

Byron Mallott
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
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Anchorage, Alaska 99501
907.269.7460
LT.GOVERNOR@ALASKA.GOV

**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: October 11, 2018

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

Department of Health and Social Services regulations re: Medicaid prospective payment system (7 AAC 150.160(g); 7 AAC 150.990)

Attorney General File:	2018200442
Regulation Filed:	10/11/2018
Effective Date:	11/10/2018
Print:	228, January 2018

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

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

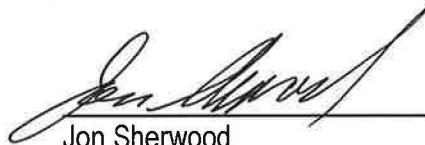
The attached one page of regulations, dealing with the Prospective Payment System, is adopted and certified to be a correct copy of the regulation changes that the Department of Health & Social Services adopts under the authority of AS 47.05.010, AS 47.07.070, AS 47.07.073, and after compliance with 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: 8-17-18



Jon Sherwood
Deputy Commissioner
Department of Health & Social Services

FILING CERTIFICATION

I, Byron Mallott, Lieutenant Governor for the State of Alaska, certify that¹ on October 11, 2018, at 11:26 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.



Lieutenant Governor

Effective: November 10, 2018

Register: 228, January 2019



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:

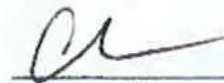

Commissioner

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

9

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

(The introductory language of)

7 AAC 150.160(g) is amended to read:

(g) If a new facility or a new psychiatric unit in a general acute care hospital is licensed or certified ^{if} or a new provider begins to participate in the prospective payment system, the rates for the facility will be calculated as follows:

...

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

(4) rates for a new facility, [OR] a new separately licensed or certified psychiatric unit in a general acute care hospital, or a new provider to the prospective payment system will be established under (b) - (f) of this section after two full fiscal years of cost data, timely filed with the department in accordance with 7 AAC 150.130(c), is reported.

(Eff. 2/1/2010, Register 193; am 10/1/2017, Register 223; am 11/10/2018, Register 228)

Authority: AS 47.05.010 AS 47.07.070

(all bold)

all Publisher: in the introductory language of 7 AAC 150.990, please delete the orphan subsection tag "(a)".

~~7 AAC 150.990. Definitions.~~

new paragraph

7 AAC 150.990 is amended by adding a definition to read:

all one more 0.5" tab III

(57)

(+) "new provider" means an actively enrolled Medicaid facility ^{that is} currently receiving reimbursement for Medicaid services outside of the state prospective payment system set out in this chapter, and that elects to enter into the state prospective payment system.

(Eff. 2/1/2010, Register 193; am 11/10/2018, Register 228)

Authority: AS 47.05.010 AS 47.07.070 AS 47.07.073

MEMORANDUM

State of Alaska Department of Law


To: The Honorable Byron Mallott
Lieutenant Governor

Date: October 10, 2018

File No.: 2018200442

Thru:

Tel. No.: 465-3600

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

Re: Department of Health and Social
Services regulations re: Medicaid
prospective payment system (7 AAC
150.160(g); 7 AAC 150.990)

The Department of Law has reviewed the attached regulations of the Department of Health and Social Services against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. I have reviewed this project under a specific delegation of authority dated October 10, 2018 from the Regulations Attorney. 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. The regulations were adopted by the Department of Health and Social Services after the close of the public comment period. The regulations concern Medicaid payments to providers, addressing in particular providers who currently receive reimbursement for Medicaid services outside of the state prospective payment system under 7 AAC 150, and who elect to enter into the state prospective payment system.

The June 20, 2018 public notice and the August 17, 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.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are shown on the attached copy of the regulations.

SCW

cc: Honorable Valarie Nuur'araaluk Davidson, Commissioner
Department of Health and Social Services

Jon Sherwood, Deputy Commissioner
Department of Health and Social Services

Triptaa Surve, Regulations Contact
Department of Health and Social Services

Donna Steward, Executive Director
Office of Rate Review
Department of Health and Social Services

Stacie L. Kraly, Chief Assistant Attorney General
Human Services Section

MEMORANDUM

State of Alaska Department of Law

TO: Hon. Byron Mallott
Lieutenant Governor

DATE: October 10, 2018

FILE NO.: 2018200442

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
prospective payment system
(7 AAC 150.160(g); 7 AAC
150.990)

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: April Simpson, 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 THE PROSPECTIVE PAYMENT SYSTEM IN THE
REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

BRIEF DESCRIPTION

The Department of Health & Social Services proposes to change regulations on the prospective payment system.

The Department of Health & Social Services proposes to adopt regulation changes in Title 7 of the Alaska Administrative Code, dealing with the prospective payment system payment requirements, including the following:

- 7 AAC 150.160. Prospective Payment System; Other Payment. Methodology and criteria for approval or modification of a payment rate, is proposed to be changed as follows: Clarifies that a provider that begins to participate in the prospective payment system is subject to all of the requirements applicable to a new facility that participates in the prospective payment system.
- 7 AAC 150.990. Prospective Payment System; Other Payment. Definitions, is proposed to be changes as follows: Adds the definition of a "new provider" as it applies to the prospective payment system.

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 and Social Services, 3601 C Street Suite 978, Anchorage, Alaska 99503. Additionally, the Department of Health & Social Services will accept comments by facsimile at (907) 334-2220 and by electronic mail at donna.steward@alaska.gov. The comments must be received not later than 5 p.m. on August 2, 2018.

Oral or written comments also may be submitted at a hearing to be held on July 19, 2018, at the Frontier Building, in conference room 890, 3601 C Street, Anchorage, AK 99503. The hearing will be held from 10:00 a.m. to 12:00 p.m., and might be extended to accommodate those present before 11:30 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 1-800-315-6338 (toll free) and use the code 78007.

You may submit written questions relevant to the proposed action to Donna Steward at donna.steward@alaska.gov or at the Department of Health & Social Services, Office of Rate Review, 3601 C Street, Suite 978, 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 by telephone at (907) 334-2447 not later than July 11, 2018, 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 at donna.steward@alaska.gov or by telephone at (907) 334-2447.

A copy of material proposed for adoption by reference may be viewed at the agency's office at 3601 C Street, Suite 978, Anchorage, AK 99503.

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 47.07.070; AS 47.07.073.

Statutes being implemented, interpreted, or made specific: AS 47.05.010; AS 47.07.070; AS 47.07.073.

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

DATE: 6-14-18


Jon Sherwood
Deputy Commissioner
Department of Health & Social Services

NOTICE OF PROPOSED CHANGES ON THE PROSPECTIVE PAYMENT SYSTEM IN THE
REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

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Statutes being implemented, interpreted, or made specific: AS 47.05.010; AS 47.07.070; AS 47.07.073.

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

DATE: 6-14-18


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: Prospective Payment System
3. Citation of regulation (may be grouped): 7 AAC 150.160, .990.
4. Department of Law file number, if any: 2018200442
5. Reason for the proposed action:
☐ Compliance with federal law or action (identify): _____
☐ Compliance with new or changed state statute
☐ Compliance with federal or state court decision (identify): _____
☐ Development of program standards
☒ Other (identify): Clarify requirements for a new provider that begins to participate in the prospective payment system.
6. Appropriation/Allocation: N/A
7. Estimated annual cost to comply with the proposed action to:
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):

	Initial Year FY 2019	Subsequent Years
Operating Cost	\$ <u>0</u>	\$ _____
Capital Cost	\$ <u>0</u>	\$ _____
1002 Federal receipts	\$ _____	\$ _____
1003 General fund match	\$ _____	\$ _____
1004 General fund	\$ _____	\$ _____
1005 General fund/ program	\$ _____	\$ _____
Other (identify)	\$ <u>0</u>	\$ _____
9. The name of the contact person for the regulation:
Name: Donna Steward
Title: Executive Director
Address: 3601 C Street, Suite 978, Anchorage, AK 99503
Telephone: (907) 334-2447

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:

6/12/18

Prepared by:



[signature]

Name (printed): Donna Steward

Title (printed): Executive Director

Telephone: (907) 334-2447

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 270229

ST OF AK/DHSS/COMMISSIONERS
3601 C STREET STE 902
ANCHORAGE, AK 99503

Order#
Cost

0001423445
\$368.54

Product ANC-Anchorage Daily News
Placement 0300
Position 0301

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 Anchorage Daily 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

June 20, 2018

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
Joleesa Stepetin

Subscribed and sworn to before me
this 20th day of June, 2018

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 THE PROSPECTIVE PAYMENT SYSTEM IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

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Oral or written comments also may be submitted at a hearing to be held on July 19, 2018, at the Frontier Building, in conference room 890, 3601 C Street, Anchorage, AK 99503. The hearing will be held from 10:00 a.m. to 12:00 p.m., and might be extended to accommodate those present before 11:30 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 1-800-315-6338 (toll free) and use the code 78007.

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Statutory authority: AS 47.05.010; AS 47.07.070; AS 47.07.073.

Statutes being implemented, interpreted, or made specific: AS 47.05.010; AS 47.07.070; AS 47.07.073.

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

DATE: June 14, 2018.

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

Published: June 20, 2018

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:

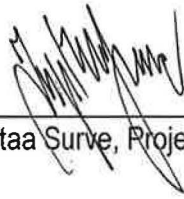
As required by AS 44.62.190, notice of the proposed adoption of changes to the Prospective Payment System (7 AAC 150), has been given by being

- (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.

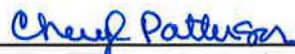
As required by AS 44.62.190, additional regulation notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and those in (5) and (6) of the list above. The additional regulation notice information also has been posted on the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

Date:

July 26, 2018 4


Triptaa Surve, Project Coordinator

Subscribed and sworn to before me at Anchorage, Alaska 99503 on 7/26/2018
(date)


Notary Public in and for the State of Alaska



AFFIDAVIT OF ORAL HEARING

I, Donna Steward, Executive Director of the Department of Health & Social Services, being sworn, state the following:

On July 19, 2018, at 10:00am, in Room 890, the Frontier Building, at 3601 C Street, 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 150.160. Prospective Payment System; Other Payment. Methodology; and 7 AAC 150.990. Prospective Payment System; Other Payment.

Date: 8/21/18

Donna Steward
Donna Steward, Executive Director

Subscribed and sworn to before me at Anchorage, Alaska

on 8-21-18
(date)

Kristina Serezhnikov
Notary Public in and for the State of Alaska

[NOTARY SEAL]



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Donna Steward, Executive Director 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 the Prospective Payment System.

Date: 8/21/18

Donna Steward
Donna Steward, Executive Director

Subscribed and sworn to before me at Anchorage, Alaska
on 8-21-18
(date)

Kristina Serezhnikov
Notary Public in and for the State of Alaska

[NOTARY SEAL]

