

Valerie Nurr'araaluk Davidson  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
907.465.3520  
WWW.LTGOV.ALASKA.GOV




530 West 7<sup>th</sup> Ave, Suite 1700  
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:** April Simpson, Office of the Lieutenant Governor   
465.4081

**DATE:** November 9, 2018

**RE:** Filed Permanent Regulations: Department of Health and Social Services  
  
Department of Health and Social Services regulations re: Medicaid payment rates for behavioral health services (7 AAC 145.580; 7 AAC 160.900(d))

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Attorney General File:	2018200204
Regulation Filed:	11/9/2018
Effective Date:	1/1/2019
Print:	228, January 2019

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 the Medicaid Payment Rates, Behavioral Health Services, Medicaid Program, 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 47.05.012, 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.

It is estimated that this action will require increased appropriations as shown on the attached fiscal note.

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 January 1, 2019, as provided in AS 44.62.180.

Date: 11-5-18

  
\_\_\_\_\_  
Jon Sherwood  
Deputy Commissioner  
Department of Health & Social Services

 FILING CERTIFICATION

I, Valerie Nurr'araaluk Davidson, Lieutenant Governor for the State of Alaska, certify that<sup>1</sup> on 1-27-2019, 2018, at 11:30 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

  
\_\_\_\_\_  
Valerie Nurr'araaluk Davidson  
Lieutenant Governor  
State of Alaska

Effective: January 1, 2019

Register: 228, January 2019.

**FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY**

**I, VALERIE NURR'ARAALUK DAVIDSON, LIEUTENANT GOVERNOR OF THE STATE OF ALASKA, designate the following state employees to perform the Administrative Procedures Act filing functions of the Office of the Lieutenant Governor:**

**Claire Richardson  
Scott Meriwether  
April Simpson  
Kady Levale**

**IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Anchorage, on October 24, 2018.**



A handwritten signature in blue ink, appearing to read "Valerie", is written over a dotted line.

**VALERIE NURR'ARAALUK DAVIDSON  
LIEUTENANT GOVERNOR**

7 AAC 145.580 is repealed and readopted to read:

**7 AAC 145.580. Behavioral health services payment rates.** (a) The department will pay a corresponding unit of service for providing community behavioral health services under 7 AAC 135.100 - 7 AAC 135.290, at the lesser of the following rates:

(1) the amount charged by the provider in accordance with 7 AAC 145.020; or

(2) the rate established in the department's *Chart of Community Behavioral*

*Health Services Medicaid Rates*, adopted by reference in 7 AAC 160.900.

(b) On or after July 1, 2018, rates of payment in the department's *Chart of Community Behavioral Health Services Medicaid Rates*, adopted by reference in 7 AAC 160.900, will be reestablished at least every four years using a modeled rate methodology that includes components for salaries, fringe benefits, productivity, program support, administrative/general costs, and duration of units of service. Other sources that will be used in the modeled rate methodology include information from the Department of Labor and Workforce Development, Research and Analysis Section; the United States Internal Revenue Service; and provider surveys.

(c) Each July 1 that rates of payment in the *Chart of Community Behavioral Health Services Medicaid Rates*, adopted by reference in 7 AAC 160.900, are not reestablished under

(b) of this section, the department will adjust the rates of payment in the *Chart of Community Behavioral Health Services Medicaid Rates* for inflation using the CMS Home Health Agency Market Basket in the most recent quarterly publication of Global Insight's *Healthcare Cost Review* available 60 days before July 1. (Eff. 2/1/2010, Register 193; am 10/1/2011, Register 199; am 4/9/2017, Register 222; am 5/21/2017, Register 222; am 7/1/2018, Register 226; am

Register 228, January 2019 HEALTH AND SOCIAL SERVICES

1 / 1 / 2019, Register 228)

**Authority:** AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 160.900(d) is amended by adding a new paragraph to read:

(59) the *Chart of Community Behavioral Health Services Medicaid Rates*, dated September 27, 2018.

(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 6/16/2016, Register 218; am 7/22/2017, Register 223; am 11/5/2017, Register 224; am 3/1/2018, Register 225; am 10/1/2018, Register 227; am 1 / 1 / 2019, Register 228)

**Authority:** AS 47.05.010 AS 47.07.030 AS 47.07.040

AS 47.05.012

# MEMORANDUM

## State of Alaska Department of Law

**To:** The Honorable Valerie Nurr'araaluk Davidson  
Lieutenant Governor

**Date:** November 6, 2018

**File No.:** 2018200204

**Thru:** Susan R. Pollard *SRP*  
Chief Assistant Attorney General  
and Regulations Attorney  
Legislation and Regulations Section

**Tel. No.:** 465-3600

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

**Re:** Department of Health and Social Services regulations re: Medicaid payment rates for behavioral health services (7 AAC 145.580; 7 AAC 160.900(d))

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. 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 payment rates for behavioral health services.

The June 20, 2018 public notice and the November 5, 2018 adoption order both state that this action is expected to require increased appropriations. Therefore, a fiscal note under AS 44.62.195 is attached. Please note that three fiscal notes were prepared for this project: one dated June 13, 2018; a revised fiscal note dated October 9, 2018; and a second revised fiscal note dated October 23, 2018. With these regulations we have attached a copy of the most recent fiscal note of October 23, 2018. We have retained the earlier fiscal notes in our files.

Also please note that the adoption order sets a special effective date of January 1, 2019 for these regulations.

SCW

cc w/enc:

Honorable Jay Butler, M.D., 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

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

Katherine McDonald  
Office of Rate Review  
Department of Health and Social Services

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

**FISCAL NOTE<sup>1</sup>**

Agency: Department of Health & Social Services

Appropriation/Allocation: Medicaid Services/Behavioral Health Medicaid Services

General subject of regulation: Rebase Rates for Community Behavioral Health Services (Medicaid Payment Rates, Behavioral Health Services; Medicaid Program General Provisions).

Citation of regulation: 7 AAC 145.580; 7 AAC 160.900

Estimated appropriations required (in thousands of dollars) Total= \$56,697 (FY19= \$18,899; FY20= \$18,899; FY21= \$18,899).

**Expenditures/Revenues**

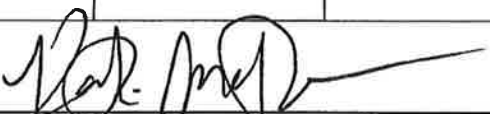
	FY2019 Appropriation Requested	(Thousands of Dollars)	
<b>OPERATING EXPENDITURES</b>	<b>FY2019</b>	<b>FY2020</b>	<b>FY2021</b>
Personal Services			
Travel			
Services			
Commodities			
Capital Outlay			
Grants & Benefits	18,899	18,899	18,899
Miscellaneous			
<b>TOTAL OPERATING</b>	<b>18,899</b>	<b>18,899</b>	<b>18,899</b>

<b>FUNDING SOURCE</b>		(Thousands of Dollars)		
1002	Federal Receipts	10,678	10,678	10,678
1003	General Fund Match	8,221	8,221	8,221
1004	General Fund			
1005	General Fund/Program			

<b>POSITIONS</b>			
Full-time			
Part-time			
Temporary			

<b>CHANGE IN REVENUES</b>			

Date 10/23/18

Prepared by: 

Katherine McDonald, Audit & Review Analyst III  
 Office of Rate Review  
 Department of Health & Social Services  
 Telephone Number: (907) 334-2447



**DELEGATION OF AUTHORITY**

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 delegated to Jon Sherwood, Deputy Commissioner.

Date: Oct 19, 2018

  
\_\_\_\_\_  
Jay C. Butler, M.D.  
Commissioner,  
Department of Health & Social Services

Subscribed and sworn to before me at 31601 C Street Suite 902 on  
Anchorage, Alaska 99503

Oct 19, 2018  
\_\_\_\_\_  
[date]

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



NOTICE OF PROPOSED CHANGES ON COMMUNITY BEHAVIORAL HEALTH SERVICES MEDICAID RATES IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

BRIEF DESCRIPTION

The Department of Health & Social Services proposes to change regulations on the community behavioral health services Medicaid rates.

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

- 7 AAC 160. Medicaid Program; General Provisions, is proposed to be changed as follows: Add the *Chart of Community Behavioral Health Services Medicaid Rates* document to be adopted by reference.
- 7 AAC 145. Medicaid Payment Rates, is proposed to be repealed and readopted. The intended effect is to repeal the current methodology and replace it with proposed new methodology to set Medicaid rates for community behavioral health 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 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](mailto: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 16, 2018, at the Frontier Building, in conference room 890, 3601 C Street, Anchorage, AK 99503. The hearing will be held from 9 a.m. to 12:00 noon, 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 either [donna.steward@alaska.gov](mailto:donna.steward@alaska.gov) or at 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 at <https://aws.state.ak.us/OnlinePublicNotices/>.

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](mailto:donna.steward@alaska.gov) or at (907) 334-2447 not later than July 9, 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](mailto:donna.steward@alaska.gov) or by telephone at (907) 334-2447.

A copy of material proposed for adoption by reference is available on the Alaska Online Public Notice System or 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 47.05.012; AS 47.07.030; AS 47.07.040.

**Statutes being implemented, interpreted, or made specific:** AS 47.05.010; AS 47.05.012; AS 47.07.030; AS 47.07.040.

**Fiscal information:** It is estimated that the proposed regulation changes will require increased appropriations as follows (in thousands of dollars): FY2019, \$14,351; FY2020, \$14,351; FY2021, \$14,351.

DATE: 6-13-18

  
Jon Sherwood  
Deputy Commissioner  
Department of Health & Social Services

## NOTICE OF PROPOSED CHANGES ON COMMUNITY BEHAVIORAL HEALTH SERVICES MEDICAID RATES 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 community behavioral health services Medicaid rates, including the following:

- 7 AAC 160. Medicaid Program; General Provisions, is proposed to be changed as follows: Add the *Chart of Community Behavioral Health Services Medicaid Rates* document to be adopted by reference.
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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](mailto:donna.steward@alaska.gov) or by telephone at (907) 334-2447.

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regulation. **You should comment during the time allowed if your interests could be affected.**

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**Statutes being implemented, interpreted, or made specific:** AS 47.05.010; AS 47.05.012; AS 47.07.030; AS 47.07.040.

**Fiscal information:** It is estimated that the proposed regulation changes will require increased appropriations as follows (in thousands of dollars): FY2019, \$14,351; FY2020, \$14,351; FY2021, \$14,351.

DATE: 6-13-18

  
\_\_\_\_\_  
Jon Sherwood  
Deputy Commissioner  
Department of Health & Social Services

ADDITIONAL REGULATION NOTICE INFORMATION  
(AS 44.62.190(d))<sup>1</sup>

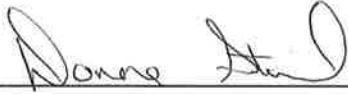
1. Adopting agency: Department of Health & Social Services
2. General subject of regulation: Community behavioral health services Medicaid rates
3. Citation of regulation (may be grouped): 7 AAC 145; 7 AAC 160
4. Department of Law file number, if any: 2018200204
5. Reason for the proposed action:
  - 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): Revise rate setting methodology
6. Appropriation/Allocation: Medicaid Services/Behavioral Health Medicaid Services
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 _____	Subsequent Years
Operating Cost	<u>\$14,351.</u>	<u>\$14,351.</u>
Capital Cost	\$ _____	\$ _____
1002 Federal receipts	<u>\$14,351.</u>	<u>\$14,351.</u>
1003 General fund match	<u>\$11,050.</u>	<u>\$11,050.</u>
1004 General fund	<u>\$(11,050.)</u>	<u>\$(11,050.)</u>
1005 General fund/ program	\$ _____	\$ _____
Other (identify)	\$ _____	\$ _____
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: 6/13/18

Prepared by:   
[signature]

Name (printed): Donna Steward

Title (printed): Executive Director, Office of Rate Review

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# 0001423440  
Cost \$373.52

Product ANC-Anchorage Daily News  
Placement 0300  
Position 0301

STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

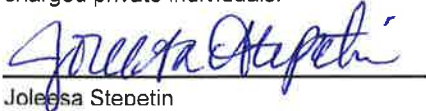
Joleesa Stepetin

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

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 COMMUNITY BEHAVIORAL HEALTH SERVICES MEDICAID RATES 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 community behavioral health services Medicaid rates, including the following:

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Statutory authority: AS 47.05.010; AS 47.05.012; AS 47.07.030; AS 47.07.040.

Statutes being implemented, interpreted, or made specific: AS 47.05.010; AS 47.05.012; AS 47.07.030; AS 47.07.040.

Fiscal information: It is estimated that the proposed regulation changes will require increased appropriations as follows (in thousands of dollars): FY2019, \$14,351; FY2020, \$14,351; FY2021, \$14,351.

DATE: June 13, 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

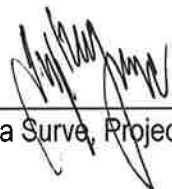
I, Triptaa Surve, Project Coordinator, of the Department of Health & Social Services, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to the Medicaid Coverage, Behavioral Health Services, Recipient Support Services (7 AAC 135), 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)

Cheyl Patterson  
\_\_\_\_\_  
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 16, 2018, at 9 a.m., in room 890, 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 145.580 & 160.900. Medicaid Payment Rates, Behavioral Health Services, Medicaid Program.

Date: 10/12/18

Donna Steward  
Donna Steward, Executive Director

Subscribed and sworn to before me at Anchorage, AK on  
10-12-2018  
(date)

Kristina Serezhkov  
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 Medicaid Payment Rates, Behavioral Health Services, Medicaid Program (7 AAC 145.580 & 160.900).

Date: 10/12/18

  
\_\_\_\_\_  
Donna Steward, Executive Director

Subscribed and sworn to before me at Anchorage, AK on

10-12-2018  
(date)

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

[NOTARY SEAL]

