

Byron Mallott
Lieutenant Governor
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Anchorage, Alaska 99501
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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 and Social Services

FROM: Scott Meriwether, Office of the Lieutenant Governor 
465.4081

DATE: February 28, 2018

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

Department of Health and Social Services regulations regarding Medicaid coverage and payment regulations regarding tribal health programs and services of certified health providers (7 AAC 125.160(a)(3); 7 AAC 145.140(e); 7 AAC 155.020 - 7 AAC 155.040)

Attorney General File:	JU2017200424
Regulation Filed:	2/28/2018
Effective Date:	3/30/2018
Print:	225, April 2018

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

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

The attached two pages of regulations, dealing with Tribal Health Programs, Community Health Aides & Practitioners, & Behavioral Health Aides & Practitioners, 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, 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 the 30th day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.

Date: 2-27-18


Jon Sherwood, Deputy Commissioner

Claire Richardson for FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that¹ on Feb. 28,
2/28, at 11:24 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 -
44.62.120.


Byron Mallott, Lieutenant Governor

Effective: March 30, 2018

Register: 225, April 2018



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

VALERIE DAVIDSON

(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

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

**I, BYRON MALLOTT, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA,
designate the following state employee to perform the Administrative Procedures Act filing
functions of the Office of the Lieutenant Governor:**

Claire Richardson, Special Assistant

**IN TESTIMONY WHEREOF, I have
signed and affixed the Seal of the State of
Alaska, in Juneau, on January 7th 2015.**




.....

**BYRON MALLOTT
LIEUTENANT GOVERNOR**

Register 225, April 2018 HEALTH AND SOCIAL SERVICES

7 AAC 125.160(a)(3) is amended to read:

(3) hold an active certification as a community health aide or [I, II, III, OR IV
OR AS A] community health practitioner from the [ALASKA] Community Health Aide
Program Certification Board;

(Eff. 2/1/2010, Register 193; am 1/26/2012, Register 201; am 7/22/2017, Register 223; am
3/30/2018, Register 225)

Authority: AS 47.05.010 AS 47.07.030

7 AAC 145.140(e) is amended to read:

(e) If an EPSDT service is provided by a certified health provider [COMMUNITY
HEALTH AIDE OR COMMUNITY HEALTH PRACTITIONER] described in 7 AAC 155.030
[7 AAC 155.020] and employed by a tribal health program, or by a public health nurse employed
by a tribal health program, the department will pay for that service in accordance with (a) of this
section.

(Eff. 2/1/2010, Register 193; am 3/30/2018, Register 225)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 155.020 is repealed:

7 AAC 155.020. Community health aides and practitioners. Repealed. (Eff. 2/1/2010,
Register 193; am 10/1/2011, Register 199; repealed 3/30/2018, Register 225)

7 AAC 155 is amended by adding new sections to read:

7 AAC 155.030. Certified health providers. A certified health provider is a

- (1) community health aide;
- (2) community health practitioner;
- (3) behavioral health aide; or
- (4) behavioral health practitioner. (Eff. 3 / 30 / 2018, Register 225)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 155.040. Certified health provider encounter rate. (a) The department will pay a single statewide certified health provider encounter rate for the services of a

- (1) community health aide or community health practitioner certified by the Community Health Aide Program Certification Board; and
- (2) behavioral health aide or behavioral health practitioner certified by the Behavioral Health Aide Program Certification Board.

(b) The single statewide certified health provider encounter rate is \$442.39 per encounter. This rate is effective until December 31, 2020. For state fiscal year 2018, the department will not apply any inflation adjustment. (Eff. 3 / 30 / 2018, Register 225)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

MEMORANDUM


State of Alaska Department of Law

To: Hon. Byron Mallott
Lieutenant Governor

Date: February 28, 2018

File No.: JU2017200424

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 regulations regarding
Medicaid coverage and payment
regulations regarding tribal health
programs and services of certified
health providers (7 AAC
125.160(a)(3); 7 AAC 145.140(e);
7 AAC 155.020 - 7 AAC 155.040)

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 February 27, 2018 from the Regulations Attorney. The regulations update Medicaid coverage and payment regulations, particularly payment rates for services of certified health providers--community health aides, community health practitioners, behavioral health aides, and behavioral health practitioners--in tribal health programs.

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.

Hon. Byron Mallott, Lieutenant Governor
Our file: JU2017200424

February 28, 2018
Page 2

The July 28, 2017 public notice and the February 27, 2018 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.

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

Renee Gayhart
Office of the Commissioner
Department of Health and Social Services

Kelly E. Henriksen, Senior Assistant Attorney General
Human Services Section

MEMORANDUM

State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: February 27, 2018

FILE NO.: JU2017200424

TELEPHONE NO.: (907) 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
Medicaid coverage and payment
regulations regarding tribal health
programs and services of certified
health providers (7 AAC
125.160(a)(3); 7 AAC
145.140(e); 7 AAC 155.020 -
7 AAC 155.040)

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 ON TRIBAL HEALTH PROGRAMS, COMMUNITY HEALTH AIDES
& PRACTITIONERS, & BEHAVIORAL HEALTH AIDES & PRACTITIONERS,
IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES.

BRIEF DESCRIPTION

The Department of Health & Social Services proposes to change regulations on the definition of community and behavioral health aides and practitioners, and the encounter rate for certified health aide services.

The Department of Health & Social Services proposes to adopt regulation changes in Title 7 of the Alaska Administrative Code, dealing with community and behavioral health aides and practitioners, including the following:

- 7 AAC 155.020 is proposed to be changed as follows:
 - Defines certified health providers to include community health aides and practitioners, and behavioral health aides and practitioners; and
 - Establishes the encounter rate for reimbursement of certified health provider services.

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 Donna Steward, Department of Health & Social Services, Office of the Commissioner, 3601 C Street, Suite 902, Anchorage, AK 99503. Additionally, the Department of Social & Health Services will accept comments by facsimile at (907) 269-0060 and by electronic mail at donna.steward@alaska.gov. The comments must be received not later than 5 p.m. on September 7, 2017.

Oral or written comments also may be submitted at a hearing to be held on August 17, 2017, at the Atwood Building, Room 102 (Ted Stevens Room), 550 W 7th St., Anchorage, AK 99501. The hearing will be held from 12:00 p.m. to 1 p.m. and might be extended to accommodate those present before 12:30 p.m. who did not have an opportunity to comment. If you are unable to attend in person, but would like to comment during the oral public hearing, you can call the teleconference number 1-800-701-9749 (Toll Free).

You may submit written questions relevant to the proposed action to Donna Steward, Department of Health & Social Services, Office of the Commissioner, 3601 C Street, 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.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Donna Steward at donna.steward@alaska.gov or at (907) 754-3447 not later than August 7, 2017, 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 Donna Steward, Department of Health and Social Services, at either donna.steward@alaska.gov or (907) 754-3447.

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: 7-25-17



Jon Sherwood
Deputy Commissioner
Department of Health & Social Services

NOTICE OF PROPOSED CHANGES ON TRIBAL HEALTH PROGRAMS, COMMUNITY HEALTH AIDES
& PRACTITIONERS, & BEHAVIORAL HEALTH AIDES & PRACTITIONERS,
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: 7-25-17



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 & Social Services
2. General subject of regulation: Define Certified Health Providers and establish methodology for reimbursement (encounter rate).
3. Citation of regulation (may be grouped): 7 AAC 155.020
4. Department of Law file number, if any: JU2017200424

5. Reason for the proposed action:

- (X) Compliance with federal law or action (identify): Comply with allowances in federal State Plan Amendment.
- () Compliance with new or changed state statute
- () Compliance with federal or state court decision (identify): _____
- () Development of program standards
- () Other (identify): _____

6. Appropriation/Allocation: None

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

A private person: None

Another state agency: None

A municipality: None

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

	Initial Year FY <u>2017</u>	Subsequent Years
Operating Cost	\$ <u>0</u>	\$ _____
Capital Cost	\$ <u>0</u>	\$ _____
1002 Federal receipts	\$ <u>22.4 mil</u>	\$ _____
1003 General fund match	\$ <u>0</u>	\$ _____
1004 General fund	\$ <u>0</u>	\$ _____
1005 General fund/ program	\$ <u>0</u>	\$ _____
Other (identify)	\$ <u>0</u>	\$ _____

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

Name: Donna Steward

Title: Policy Coordinator/Medical Assistance Administrator IV

Address: 3601 C Street, Suite 902, Anchorage, AK 99503

Telephone: (907) 754-3447

E-mail address: donna.steward@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: 7/17/17

Prepared by:

Donna Steward

[signature]

Name (printed): Donna Steward

Title (printed): Policy Coordinator/MAA IV

Telephone: (907) 754-3447

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION


I, Triptaa Surve, Project Coordinator, of the 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 155.020. Tribal Health Programs, Community Health Aides and Practitioners, and Behavioral Health Aides and Practitioners, 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: October 23, 2017 4

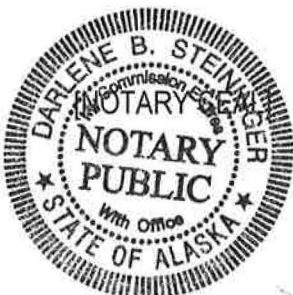


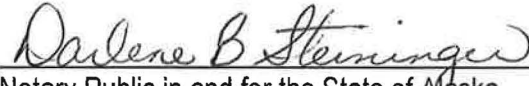
Triptaa Surve, Project Coordinator

Subscribed and sworn to before me at __ on

Oct 23, 2017

(date)





Notary Public in and for the State of Alaska

AFFIDAVIT OF ORAL HEARING

I, Renee Gayhart, Tribal Health Program Manager of Department of Health and Social Services, being sworn, state the following:

On August 17, 2017, at 12:00pm, in Room 102, 550 West 7th, Anchorage, AK, 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 7 AAC 155.020 regarding definition of a certified health provider and establishing an encounter rate for reimbursement of certified health provider services.

Date: 8-31-17

Renee Gayhart
Renee Gayhart, Tribal Health Program Manager

Subscribed and sworn to before me at Anchorage, AK on
8-31-17
(date)

[NOTARY SEAL]



Kristina Serezhnikov
Notary Public in and for the State of Alaska

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

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

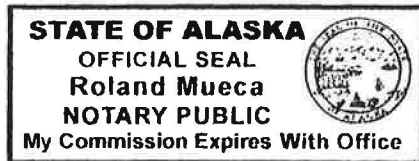
In compliance with AS 44.62.215, the Department of Health & Social Services has kept a record of its use or rejection of factual or other substantive information that was submitted in writing and orally as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Health & Social Services regulation on Tribal Health Programs, Community Health Aides & Practitioners, and Behavioral Health Aides & Practitioners.

Date: 10-9-17

Renee Gayhart
Renee Gayhart, Project Coordinator

Subscribed and sworn to before me at 350 Main St, Juneau, Alaska

on 10/09/17
(date)



R. Mueca
Notary Public in and for the State of Alaska

[NOTARY SEAL]

270229
0001408268
\$358.56

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

July 28, 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 28th day of July, 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 ON TRIBAL HEALTH PROGRAMS, COMMUNITY HEALTH AIDES & PRACTITIONERS, & BEHAVIORAL HEALTH AIDES & PRACTITIONERS, 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: July 25, 2017.

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

Published: July 28, 2017