

DEPARTMENT OF HEALTH & SOCIAL SERVICES



EMERGENCY REGULATIONS PROPOSED CHANGES TO REGULATIONS

**MEDICAID COVERAGE & PAYMENT; BEHAVIORAL
HEALTH SERVICES; 1115 WAIVER SERVICES.**

- 7 AAC 136. Behavioral Health 1115 Demonstration Waiver.
- 7 AAC 138. 1115 Substance Use Disorder Waiver Services.



PUBLIC REVIEW DRAFT
June 27, 2019

COMMENT PERIOD ENDS: August 8, 2019

Please see the public notice for details about how to comment on these proposed changes.

EMERGENCY REGULATIONS

Register _____, _____ 2019

HEALTH AND SOCIAL SERVICES

Notes to reader:

1. Except as discussed in note 2, new text that amends an existing regulation is **bolded and underlined**.
2. If the lead-in line above the text of each section of the regulations states that a new section, subsection, paragraph, or subparagraph is being added, or that an existing section, subsection, paragraph, or subparagraph is being repealed and readopted (replaced), *the new or replaced text is not bolded or underlined*.
3. [ALL-CAPS TEXT WITHIN BRACKETS] indicates text that is to be deleted.
4. When the word “including” is used, Alaska Statutes provide that it means “including, but not limited to.”
5. Only the text that is being changed within a section of the current regulations is included in this draft. Refer to the text of that whole section, published in the current Alaska Administrative Code, to determine how a proposed change relates within the context of the whole section and the whole chapter.

**Title 7 Health and Social Services.
Chapter 136. Behavioral Health 1115 Demonstration Waiver.**

7 AAC is amended by adding a new chapter to read:

7 AAC 136. 1115 Demonstration Waiver.

Article

1. Administration (7AAC 136.010 – 7 AAC 136.050)

Article 1. Administration.

Section

010. Department responsibilities.

020. Provider requirements.

7 AAC 136.010. Department responsibilities. The department will

- (1) establish recipient eligibility;
- (2) establish department approval criteria for providers of 1115 waiver services;

EMERGENCY REGULATIONS

Register _____, _____ **2019** **HEALTH AND SOCIAL SERVICES**

(3) ensure that all 1115 waiver services are provided according to the requirements expressed in the special terms and conditions, adopted by reference in 7 AAC 160.900, and according to service criteria established under 7 AAC 138;

(4) establish service standards and administrative procedures for providers of 1115 waiver services;

(5) conduct utilization reviews of the 1115 waiver project and 1115 waiver services;

(6) collect and report data to Centers for Medicare and Medicaid Services (CMS) for project monitoring and evaluation; and

(7) establish definitions and service criteria for 1115 waiver services.

(Eff. ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030

7 AAC 136.020. Provider requirements. In addition to the requirements of 7 AAC 70, 7 AAC 105, and 7 AAC 135, a provider of 1115 waiver services must

(1) obtain department certification as an 1115 waiver services provider before delivering 1115 waiver services if the provider is a community behavioral health services provider;

(2) collaborate with the department or its contractor to

(A) establish recipient eligibility and coordinate recipient care and benefit management;

(B) report data required by the department; and

EMERGENCY REGULATIONS

Register _____, _____ 2019 HEALTH AND SOCIAL SERVICES

(C) participate in quality management, improvement, and assurance process; and

(3) comply with the additional requirements listed in the *Alaska Behavioral Health Providers Service Standards and Administrative Procedures*, adopted by reference in 7 AAC 160.900, including the documentation guidelines for 1115 waiver services outlined in that material. (Eff. ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030

7 AAC is amended by adding a new chapter to read:

7 AAC 138. 1115 Substance Use Disorder Waiver Services.

Article

1. Scope; Eligibility; Service Provision, Rates and Authorization (7AAC 138.010 – 7 AAC 138.040).
2. Medicaid 1115 Substance Use Disorder Waiver Services (7AAC 138.100 – 7 AAC 138.400).
3. General Provisions (7AAC 138.900 – 7 AAC 138.990).

Article 1. Scope; Eligibility; Service Provision, Rates, and Authorization.

Section

010. Recipient eligibility
020. Provision of 1115 substance use disorder waiver services
030. Provision of Medicaid state plan services
040. Service rates, service limits, and service authorization

EMERGENCY REGULATIONS

Register _____, _____ 2019 HEALTH AND SOCIAL SERVICES

7 AAC 138.010. Recipient eligibility. The following Medicaid-eligible recipients may receive services under this chapter:

- (1) a child age 12 through 17 years who may have an SUD;
- (2) a youth age 18 through 21 years who may have an SUD;
- (3) an adult with an SUD. (Eff. ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030

7 AAC 138.020. Provision of 1115 substance use disorder waiver services. The department will pay for SUD 1115 waiver services if the

- (1) recipient is eligible under 7 AAC 138.010;
- (2) provider meets the requirements in 7 AAC 136.020;
- (3) provider meets the additional requirements for the ASAM Level of Care Certification provided by the Commission on Accreditation of Rehabilitation Facilities if providing inpatient SUD 1115 waiver services;
- (4) provider meets the additional requirements in 7 AAC 70.125 if providing opioid use disorder treatment services;
- (5) provider provides a recipient SUD 1115 waiver services listed in 7 AAC 138.250 – 7 AAC 138.400 based on an assessment under 7 AAC 135.110 and according to the assessment criteria outlined in the *ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions*, adopted by reference in 7 AAC 70.910, and that results in a diagnosis according to the

(A) *Diagnostic and Statistical Manual of Mental Disorders*, adopted by reference in 7 AAC 70.910; or

EMERGENCY REGULATIONS

Register _____, _____ 2019 HEALTH AND SOCIAL SERVICES

(B) *International Classification of Diseases*, adopted by reference in 7 AAC 70.910; and

(6) SUD 1115 waiver services listed in 7 AAC 138.250 – 7 AAC 138.350 are provided according to the treatment criteria listed in the *ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions*, adopted by reference in 7 AAC 70.910. (Eff. ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030

7 AAC 138.030. Provision of Medicaid state plan services. (a) Except as provided in (b), the department will pay for a behavioral health Medicaid state plan service provided to an eligible recipient even if the recipient is also receiving services under this chapter.

(b) A behavioral health rehabilitation service listed in 7 AAC 135.010(c) may only be provided to a recipient that concurrently receives services under this chapter if the provider first obtains a prior authorization from the department for that service. (Eff. ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030

7 AAC 138.040. Service rates, service limits, and service authorization. (a) SUD 1115 waiver services rates are established in the department’s *Chart of 1115 Medicaid Waiver Services*, adopted by reference in 7 AAC 160.900.

(b) The department will not pay for SUD 1115 waiver services beyond the limits listed in the *Alaska Provider Billing Manual*, adopted by reference in 7 AAC 160.900, without prior authorization from the department.

EMERGENCY REGULATIONS

Register _____, _____ 2019 HEALTH AND SOCIAL SERVICES

(c) A provider of SUD 1115 waiver services must file a request for prior authorization of an extension of an SUD 1115 waiver service beyond service limitations using a form approved by the department. The request must

- (1) be documented in the clinical record according to 7 AAC 136.050(a)(6);
- (2) include the expected duration of the service; and
- (3) include an explanation for the need of the extension of the service;

(d) A provider that that meets the requirements of 7 AAC 136.020 may provide any SUD 1115 waiver service without prior authorization from the department.

(e) The department may review a provider’s clinical record to confirm the need for an extension of the service. (Eff. ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030

Article 2. Medicaid Substance Use Disorder 1115 Waiver Services.

Section

- 100. Assessment and treatment plan services.
- 200. Prevention and engagement services.
- 250. Outpatient substance use disorder treatment services.
- 300. Inpatient residential substance use disorder treatment services.
- 350. Alcohol and drug withdrawal management services.
- 400. Community-based support services.

7 AAC 138.100. Assessment and treatment plan services. The department will pay a provider to

EMERGENCY REGULATIONS

Register _____, _____ **2019** **HEALTH AND SOCIAL SERVICES**

(1) conduct an assessment according to 7 AAC 138.020(a)(5) for each recipient receiving services under this chapter;

(2) develop an initial treatment plan for each recipient in accordance with 7 AAC 135.120; and

(3) review the treatment plan and revise the plan as necessary at least every 90 days; document the results of the treatment plan review in the clinical record; and include the name, signature, and credentials of the individual who conducted the review.

(Eff. ____ / ____ / ____, Register ____)

Authority: AS 47.05.010 AS 47.07.030

7 AAC 138.200. Prevention and engagement services. (a) The department will pay for a screening conducted by a provider under this chapter if the provider uses

(1) one of the department-approved screening tools listed in the *Alaska Behavioral Health Providers Service Standards and Administrative Procedures*, adopted by reference in 7 AAC 160.900; and

(2) the results of the screening to identify an individual who is at risk for an SUD and to identify the need for further assessment.

(b) A provider of prevention and engagement services is not required to conduct an assessment with a recipient or to develop a treatment plan under 7 AAC 135.120.

(c) Prevention and engagement services must be documented according to the requirements established in 7 AAC 105.230. (Eff. ____/____/____, Register ____)

Authority: AS 47.05.010 AS 47.07.030

EMERGENCY REGULATIONS

Register _____, _____ 2019 HEALTH AND SOCIAL SERVICES

7 AAC 138.250. Outpatient substance use disorder treatment services. (a) The department will pay for the following outpatient SUD treatment services if the service is provided according to this chapter:

- (1) intensive outpatient services;
- (2) partial hospitalization program

(b) Providers may administer pharmacological treatment in conjunction with the outpatient substance use disorder treatment services in (a) of this section if the pharmacological treatment is provided by an individual listed in 7 AAC 135.010(b)(2). (Eff. ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030

7 AAC 138.300. Inpatient residential substance use disorder treatment services. (a) The department will pay for the following inpatient residential SUD treatment services if the service is provided according to 7 AAC 138.030:

- (1) clinically managed low-intensity residential services for adults;
- (2) clinically managed low-intensity residential services for youth;
- (3) clinically managed population-specific high-intensity services for adults;
- (4) clinically managed medium-intensity residential services for youth;
- (5) clinically managed high-intensity residential services for adults;
- (6) medically monitored high-intensity inpatient services for youth;
- (7) medically monitored high-intensity inpatient services for adults;
- (8) medically managed intensive inpatient services for youth;
- (9) medically managed intensive inpatient services for adults.

EMERGENCY REGULATIONS

Register _____, _____ 2019 HEALTH AND SOCIAL SERVICES

(b) A provider of inpatient residential SUD treatment services under this chapter is exempt from the requirements of the Medicaid Institutions for Mental Diseases (IMD) exclusion under 42 U.S.C. 1396d(a)(29)(B) (section 1905(a)(B) of the Social Security Act).

(c) A provider may administer pharmacological treatment in conjunction with inpatient residential SUD treatment services in (a) of this section if the pharmacological treatment is provided by an individual listed in 7 AAC 135.010(b)(2).

(d) All inpatient residential SUD treatment services in addition to being delivered during regular business hours must also be delivered according to the requirements of this section during evening hours and on weekends and holidays. (Eff. ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030

7 AAC 138.350. Alcohol and drug withdrawal management services. (a) The department will pay for the following alcohol and drug withdrawal management services if the service is provided according to 7 AAC 138.020:

- (1) ambulatory withdrawal management without extended on-site monitoring for youth and adult;
- (2) ambulatory withdrawal management services with extended on-site monitoring for youth and adult;
- (3) clinically managed residential withdrawal management;
- (4) medically monitored inpatient withdrawal management;
- (5) medically managed intensive inpatient withdrawal management.

(b) A provider of alcohol and drug withdrawal management services under (a)(3) – (5) of this section is exempt from the requirements of the Medicaid Institutions for Mental Diseases

EMERGENCY REGULATIONS

Register _____, _____ 2019 HEALTH AND SOCIAL SERVICES

(IMD) exclusion under 42 U.S.C. 1396d(a)(29)(B) (section 1905(a)(B) of the Social Security Act).

(c) The department will pay for pharmacological treatment in conjunction with alcohol and drug withdrawal management services under (a) of this section if the pharmacological treatment is provided by an individual listed in 7 AAC 135.010(b)(2).

(d) A provider must conduct an assessment for a recipient of alcohol and drug withdrawal management services according to 7 AAC 138.020(a)(5) and that uses the results of the:

(1) *Revised Clinical Institute Withdrawal Assessment for Alcohol Scale (CIWA-Ar)*, adopted by reference in 7 AAC 70.910; or

(2) *Clinical Opiate Withdrawal Scale (COWS)*, adopted by reference in 7 AAC 70.910. (Eff. ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030

7 AAC 138.400. Community-based support services. (a) The department will pay a provider who meets the requirements of 7 AAC 138.020 for one or more of the following SUD 1115 waiver community-based support services provided to an eligible recipient under this chapter:

(1) community recovery support services that are provided as skill building, counseling, and support to promote recipient recovery, and provided to

(A) assist the recipient to build social, cognitive, daily living, employment, and self-management skills;

(B) educate and train the recipient and the recipient's family on behavioral health topics related to the recipient's treatment and recovery;

EMERGENCY REGULATIONS

Register _____, _____ 2019

HEALTH AND SOCIAL SERVICES

(C) help the recipient access necessary treatment and social support services;

(D) help the recipient participate in traditional healing or spiritual activities;

(E) facilitate level-of-care transitions; or

(F) assist the recipient with recovery through support, mentoring, or coaching, and the conduct of the services listed in (A) – (E) of this paragraph provided by a peer support specialist who

(i) must have lived experience of an SUD or co-occurring mental health disorder or is a family member of an individual with lived experience;

(ii) must work under the supervision of a mental health professional clinician or a substance use disorder counselor; and

(iii) has completed a training program approved by the department;

(2) SUD care coordination services provided to a recipient receiving medication-assisted treatment in an outpatient care setting or an inpatient residential care setting, and are provided to

(A) integrate a recipient’s behavioral health treatment with primary care and specialty medical services through interdisciplinary care planning and monitoring of treatment progress and outcomes;

(B) connect the recipient with appropriate community resources and social support services;

(C) help the recipient with level-of-care transition; and

EMERGENCY REGULATIONS

Register _____, _____ 2019 HEALTH AND SOCIAL SERVICES

(D) help the recipient develop skills needed for the self-management of treatment needs and the self-maintenance of long-term social supports;

(3) intensive case management services that are used to establish, organize, integrate, and modify the treatment and social support services and resources required to meet recipient needs, and are provided in collaboration with the recipient to

(A) facilitate provision of community-based social, educational, vocational, legal, and financial resources;

(B) obtain medical, behavioral health, or other specialized treatment services and social support services;

(C) monitor the safety and stability of the recipient and connect the recipient with crisis intervention services;

(D) coordinate the provision of services and exchange of information between treatment providers and social services agencies to help achieve the goals listed in the recipient's treatment plan;

(E) help the recipient engage in social relationships and natural community-based supports that enhance the recipient's quality of life; and

(F) help the recipient resolve conflicts and mediate solutions to problems with treatment providers, social support agencies, or natural community-based supports.

(b) Community recovery support services may be provided concurrently with:

(1) any service listed in 7 AAC 138.250;

(2) ambulatory withdrawal management services listed in 7 AAC 138.350(a); and

(3) a community-based support service listed in (a)(2) and (a)(3) of this section if the recipient is receiving services listed in (1) and (2) of this subsection;

EMERGENCY REGULATIONS

Register _____, _____ 2019 HEALTH AND SOCIAL SERVICES

(c) SUD care coordination services may be provided concurrently with any service listed in 7 AAC 138.250 – 7 AAC 138.350;

(d) Intensive case management services may be provided concurrently with any service listed in 7 AAC 138.250 – 7 AAC 138.350.

(e) In this section, “lived experience” means the experience of or treatment for a substance use related disorder or a co-occurring mental health disorder, or the provision of care for someone with such a condition including a family member or another individual who resided in the person’s home. (Eff. ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030

Article 3. General Provisions.

7 AAC 138.900. Transition to 1115 waiver services. (a) A provider may only provide the services listed in this chapter upon approval by the department in accordance with 7 AAC 136.020.

(b) A provider must update the recipient treatment plan in accordance with 7 AAC 135.130 before providing a new service listed in this chapter for a recipient that is currently receiving services under 7 AAC 70 and 7 AAC 135. (Eff. ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030

Chapter 160. Medicaid Program; General Provisions.

7 AAC 160.900. Requirements adopted by reference.

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

EMERGENCY REGULATIONS

Register _____, _____ 2019 HEALTH AND SOCIAL SERVICES

(63) *Alaska Behavioral Health Providers Service Standards and Administrative Procedures*, June 2019 Edition;

(64) *Special Terms and Conditions for Section 1115(a) demonstration: Alaska Substance Use Disorder and Behavioral Health Program*, January 2019 Edition.

(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; am 3/24/2019, Register 229; am ___/___/___, Register _____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040
 AS 47.05.012

7 AAC 160.990 is amended by adding new paragraphs to read:

(110) “SUD” means substance use disorder;

EMERGENCY REGULATIONS

Register _____, _____ 2019 HEALTH AND SOCIAL SERVICES

(111) “1115 waiver” means the Substance Use Disorder Treatment and Alaska Behavioral Health Program demonstration approved by CMS. Eff. 2/1/2010, Register 193; am 7/7/2010, Register 195; am 1/1/2011, Register 196; am 10/1/2011, Register 199; am 4/1/2012, Register 201; am 7/1/2013, Register 206; am 5/18/2014, Register 210; am 6/16/2016, Register 218; am 4/9/2017, Register 222; am 6/29/2017, Register 222; am 10/1/2018, Register 227; am _____/_____/2019, Register _____.