 12/2/2012, Register 204; am 1/1/2013, Register 204; am 1/16/2013, Register 205; am 7/1/2013, Register 206; add'l am 7/1/2013, Register 206; am 11/3/2013, Register 208; am 1/1/2014, Register 208; am 2/2/2014, Register 209; am 3/19/2014, Register 209; am 3/22/2014, Register 209; am 5/18/2014, Register 210; am 2/26/2015, Register 213; am 3/15/2015, Register 213; am 7/1/2015, Register 214; am 5/1/2016, Register 218; am 6/16/2016, Register 218; am ____/____/____, Register____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040
AS 47.05.012