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

MEMORANDUM

TO: Triptaa Surve
Department of Health and Social Services

FROM: Scott Meriwether, Office of the Lieutenant Governor 
465.4081

DATE: May 9, 2018

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

Department of Health and Social Services regulations re: Medicaid coverage and payment, audits, and reviews (7 AAC 105.230; 7 AAC 105.400(41); 7 AAC 120.430; 7 AAC 160.110 - 160.140)

Attorney General File: JU2017200285
Regulation Filed: 5/8/2018
Effective Date: 6/7/2018
Print: 226, July 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 13 pages of regulations, dealing with Medicaid Audit & Review (7 AAC 105.230, 7 AAC 120.430, and 7 AAC 160.110- .140), 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 47.05.200, AS 47.05.235, AS 47.07.030, AS 47.07.040, and AS 47.07.074, 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: 5-1-18



Jon Sherwood
Deputy Commissioner
Department of Health & Social Services

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that¹ on May 8,
2018, at 8:37 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 -
44.62.120.



Lieutenant Governor

Effective: June 7, 2018

Register: 226, July 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
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350 Main Street, Suite 404
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**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:



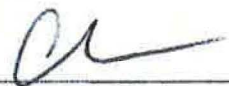
Commissioner

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

7 AAC 105.230(a) is amended to read:

(a) A provider

(1) shall maintain accurate financial, clinical, and other records necessary to support the services for which the provider requests payment;

(2) [. THE PROVIDER] shall ensure that the provider's staff, billing agent, or other entity responsible for the maintenance of the provider's financial, clinical, and other records meets the requirements of this section; **and**

(3) may not submit a claim to the department for payment for services unless the provider's records are kept and maintained in accordance with this section.

7 AAC 105.230(d)(5) is amended to read:

(5) stop and start times for time-based billing codes; **a provider may only bill for a unit of service if the actual direct service time spent is in excess of 50 percent of the time value of the procedure code billed; direct service time associated with a particular procedure code shall be accumulated by the direct service provider for each date of service when determining the appropriate number of units that may be billed; a provider may not use pre-populated clinical notes or timesheets to document actual stop and start times; a provider may not bill for services without proper time-in and time-out documentation; the use of documentation that does not specify both time in and time out will result in an overpayment; the following table identifies the appropriate number of units to bill using a 15-minute time-based code: [AND]**

Units	Number of Minutes of Direct Service Time
1	≥ 8 minutes through 22 minutes
2	≥ 23 minutes through 37 minutes
3	≥ 38 minutes through 52 minutes
4	≥ 52 minutes through 67 minutes
5	≥ 68 minutes through 82 minutes
6	≥ 83 minutes through 97 minutes
7	≥ 98 minutes through 112 minutes
8	≥ 113 minutes through 127 minutes
The pattern remains the same for direct service times in excess of 2 hours.	

7 AAC 105.230(d)(6) is amended to read:

(6) annotated case notes identifying each service or supply delivered; the case notes must be dated and either signed or initialed by the individual who provided each service; **for electronic records, an electronic signature that complies with the requirements of AS 09.80 (Uniform Electronic Transactions Act) satisfies the signature requirement under this section; the individual whose name is on the electronic signature and the provider bear the responsibility for the authenticity of the information being attested to; and [.]**

7 AAC 105.230(d) is amended by adding a new paragraph to read:

(7) records that are maintained contemporaneously with the service provided; for purposes of this chapter, contemporaneous records are those records documented in accordance with the provider's professional licensing standards, or within 72 hours from the end of the date of service, whichever is longer; a provider may not bill for services for which records were not kept contemporaneously.

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7 AAC 105.230(f) is amended to read:

(f) A provider who maintains all or part of the provider's records in an electronic format shall ensure that the data required to be maintained by this section is **available and** [READILY] accessible **if requested** [AS REQUIRED] under 7 AAC 105.240(a). **A provider's electronic data storage system must**

(1) comply with P.L. 104-191 (Health Insurance Portability and Accountability Act);

(2) protect against unauthorized modification; and

(3) identify the creator and date of initial data entry and any modification.

7 AAC 105.230 is amended by adding new subsections to read:

(g) Nothing in this section prohibits the use of an electronic health record or electronic visit verification system that generates prepopulated demographic data.

(h) A provider may not submit a claim to the department for a service if a provider does not maintain records in compliance with this chapter. (Eff. 2/1/2010, Register 193; am

6/7/2018, Register 226)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 105.400(41) is amended to read:

(41) failing to maintain for each recipient, **as required under 7 AAC 105.230 or another provision of 7 AAC 105 - 7 AAC 160**, a contemporaneous and accurate record of the services provided;

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(Eff. 2/1/2010, Register 193; am 6/1/2011, Register 198; am 6/29/2017, Register 222; am 6/7/2018, Register 226)

Authority:	AS 47.05.010	AS 47.05.320	AS 47.07.030
	AS 47.05.300	AS 47.05.330	AS 47.07.040
	AS 47.05.310	AS 47.05.340	

7 AAC 120.430(d) is repealed and readopted to read:

(d) A provider may not submit a claim to the department for an additional or a higher accommodation rate when the recipient and authorized escort stay in the same room, or when more than one escort stays in the same room, unless the department determines that the circumstances warrant a higher rate as indicated in the prior authorization.

7 AAC 120.430 is amended by adding a new subsection to read:

(e) A provider may not submit a claim to the department for more than one room for the recipient and escort or for more than one escort, unless the department determines that circumstances warrant separate accommodations as indicated in the prior authorization. (Eff.

2/1/2010, Register 193; am 6/7/2018, Register 226)

Authority:	AS 47.05.010	AS 47.07.030	AS 47.07.040
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7 AAC 160.110(a) is amended to read:

(a) The department or its designee shall conduct fiscal audits of Medicaid providers, their subcontractors, and their grantees. A provider that bills the department is responsible

for ensuring that records related to the services billed are kept by employees, subcontractors, and grantees, are maintained in accordance with 7 AAC 105.230, and are made available when requested by the department.

7 AAC 160.110(b) is amended to read:

(b) For purposes of this section, a fiscal audit may include a desk audit, a field audit, or both, to determine the provider's compliance with the requirements of 42 U.S.C. 1396, AS 47.05, AS 47.07, 42 C.F.R. Part 430 - 42 C.F.R. Part 498, **and** 7 AAC 105 - 7 AAC 160 [, AND THE PROVIDER'S CURRENT PROVIDER AGREEMENT MADE UNDER 7 AAC 105.220].

7 AAC 160.110(e) is amended to read:

(e) The department or its designee may request **and receive immediate access to** records and perform an audit of those records without advance notice if the department or its designee has reason to believe, based on **credible** [RELIABLE] evidence, that the provider is engaging in a course of conduct or performing an act in violation of the requirements specified in (b) of this section. Notwithstanding the provisions of 7 AAC 105.240, the provider shall produce the requested records for an immediate audit under this subsection at the provider's place of business or other location as specified by the department or its designee. **To provide immediate access to records under this subsection, the provider must make the records available not later than 24 hours after the request. If the provider is unable to produce the records in that timeframe, the provider shall notify the department, not later than 24 hours after the request, of the reason for the delay together with the estimated timeframe to comply.**

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7 AAC 160.110(f) is amended to read:

(f) Following the department's or its designee's audit of a provider's records, the department or its designee will give the provider the written preliminary findings of the audit. The preliminary findings will identify claim-line inaccuracies [, BUT WILL NOT IDENTIFY ANY OVERPAYMENT AMOUNTS]. The provider has 30 days after the date of the letter informing the provider of the preliminary findings to submit additional documentation or respond to the preliminary findings.

7 AAC 160.110(h) is repealed and readopted to read:

(h) If the department finds in the final audit report under (g) of this section that the provider has not complied with the requirements specified in (b) of this section,

(1) the department

(A) will recoup or require repayment of any identified overpayment amount from the provider; and

(B) may require that the provider pay interest on applicable overpayments; interest on overpayments will be calculated in accordance with AS 47.05.200(b); and

(2) in addition to actions under (1) of this subsection, the department may take one or more of the following actions:

(A) impose sanctions against the provider under 7 AAC 105.400 - 7 AAC 105.490;

(B) initiate other administrative or civil actions;

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(C) refer the matter to another state, federal, or local agency.

(Eff. 2/1/2010, Register 193; am 10/1/2011, Register 199; am 6/7/2018, Register 226)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.074
AS 47.05.200 AS 47.07.040

7 AAC 160 is amended by adding a new section to read:

7 AAC 160.115. Duty of a provider to identify and repay self-identified

overpayments. (a) An enrolled provider who bills the department for services rendered during a calendar year shall conduct, once every two years, a review or audit of a statistically valid random sample of claims submitted to the department for reimbursement, unless the provider is being audited under AS 47.05.200(a). The universe of claims from which the random sample is drawn must be all claims that are billed with dates of service during the calendar year for the provider and that may be identified at the taxpayer identification level. As part of the self-review or self-audit, a provider shall establish appropriate corrective actions for any deficiencies identified.

(b) A biennial review or audit conducted under this section shall be conducted not earlier than one year following the end of the calendar year to allow for timely filing of all claims.

(c) The provider may use any widely accepted statistical software, such as RAT-STATS, developed by the United States Department of Health and Human Services, Office of Inspector General, to assist in sample size determination, and sample selection, using a minimum of a 90-percent confidence interval.

(d) If a provider identifies overpayments through the biennial review or audit, during the

normal course of business, or both, the provider shall report each overpayment to the department not later than 10 business days after identification of that overpayment. In this subsection, "business day" means a day other than Saturday, Sunday, or a legal holiday under AS 44.12.010.

(e) A provider who was reimbursed \$30,000 or greater for services during the year shall submit a report to the department detailing the claims audited or reviewed together with the results of that review or audit. A provider who was reimbursed \$10,000 or greater but less than \$30,000 is not required to submit the report to the department but must have the report available for review by the department. A provider who was reimbursed less than \$10,000 is not required to produce a report but shall have a attestation form on file and available for review by the department. The report shall be made in writing, include an attestation on a form prescribed by the department, and be submitted, if required, to the Department of Health and Social Services, Office of the Commissioner, Medicaid Program Integrity. The reimbursement values referenced are based upon the reimbursement values reported in each United States Internal Revenue Service Form 1099 that the department issues to the provider by calendar year.

(f) A provider shall retain audit documents and reports created as a result of the review for at least seven calendar years following completion.

(g) Not later than 30 days after identification of the overpayment, the provider shall enter into a repayment agreement with the department. The agreement may authorize repayment through any one of the following means:

(1) a lump sum payable not later than two months after the date of the discovery of the overpayment;

(2) a payment plan not to exceed two years in length; the department may extend

the payment plan beyond two years;

(3) by offsetting future billings by the provider; if a provider chooses to offset future billings, the amount offset must be repaid not later than two years from the date of the agreement.

(h) If a provider defaults on a repayment in (g) of this section, the department may require immediate payment of the total amount due. If a provider defaults on paying the total amount, the provider is subject to sanctions under 7 AAC 105.400 - 7 AAC 105.490. Sanctions may include termination from the Medicaid program in accordance with 7 AAC 105.410.

(i) The department may review the results of a provider-conducted self-review for accuracy. If the provider does not provide an opportunity for department review under this subsection or obstructs the review, or if the department determines that the provider's self-review is inaccurate, the provider is subject to sanctions under 7 AAC 105.400 - 7 AAC 105.490. Sanctions may include termination from the Medicaid program in accordance with 7 AAC 105.410. (Eff. 6 / 7 / 2018, Register 226)

Authority:	AS 47.05.010	AS 47.05.235	AS 47.07.040
	AS 47.05.200	AS 47.07.030	AS 47.07.074

Editor's note: For information regarding the conduct of a self-audit, please refer to the CMS self-audit toolkit, *Conducting a Self-Audit: A Guide for Physicians and Other Health Care Professionals*, February 2016. The toolkit may be obtained at the following website:
<https://www.cms.gov/Medicare-Medicaid-Coordination/Fraud-Prevention/Medicaid-Integrity-Education/audit-toolkit.html> .

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The attestation form referenced in 7 AAC 160.115(e) may be obtained at the following website: <http://dhss.alaska.gov/Commissioner/Pages/ProgramIntegrity/default.aspx> .

The address for sending a report or attestation, if required under 7 AAC 160.115(e), is Department of Health and Social Services, Medicaid Program Integrity, P.O. Box 240249, Anchorage, AK 99524; or by electronic mail to QAPIProgramIntegrity@alaska.gov .

7 AAC 160.120 is amended to read:

7 AAC 160.120. Use of statistical sampling. The department, [OR] its designee, **or a provider** may use statistically valid sampling methodologies to

(1) select Medicaid claims for review or audit; and

(2) calculate overpayment amounts to providers that are subject to **a provider**

self-review or self-audit under AS 47.05.235 and 7 AAC 160.115, a fiscal audit under 7 AAC 160.110, or a quality assurance program review under 7 AAC 160.140. (Eff. 2/1/2010, Register 193; am 6/7/2018, Register 226)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

AS 47.05.235

7 AAC 160.130(a) is amended to read:

(a) A provider may appeal the findings of a final audit conducted under 7 AAC 160.110 and determinations of overpayment amount under the audit. **A provider may request reconsideration of the audit findings before a formal appeal. If a provider requests reconsideration, the provider may still request a formal appeal under this section by**

requesting the appeal not later than 30 days after the date of the notice of decision on reconsideration.

7 AAC 160.130(c) is repealed and readopted to read:

(c) The department will refer an appeal received under this section to the Department of Administration, office of administrative hearings (AS 44.64.010). At the hearing under AS 44.64.060, the department must prove by a preponderance of the evidence to the administrative law judge that overpayments were properly identified and that the amount is correctly calculated. The commissioner will render a decision on an appeal after reviewing, under AS 04.64.060(e), the record and the proposed decision submitted under AS 44.64.060(d) by the administrative law judge.

(Eff. 2/1/2010, Register 193; am 6 / 7 / 2018, Register 226)

Authority: AS 47.05.010 AS 47.05.200 AS 47.07.040

7 AAC 160.140(a) is amended to read:

(a) The department, **through each division responsible for the administration of the Medicaid program**, will establish a quality assurance program to ensure provider compliance with AS 47.05, AS 47.07, and 7 AAC 105 - 7 AAC 160.

7 AAC 160.140(b) is amended to read:

(b) Under the quality assurance program, the department will conduct [RANDOM] program reviews [OF A SAMPLING] of providers [ON AN ANNUAL BASIS]. **If the**

department proposes adverse action as a result of the [AFTER EACH] review, the department will issue a written report of **the** findings [AS] to [WHETHER] the provider [WAS IN COMPLIANCE WITH THE PROVISIONS OF AS 47.05, AS 47.07, AND 7 AAC 105 - 7 AAC 160].

7 AAC 160.140(c) is amended to read:

(c) If the department finds in the written report under (b) of this section that the provider has not complied with AS 47.05, AS 47.07, or 7 AAC 105 - 7 AAC 160, the department may take one or more of the following actions:

(1) give the provider notice under 7 AAC 105.440 that the department proposes to immediately suspend a provider's participation in the Medicaid program;

(2) find grounds under 7 AAC 105.400 to sanction the provider under 7 AAC 105.410;

(3) require that the provider be **subject to a financial audit** [AUDITED] if there is a reasonable basis to conclude that the provider has received payments in excess of what is authorized under the Medicaid program;

(4) require the provider to issue a corrective action plan to address **a** [THE] written report of findings issued under (b) of this section;

(5) initiate other administrative or other civil actions;

(6) refer the matter to

(A) another state, federal, or local agency; **and**

(B) [THE DIVISION OF CORPORATIONS, BUSINESS AND

Register 226, July 2018 HEALTH AND SOCIAL SERVICES
PROFESSIONAL LICENSING IN THE DEPARTMENT OF COMMERCE,
COMMUNITY, AND ECONOMIC DEVELOPMENT; AND

(C)] applicable certifying and accrediting agencies.

(Eff. 2/1/2010, Register 193; am 10/1/2011, Register 199; am 6 / 7 / 2018, Register 226)

Authority: AS 47.05.010 AS 47.07.040

MEMORANDUM


State of Alaska
Department of Law

To: Hon. Byron Mallott
Lieutenant Governor

Date: May 2, 2018

File No.: JU2017200285

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 re: Medicaid
coverage and payment, audits, and
reviews (7 AAC 105.230; 7 AAC
105.400(41); 7 AAC 120.430; 7 AAC
160.110 - 160.140)

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 May 1, 2018 from the Regulations Attorney. The regulations revise Medicaid coverage and payment regulations regarding audits and review, in particular to establish self-audit and self-review procedures and requirements to reflect AS 47.05.235, enacted under sec. 42, ch. 25, SLA 2016.

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: JU2017200285

May 2, 2018
Page 2

The July 26, 2017 public notice and the May 1, 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

Douglas W. Jones, Manager
Medicaid Program Integrity
Office of the Commissioner
Department of Health and Social Services

Elizabeth J. Smith, Assistant Attorney General
Human Services Section

MEMORANDUM

State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: May 1, 2018

FILE NO.: JU2017200285

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
Department of Health and Social
Services regulations re: Medicaid
coverage and payment, audits,
and reviews (7 AAC 105.230;
7 AAC 105.400(41); 7 AAC
120.430; 7 AAC 160.110 -
160.140)

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 MEDICAID AUDIT AND REVIEW IN THE REGULATIONS OF
THE DEPARTMENT OF HEALTH & SOCIAL SERVICES.

BRIEF DESCRIPTION

The Department of Health & Social Services proposes to change regulations on Medicaid audit and review of medical assistance providers, self-review conducted by providers, interest applied to overpayments, and provider records.

The Department of Health & Social Services proposes to adopt regulation changes in Title 7 of the Alaska Administrative Code, dealing with audit and review of Medicaid providers, self-review, and overpayments, including the following:

- 7 AAC 105.230. Requirements for provider records – is proposed to be amended to revise the record keeping requirements for medical assistance providers, including electronic record requirements, unit of service, and timesheets.
- 7 AAC 120.430. Authorized escort – is proposed to be amended to revise the claim requirements for hotels.
- 7 AAC 160.110. Fiscal audit - is proposed to be amended to revise the fiscal audit procedures, including subcontractors and grantees, record keeping, access to records, sanctions, and interest paid on overpayments.
- 7 AAC 160.115. Duty of a provider to identify and repay self-identified overpayments - is a proposed new section that requires providers to conduct a self-review of a random sample of claims and return any overpayments to the department.
- 7 AAC 160.120. Use of statistical sampling - is proposed to be amended to include providers to use statistically valid sampling methodologies when conducting self-reviews.
- 7 AAC 160.130. Appeal - is proposed to be amended to revise the appeal procedures and options, including reconsideration by the department.
- 7 AAC 160.140. Quality assurance program - is proposed to be amended to revise the quality assurance program requirements.

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 Mr. Doug Jones at douglas.jones@alaska.gov or at 4601 Business Park Blvd., Building K, Anchorage, AK 99503. The comments must be received not later than 5 p.m. on September 22, 2017.

Oral or written comments also may be submitted at a hearing to be held on September 1, 2017, at the Frontier Building, in Conference Rooms Number 880, 890, and 896, 3601 C St., Anchorage, AK

99503. The hearing will be held from 9:00 a.m. – 12:00 p.m. and might be extended to accommodate those present before 11 a.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 (800) 945-9434 (Toll Free).

You may submit written questions relevant to the proposed action to Mr. Doug Jones at douglas.jones@alaska.gov or at 4601 Business Park Blvd., Building K, 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 response available on the Alaska Online Public Notice System at <https://aws.state.ak.us/OnlinePublicNotices/> and on the department website at <http://dhss.alaska.gov/Commissioner/Pages/ProgramIntegrity/default.aspx>.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Mr. Doug Jones at douglas.jones@alaska.gov or at (907) 269-0361 not later than August 21, 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 Mr. Doug Jones at douglas.jones@alaska.gov or at (907) 269-0361.

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 47.05.200; AS 47.05.235; AS 47.07.030; AS 47.07.040; AS 47.07.074.

Statutes being implemented, interpreted, or made specific: AS 47.05.010; AS 47.05.200; AS 47.07.030; AS 47.07.040; AS 47.07.074.

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

DATE: 7-24-17



Jon Sherwood
Deputy Commissioner
Department of Health & Social Services

NOTICE OF PROPOSED CHANGES ON MEDICAID AUDIT AND REVIEW IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES.

The Department of Health & Social Services proposes to adopt regulation changes in Title 7 of the Alaska Administrative Code, dealing with audit and review of Medicaid providers, self-review, and overpayments, including the following:

- 7 AAC 105.230. Requirements for provider records – is proposed to be amended to revise the record keeping requirements for medical assistance providers, including electronic record requirements, unit of service, and timesheets.
- 7 AAC 120.430. Authorized escort – is proposed to be amended to revise the claim requirements for hotels.
- 7 AAC 160.110. Fiscal audit - is proposed to be amended to revise the fiscal audit procedures, including subcontractors and grantees, record keeping, access to records, sanctions, and interest paid on overpayments.
- 7 AAC 160.115. Duty of a provider to identify and repay self-identified overpayments - is a proposed new section that requires providers to conduct a self-review of a random sample of claims and return any overpayments to the department.
- 7 AAC 160.120. Use of statistical sampling - is proposed to be amended to include providers to use statistically valid sampling methodologies when conducting self-reviews.
- 7 AAC 160.130. Appeal - is proposed to be amended to revise the appeal procedures and options, including reconsideration by the department.
- 7 AAC 160.140. Quality assurance program - is proposed to be amended to revise the quality assurance program requirements.

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 Mr. Doug Jones at douglas.jones@alaska.gov or at 4601 Business Park Blvd., Building K, Anchorage, AK 99503. The comments must be received not later than 5 p.m. on September 22, 2017.

Oral or written comments also may be submitted at a hearing to be held on September 1, 2017, at the Frontier Building, in Conference Rooms Number 880, 890, and 896, 3601 C St., Anchorage, AK 99503. The hearing will be held from 9:00 a.m. – 12:00 p.m. and might be extended to accommodate those present before 11 a.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 (800) 945-9434 (Toll Free).

You may submit written questions relevant to the proposed action to Mr. Doug Jones at douglas.jones@alaska.gov or at 4601 Business Park Blvd., Building K, 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 response available on the Alaska Online Public Notice System at <https://aws.state.ak.us/OnlinePublicNotices/> and on the department website at <http://dhss.alaska.gov/Commissioner/Pages/ProgramIntegrity/default.aspx>.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Mr. Doug Jones at douglas.jones@alaska.gov or at (907) 269-0361 not later than August 21, 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 Mr. Doug Jones at douglas.jones@alaska.gov or at (907) 269-0361.

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 47.05.200; AS 47.05.235; AS 47.07.030; AS 47.07.040; AS 47.07.074.

Statutes being implemented, interpreted, or made specific: AS 47.05.010; AS 47.05.200; AS 47.07.030; AS 47.07.040; AS 47.07.074.

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

DATE: _____

7-24-17



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: Medicaid audit and review of medical assistance providers.
3. Citation of regulation (may be grouped): 7 AAC 105, 120, & 160.
4. Department of Law file number, if any: JU2017200285
5. Reason for the proposed action:
 - () Compliance with federal law or action (identify):
 - (X) Compliance with new or changed state statute
 - () Compliance with federal or state court decision (identify): _____
 - () Development of program standards
 - () Other (identify):
6. Appropriation/Allocation: Medicaid Services/Health Care Medicaid Services
7. Estimated annual cost to comply with the proposed action to: None
 - 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): None

	Initial Year FY <u>2018</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: Mr. Douglas Jones

Title: Audit & Review Analyst IV

Address: 4601 Business Park Blvd., Building K, Anchorage, AK 99503.

Telephone: (907) 269-0361

E-mail address: douglas.jones@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:

7/3/17

Prepared by:

Douglas Jones

Name (printed): Douglas Jones

Title (printed): Audit & Review Analyst IV

Telephone: (907) 269-0361

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

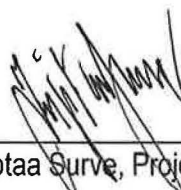
I, Triptaa Surve, Project Coordinator, of the Department of Health & Social Services, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to the Medicaid Audit & Review (7 AAC 105.230, 120.430, and 160.110- .140), 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.

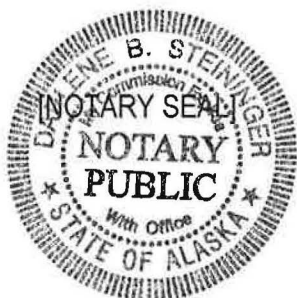
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the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


Date: February 8, 2018 4



Triptaa Surve, Project Coordinator

Subscribed and sworn to before me at 3601 C St, Suite 878, Anchorage, AK on Feb 8, 2018.
(date)





Notary Public in and for the State of Alaska

AFFIDAVIT OF ORAL HEARING

I, Douglas Jones, Audit & Review Analyst IV, for the Department of Health & Social Services, being sworn, state the following:

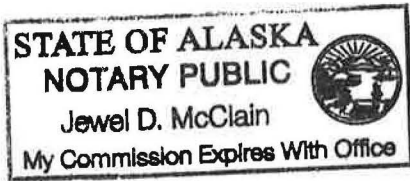
On September 1, 2017, at 9:00 a.m., in Room 890 of the Frontier Building, at 3601 C Street, in Anchorage, AK 99503, I presided over a public hearing held under AS 44.62.210 for the purpose of taking testimony in connection with the adoption of changes to 7 AAC 105.230, 7 AAC 120.430, and 7 AAC 160.110- .140, the Medicaid Audit & Review regulations.

Date: 1/4/2018 4



Doug Jones, Audit & Review Analyst IV

Subscribed and sworn to before me at Anchorage AK on 1/4/18
(date)





Notary Public in and for the State of Alaska


[NOTARY SEAL]

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Douglas Jones, Audit & Review Analyst IV, for the Department of Health & Social Services, being duly sworn, state the following:

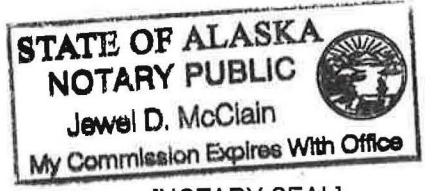
In compliance with AS 44.62.215, the Department of Health & Social Services has kept a record of its use or rejection of factual or other substantive information that was submitted in writing and orally as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Health & Social Services regulation on Medicaid Audit & Review (7 AAC 105.230, 7 AAC 120.430, and 7 AAC 160.110- .140).

Date: 1/4/2018



Doug Jones, Audit & Review Analyst IV

Subscribed and sworn to before me at Anchorage, AK on 1/4/18
(date)



[NOTARY SEAL]



Notary Public in and for the State of Alaska

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\$453.18

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 26, 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 26th 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 MEDICAID AUDIT AND REVIEW IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES.

The Department of Health & Social Services proposes to adopt regulation changes in Title 7 of the Alaska Administrative Code, dealing with audit and review of Medicaid providers, self-review, and overpayments, including the following:

7 AAC 105.230. Requirements for provider records - is proposed to be amended to revise the record keeping requirements for medical assistance providers, including electronic record requirements, unit of service, and timesheets.

7 AAC 120.430. Authorized escort - is proposed to be amended to revise the claim requirements for hotels.

7 AAC 160.110. Fiscal audit - is proposed to be amended to revise the fiscal audit procedures, including subcontractors and grantees, record keeping, access to records, sanctions, and interest paid on overpayments.

7 AAC 160.115. Duty of a provider to identify and repay self-identified overpayments - is a proposed new section that requires providers to conduct a self-review of a random sample of claims and return any overpayments to the department.

7 AAC 160.120. Use of statistical sampling - is proposed to be amended to include providers to use statistically valid sampling methodologies when conducting self-reviews.

7 AAC 160.130. Appeal - is proposed to be amended to revise the appeal procedures and options, including reconsideration by the department.

7 AAC 160.140. Quality assurance program - is proposed to be amended to revise the quality assurance program requirements.

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 Mr. Doug Jones at douglas.jones@alaska.gov or at 4601 Business Park Blvd., Building K, Anchorage, AK 99503. The comments must be received not later than 5 p.m. on September 22, 2017.

Oral or written comments also may be submitted at a hearing to be held on September 1, 2017, at the Frontier Building, in Conference Rooms Number 880, 890, and 896, 3601 C St., Anchorage, AK 99503. The hearing will be held from 9:00 a.m. - 12:00 p.m. and might be extended to accommodate those present before 11 a.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 (800) 945-9434 (Toll Free).

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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 Mr. Doug Jones at douglas.jones@alaska.gov or at (907) 269-0361 not later than August 21, 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 Mr. Doug Jones at douglas.jones@alaska.gov or at (907) 269-0361.

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 47.05.200; AS 47.05.235; AS 47.05.240; AS 47.07.070

Responsible for the day-to-day operations of Senergy including timely project implementation, the achievement of goals and objectives, adherence to timeliness.

Project Director

FAIRBANKS NATIVE

