

Kevin Meyer
Lieutenant Governor
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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: April Simpson, Office of the Lieutenant Governor *AS*
465.4081

DATE: April 1, 2019

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

Department of Health and Social Services regulations re: Medicaid coverage and payment for home health care services (7 AAC 125.310(a)(2); 7 AAC 125.320(c))

Attorney General File:	2018200909
Regulation Filed:	4/1/2019
Effective Date:	5/1/2019
Print:	230, July 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 2 pages of regulations, dealing with Medicaid Coverage, Home Health Services (7 AAC 125), 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, and 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.

Although no public comments were received, 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: 3/6/19


Adam Crum, Commissioner
Department of Health & Social Services

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that¹ on April 1st,
2019, at 11:00 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 -
44.62.120.


Lieutenant Governor

Effective: May 1, 2019.

Register: 230, July 2019.

7 AAC 125.310(a)(2) is amended to read: *as Publisher: Existing introductory language of 7 AAC 125.310(a) is unchanged.))*

(a) ~~The department will pay a public or private home health agency for the following home health care services, if recommended by a licensed physician as part of a plan of care developed in accordance with 7 AAC 125.320.~~

(b)

(2) skilled nursing services, at a payment rate determined under 7 AAC 145.700 -

7 AAC 145.730, if

(c)

(A) they are provided by a rural health clinic enrolled under 7 AAC 140.220;
(B) they are provided to a recipient by a registered nurse who receives written orders from the recipient's physician, and those services are within the scope of the nurse's license; and

(C) the location of the recipient's place of residence is not served by any

public or private organization that the department has certified as a home health agency for purposes of Medicare *(d)* [; AND]

(am) [(D) THE RECIPIENT IS HOMEBOUND UNDER 7 AAC 140.220].

(Eff. 2/1/2010, Register 193; 5 / 1 / 2019, Register 230)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 125.320(c) *(3)* is amended to read:

(c) The department will not determine eligibility to receive home health care services based upon the recipient's

- (1) need for institutional care;
- (2) discharge from institutional care;
- (3) homebound status [, EXCEPT AS PROVIDED IN 7 AAC 125.310(a)(2)]; or
- (4) need for skilled nursing services.

(am) (Eff. 2/1/2010, Register 193; 5 / 1 / 2019, Register 230)

Register 23rd, July 2019

HEALTH AND SOCIAL SERVICES

Authority: AS 47.05.010

AS 47.07.030

AS 47.07.040

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: March 26, 2019

File No.: 2018200909

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
coverage and payment for home
health care services (7 AAC
125.310(a)(2); 7 AAC 125.320(c))

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 Medicare coverage and payment for home health care services, and in particular delete, as required under federal law, the requirement that a recipient of home health care services be homebound.

The November 14, 2018 public notice and the March 6, 2019 adoption order both state that this action is estimated to require increased appropriations. Therefore, a fiscal note under AS 44.62.195 is attached.

Hon Kevin Meyer, Lieutenant Governor
Our file: 2018200909

March 26, 2019
Page 2

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 Adam Crum, Commissioner
Department of Health and Social Services (Anchorage)

Triptaa Surve, Regulations Contact
Department of Health and Social Services

Jamin Sprague
Division of Health Care Services
Department of Health and Social Services

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

STATUS: Active

Notice of Proposed Changes- Medicaid Coverage, Home Health Care Services

NOTICE OF PROPOSED CHANGES ON MEDICAID COVERAGE OF HOME HEALTH CARE SERVICES IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

BRIEF DESCRIPTION

The Department of Health & Social Services proposes to change regulations on Medicaid coverage of home health care services.

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

- 7 AAC 125.310, .320 are proposed to be changed as follows: Eliminate the homebound requirement to comply with federal 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 Department of Health & Social

Services, Division of Health Care Services, Attention: Jamin Sprague, 4601 Business Park Blvd., Building K, Anchorage, AK 99503. Additionally, the Department of Health & Social Services will accept comments by facsimile at (907) 561-1684 and by electronic mail at jamin.sprague@alaska.gov. The comments must be received not later than 5 p.m. on December 28, 2018.

Oral or written comments also may be submitted at a hearing to be held on December 10, 2018, at Conference Room 890, 3601 C Street, Anchorage, AK 99503. The hearing will be held from 9:30 a.m. to 11:00 a.m. and might be extended to accommodate those present before 10:30 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, participant code 55829.

You may submit written questions relevant to the proposed action to Mr. Jamin Sprague by e-mail at jamin.sprague@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 responses available on the Alaska Online Public Notice System and at the agency website at <http://dhss.alaska.gov/dhcs/Pages/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. Jamin Sprague at jamin.sprague@alaska.gov or at telephone number (907) 334-2418 not later than December 4, 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 Mr. Jamin Sprague at jamin.sprague@alaska.gov or at telephone number (907) 334-2418.

A copy of material proposed for adoption by reference is available on the Alaska Online Public Notice System. A copy of material proposed for adoption by reference may also be viewed at the agency's office at 4601 Business Park Blvd., Building K, 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. Written comments received are

public records and are subject to public inspection.

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: It is estimated that the proposed regulation changes will require increased appropriations as follows (in thousands of dollars): FY2020, \$10,000; FY2021, \$10,000.

The Department of Health & Social Services keeps a list of individuals and organizations interested in its regulations. Those on the list will automatically be sent a copy of all of the Department of Health & Social Services/Division of Health Care Services notices of proposed regulation changes. To be added to or removed from the list, send a request to the Department of Health & Social Services/Division of Health Care Services at jamin.sprague@alaska.gov, giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

DATE: November 9, 2018
/s/Jon Sherwood
Deputy Commissioner
Department of Health & Social Services

Attachments, History, Details

Attachments

HCS.MedicaidCoverage.AdditionalReg.NoticeInfo.2018200909.10.15.2018.pdf	<div>Health and Social Services Regulations Notice of Proposed Regulations Statewide 2018200909</div>
HCS.MedicaidCoverage.HomeHlth Svcs.FiscalNote.2018200909.10.15.2018.pdf	
HCS.MedicaidCoverage.PCS&HomeHlth.Care Svcs.Public ReviewDRAFT.10.15.2018.pdf	
HCS.MedicaidCoverageHomeHlth.Svcs.42CFR.440-70.2018200909.10.15.2018.pdf	

Details

Revision History

Created 11/9/2018 11:52:44 AM by tvsurve	Publish Date: 11/9/2018
Modified 11/9/2018 11:54:26 AM by tvsurve	Archive Date: 12/29/2018
Modified 11/9/2018 1:09:37 PM by tvsurve	Events/Deadlines:

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Department of Health & Social Services
2. General subject of regulation: Medicaid Coverage, Home Health Services
3. Citation of regulation (may be grouped): 7 AAC 125.310, .320.
4. Department of Law file number, if any: 2018200909
5. Reason for the proposed action:
 - (X) Compliance with federal law or action (identify): 42 CFR 440.70(c)(1)
 - () 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:
 - 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 FY2019	Subsequent Years
Operating Cost	<u>\$0</u>	<u>\$10,000</u>
Capital Cost	<u>\$</u>	<u>\$</u>
1002 Federal receipts	<u>\$</u>	<u>\$5,000</u>
1003 General fund match	<u>\$</u>	<u>\$5,000</u>
1004 General fund	<u>\$</u>	<u>\$</u>
1005 General fund/ program	<u>\$</u>	<u>\$</u>
Other (identify)	<u>\$</u>	<u>\$</u>
9. The name of the contact person for the regulation:

Name: Mr. Jamin Sprague
Title: Medical Assistance Administrator II
Address: 4601 Park Blvd., Building K, Anchorage, AK 99503
Telephone: (907) 334-2418
E-mail address: jamin.sprague@alaska.gov

10. The origin of the proposed action:

☐ Staff of state agency
☒ Federal government
☐ General public
☐ Petition for regulation change⁷
☐ Other (identify): _____

11.

Date:

10/24/2018

Prepared by:


[signature]

Name (printed): Jamin Sprague

Title (printed): Medical Assistance Administrator II

Telephone: (907) 334-2418

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Jamin Sprague, Medicaid Program Specialist II, 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 125.310, .320, Medicaid Coverage, Home Health Care Services, has been given by being

- (1) published in a newspaper or trade publication;
- (2) furnished to every person who has filed a request for notice of proposed action with the state agency;
- (3) furnished to appropriate state officials;
- (4) furnished to interested persons;
- (5) furnished to the Department of Law, along with a copy of the proposed regulation;
- (6) furnished electronically to incumbent State of Alaska legislators;
- (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).

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 (2), (4) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: 2/20/19



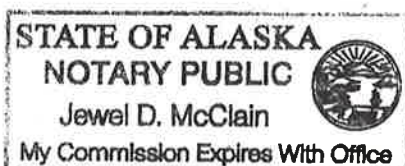
Jamin Sprague, Medicaid Program Specialist II

Subscribed and sworn to before me at 4001 Business Park Blvd. Bld K on
2/20/19
Anchorage, AK 99503
(date)



Notary Public in and for the State of Alaska

[NOTARY SEAL]



AFFIDAVIT OF ORAL HEARING

I, Jamin Sprague, Medicaid Program Specialist II, of the Department of Health & Social Services, being sworn, state the following:

On December 10, 2018, at 8:00 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 125.310, .320, Medicaid Coverage, Home Health Care Services.

Date: 2/20/19



Jamin Sprague, Medicaid Program Specialist II

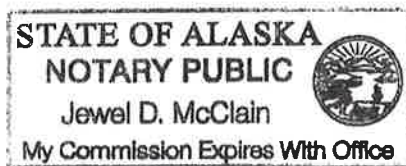
Subscribed and sworn to before me at 4601 Business Park Blvd., Bld K on
2/20/19

(date)
Anchorage, AK 99503



Notary Public in and for the State of Alaska

[NOTARY SEAL]



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Jamin Sprague, Medicaid Program Specialist II, of the Department of Health & Social Services, being sworn, state the following:


The Department of Health & Social Services did not receive any factual or other substantive information that was submitted in writing or 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 Coverage, Home Health Care Services (7 AAC 125).

Date:

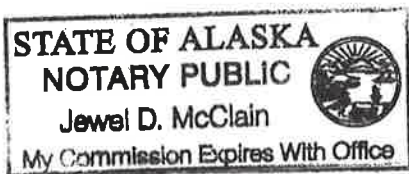
2/20/19


Jamin Sprague, Medicaid Program Specialist II

Subscribed and sworn to before me at 4601 Business Park Blvd., Bld K. on
2/20/19
(date)
Anchorage, AK 99503


Notary Public in and for the State of Alaska

[NOTARY SEAL]



FISCAL NOTE

Agency: Department of Health & Social Services (DHSS)

Appropriation/Allocation: Medicaid Services/Health Care Medicaid Services

General subject of regulation: Medicaid Coverage; Home Health Care Services

Citation of regulation: 7 AAC 125.310, .320.

Estimated appropriations required (in thousands of dollars) Total= \$20,000 (FY2020= \$10,000; FY2021= \$10,000)

Expenditures/Revenues

	FY Appropriation Requested	(Thousands of Dollars)	
OPERATING EXPENDITURES	FY2019	FY2020	FY2021
Personal Services			
Travel			
Services			
Commodities			
Capital Outlay			
Grants & Benefits	0	10,000	10,000
Miscellaneous			
TOTAL OPERATING	0	10,000	10,000

FUNDING SOURCE		(Thousands of Dollars)	
1002	Federal Receipts	0	5,000
1003	GF Match	0	5,000
1004	General Fund		
1005	GF/Program (DGF)		
1007	I/A Rcpts (Other)		
1037	GF/MH (UGF)		

POSITIONS			
Full-time			
Part-time			
Temporary			

CHANGE IN REVENUES			
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Date

10/24/2018

Prepared by:

Jamin Sprague, Medical Assistance Administrator II
Division of Health Care Services,
Department of Health & Social Services
Telephone Number: (907) 334-2418

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 270229

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

Order#
Cost

0001430508
\$468.12

Product ADN-Anchorage Daily News
Placement 0300
Position 0301

STATE OF ALASKA THIRD JUDICIAL DISTRICT

Sarah Jennett

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

November 14, 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

Sarah Jennett

Subscribed and sworn to before me
this 14th day of November, 2018

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 COVERAGE OF HOME HEALTH CARE SERVICES 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 December 10, 2018, at Conference Room 890, 3601 C Street, Anchorage, AK 99503. The hearing will be held from 9:30 a.m. to 11:00 a.m. and might be extended to accommodate those present before 10:30 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, participant code 55829.

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and the two had not spoken in six years. "Hey, I lost him a long time ago," the young man said.

Foss, 63, moved to Paradise eight years ago because the high cost of living pushed him out of the San Francisco Bay Area, according to his daughter, Angela Loo. He had swollen limbs and couldn't walk. He had also been on oxygen.

Loo told KTUU-TV in Oakland that her father taught music out of their living room into his three grandchildren, ages 22, 24 and 28. "I am really worried about them. They have come out of their life sense, but I don't know where they are going to go," she said. Search-and-rescue workers look to