

Kevin Meyer
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520
WWW.LTGOV.ALASKA.GOV




530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460 269.0263
LT.GOVERNOR@ALASKA.GOV

**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 
465.4081

DATE: July 1, 2019

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

Department of Health and Social Services Emergency Regulations re: Medicaid Payment Rates and Cost Containment (7 AAC 145; 160)

Attorney General File:	Emergency Regulations
Regulation Filed:	7/1/2019
Effective Date:	7/1/2019
Expiration Date:	October 28, 2019 unless made permanent by the adopting agency
Print:	231, October 2019

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

FINDING OF EMERGENCY

The Department of Health and Social Services finds that an emergency exists and that the attached regulation is necessary for the immediate preservation of the public peace, health, safety, or general welfare. The facts constituting the emergency include the following:

The commissioner of health and social services finds that the costs of medical assistance for all persons eligible under Alaska Statute (AS) 47.07 will exceed the amount allocated in the state budget for fiscal year 2020. The Medicaid program, one of the largest components in the state budget, will be significantly underfunded in fiscal year 2020. While the Medicaid program anticipates reducing some of its expenditures through reform and other action, it cannot absorb the full general fund reduction and maintain Medicaid services at current levels.

Consequently, the Medicaid program faces a fiscal reality that requires the immediate adoption of emergency regulations to preserve the health and general welfare of thousands of Medicaid recipients. The Medicaid program and participating providers ensure that services are available and delivered to over 215,000 Alaskans. If the Medicaid program simply stops providing services to its recipients due to a budget shortfall, or if providers stop participating in the Medicaid program due to uncertainty in reimbursement for services by the department, there will be an immediate danger to the health and general welfare of these recipients. Implementing emergency regulations at this time will help preserve services and eligibility while providing certainty to all participants and providers about reimbursement for services.

Furthermore, both optional and mandatory Medicaid services are critical to recipients' health and general welfare. If optional services were to cease in less than 30 days, Alaskans who receive Medicaid services would be denied access to critical medications and supports, including wheelchairs and prosthetics. Alaskans who receive Medicaid personal care attendant services would be stranded at home with no ability to complete basic activities of daily living. Alaskans with developmental disabilities would be denied essential care that is currently provided under Medicaid waivers. Finally, younger Alaskans with psychiatric issues would be denied inpatient psychiatric care that would otherwise be covered under Medicaid.

If the costs of medical assistance for all persons eligible under AS 47.07 exceed the amount allocated in the state budget for a fiscal year, the Department of Health and Social Services may implement under AS 47.07.036 cost containment measures to reduce anticipated program costs. The purpose of implementing cost containment measures under AS 47.07.036 is to take all reasonable steps to avoid eliminating program eligibility and services. If the department adopts cost containment measures by emergency regulations, it will avoid the fiscal emergency, immediately preserve the health and general welfare of Medicaid recipients, and ensure the state's compliance with federal and state law by maintaining existing Medicaid services.

The emergency regulations implement a (1) freeze to inflation adjustments for Medicaid payments rates that would otherwise be increased for inflation in fiscal year 2020, with the exception of federally qualified health centers and primary care professional services; and (2) five percent rate reduction to non-primary care professional services, home and community-based waiver and personal care services, community behavioral health services, applied behavioral analysis services, and transportation and accommodation services. Emergency regulations are required because several Medicaid payment rates are set to increase for inflation on July 1, 2019, and there is significant uncertainty from participating providers on whether Medicaid payment rates will be reduced in fiscal year 2020.

Accordingly, given the immediate danger to the health and general welfare of the state's Medicaid recipients, the commissioner of health and social services directs the department to implement cost containment measures to reduce program costs for fiscal year 2020 as authorized under AS 47.07.036. Additionally, the commissioner finds that the cost containment measures implemented in the attached emergency regulations are the most reasonable steps to contain costs in a way that will not eliminate program eligibility or the scope of services required or authorized under AS 47.07.020 and 47.07.030.

ADOPTION ORDER

Under the authority of AS 47.05.010, AS 47.05.012, AS 47.07.020, AS 47.07.030, AS 47.07.036, AS 47.07.040, AS 47.07.070, AS 47.20.060, AS 47.20.070, and AS 47.20.110, the attached 2⁸ pages of regulation changes are therefore adopted as an emergency regulation to take effect July 1, 2019, as provided in AS 44.62.180(3).

This action is not expected to require an increased appropriation.

DATE:

6/28/19


Adam Crum
Commissioner,
Department of Health & Social Services

April Simpson for

FILING CERTIFICATION

[↑]
I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that on July 1, 2019, at 2:21 p.m., I filed the attached regulation according to the provisions of AS 44.62.

April Simpson for
Lieutenant Governor *Kevin Meyer*

Effective:

July 1, 2019

Register:

231, October 2019

Expires October 28, 2019
unless made "permanent"
by the adopting agency.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

**I, KEVIN MEYER, 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:**

**Josh Applebee, Chief of Staff
Kady Levale, Notary Administrator
April Simpson, Regulations and Initiatives Specialist**

**IN TESTIMONY WHEREOF, I have
signed and affixed the Seal of the State of
Alaska, in Juneau, on December 11th,
2018.**



K. Meyer
.....

**KEVIN MEYER
LIEUTENANT GOVERNOR**

EMERGENCY REGULATIONS

Register 231, October 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 145. Medicaid Payment Rates.

7 AAC 145.012. Cost containment measure for inflation adjustments to Medicaid payment rates.

7 AAC 145.012(a)(1) is amended to read:

(a) To address that appropriations for fiscal year **2020** [2018] are insufficient to cover the costs of medical assistance for all persons eligible under AS 47.07 and 7 AAC 100, the department will implement cost containment measures that prohibit the following adjustments to Medicaid payment rates for Medicaid claims with dates of services after **June 30, 2019** [JUNE 30, 2017], and before **July 1, 2020**[JULY 1, 2018]:

(1) inflation adjustments required under 7 AAC 145.050(b)(3), **except as noted in 7 AAC 145.050(c)-(e)**;

7 AAC 145.012(a)(4) is repealed:

(4) repealed 7 / 1 / 2019;

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

(Eff. 7/1/2015, Register 215; am 7/1/2016, Register 219; am 10/1/2017, Register 223; am 3/1/2018, Register 225; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.036
AS 47.07.020

7 AAC 145.012(a)(5) is amended to read:

(5) inflation adjustments required under 7 AAC 150.150, except as noted in 7

AAC 150.150(h);

7 AAC 145.012(a)(7) is amended to read:

(7) inflation adjustments required under 7 AAC 150.190(g) in accordance with

7 AAC 150.190(d)(2)(B), except as noted in 7 AAC 150.190(g)(1).

(Eff. 7/1/2015, Register 215; am 7/1/2016, Register 219; am 10/1/2017, Register 223; am 3/1/2018, Register 225; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.036
AS 47.07.020

7 AAC 145.025. Payment for services provided out of state.

7 AAC 145.025 is amended by adding a new subsection to read:

(g) For state fiscal year 2020, the department will pay state fiscal year 2019 Alaska Medicaid payment rates for out of state transportation and accommodation services under 7 AAC 120.405 and 7 AAC 120.425, with the exception of transportation services under 7

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

AAC 120.405(d), emergency transportation services under 7 AAC 120.415, and air ambulance services under 7 AAC 120.420.

(Eff. 2/1/2010, Register 193; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.040

Article 2

RBRVS Methodology

7 AAC 145.050. Resource-based relative value scale rate-setting methodology.

7 AAC 145.050(b)(3) is amended to read:

(3) a conversion factor (CF), that is a dollar amount used to convert new and existing CPT and HCPCS codes adopted by reference in 7 AAC 160.900(a) into a fee amount; this conversion factor as of July 1, 2019 [JULY 1, 2017], is \$39.781 [\$40.573]; on the later date of August 1, 2019, or a 30 day notice to providers, the conversion factor will be \$40.974; the CF will be adjusted [EFFECTIVE JULY 1, 2017, AND] annually thereafter on July 1 so that an adjustment provision results in an overall average net change for all procedures described in this subsection that equals the percent change from the previous year in the most recent annual Consumer Price Index for all Urban Consumers (CPI-U), all items, for Urban Alaska [ANCHORAGE, ALASKA] published by the United States Department of Labor, Bureau of Labor Statistics, adopted by reference in 7 AAC 160.900. [; THE DEPARTMENT WILL ANNOUNCE AND POST THE CF ADJUSTED UNDER THIS PARAGRAPH AT THE DEPARTMENT'S WEBSITE OR AT A DESIGNATED CONTRACTOR'S INTERNET WEBSITE; AND]

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

(Eff. 2/1/2010, Register 193; am 12/1/2011, Register 200; am 5/11/2012, Register 202; am 3/22/2014, Register 209; am 10/1/2017, Register 223; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.050(b)(4) is repealed:

(4) repealed 7 / 1 / 2019;

(Eff. 2/1/2010, Register 193; am 12/1/2011, Register 200; am 5/11/2012, Register 202; am 3/22/2014, Register 209; am 10/1/2017, Register 223; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.050(c) is amended to read:

(c) The fee for each procedure subject to RBRVS-based payment is determined using the following calculation: $[(RVU_w \times GPCI_{Work}) + (RVU_p \times GPCI_{PE}) + (RVU_m \times GPCI_{MP})] \times (CF)$. For state fiscal year 2020, starting on the later date of August 1, 2019, or after a 30 day notice to the providers, providers who do not meet the Medicaid Management Information System (MMIS) enrolled provider type, or provider specialty designations in (c)(1) - (c)(3) of this subsection, and who are identified as the rendering provider on the claims submitted to the Medicaid Management Information System (MMIS) will have a conversion factor (CF) of \$37.792:

(1) provider type 046 direct entry midwife, 050 school based services, 054 family planning clinic, or 080 independent laboratory; or

(2) providers who are any provider type but have a provider specialty code in the Medicaid Management Information System (MMIS) that is 001 general practice, 008

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

family practice, 009 gynecology, 016 obstetrics and gynecology, 049 pediatrics, 054

obstetrics, 125 adult health, 126 nurse midwife, 127 women's health/OB-GYN, 128 family

health, 129 pediatric, and 130 gerontological;

(3) in this subsection, provider specialty means the provider's specialty identified in the provider enrollment file as of July 1, 2019.

7 AAC 145.050(d) is amended to read:

d) The department will pay for anesthesiology services in accordance with the following calculation: (\$42.90 X the number of base units for anesthesiology services) + (\$36 X the number of time units), where the number of base units is determined in accordance with the *Relative Value Guide*, adopted by reference in 7 AAC 160.900, and the value of one time unit is 10 minutes. The department will not make an additional payment for a physical status modifier as set out in Current Procedural Terminology, adopted by reference in 7 AAC 160.900. **For state fiscal year 2020, starting on the later date of August 1, 2019, or after a 30 day notice to the providers, the providers who are not enrolled in the Medicaid Management Information System (MMIS) as the provider types or provider specialties identified in (c)(1) – (c)(3) of this section, and who are identified as the rendering provider on the claims submitted to the Medicaid Management Information System (MMIS), will receive 95% of the \$42.90 and \$36 values referenced in (d).**

7 AAC 145.050(e) is amended to read:

(e) Except as provided in (f) of this section, and subject to 7 AAC 145.020, if a procedure does not have an RVU established for Medicare by CMS, and is not subject to another payment

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

methodology or fee under this chapter, the department's payment for a covered procedure will not exceed 80 percent of billed charges for the first nine billings that reflect a charge for the service that complies with the applicable standards in 7 AAC 145.020. Thereafter, the fee will be established based on the 90th percentile of the first 10 billings. To be paid under this subsection, a billing must reflect a charge for the procedure that complies with the applicable standards in 7 AAC 145.020. No more than three claims from a provider, group, or pay-to-provider will be used to establish a fee under this chapter. The department will periodically review and adjust specific payment rates established under this subsection. **For state fiscal year 2020, starting on the later date of August 1, 2019, or after a 30 day notice to the providers, the providers who are not enrolled in the Medicaid Management Information System (MMIS) as the provider types or provider specialties identified in (c)(1)-(c)(3) of this section, and who are identified as the rendering provider on the claims submitted to the Medicaid Management Information System (MMIS), will receive 95% of the payment rates in this subsection.**

7 AAC 145.050(f) is amended to read:

(f) The department's payment for an item or service described as an "unlisted procedure," "not otherwise classified (NOC)," or "not otherwise specified" will not exceed 50 percent of billed charges if the department agrees that the item or service cannot be billed under another code, and if the billing reflects a charge for the item or service that complies with the applicable standards in 7 AAC 145.020. **For state fiscal year 2020, starting on the later date of August 1, 2019, or after a 30 day notice to the providers, the providers who are not enrolled in the Medicaid Management Information System (MMIS) as the provider types or provider specialties identified in (c)(1)-(c)(3) of this section, and who are identified as the rendering**

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

provider on the claims submitted to the Medicaid Management Information System (MMIS), will receive 95% of the payment rates in this subsection.

7 AAC 145.050(h) is amended to read:

(h) For providers who are not required to enroll under 7 AAC 120.200 or 7 AAC 120.300, the department will pay for nonroutine office medical and surgical supplies in accordance with the same methodology and rates established in 7 AAC 145.420, and 7 AAC 145.421 except that, for state fiscal year 2020, starting on the later of August 1, 2019 or after a 30 day notice to the providers, rates for providers who are not enrolled in the Medicaid Management Information System (MMIS) as the provider types or provider specialties identified in 7 AAC 145.050(c)(1) – (c)(3) will be reimbursed at 95% of the payment rates established in 7 AAC 145.420 and 7 AAC 145.421.

7 AAC 145.050 is amended by adding a new sub-section to read:

(j) RVU values are updated annually on July 1.

(Eff. 2/1/2010, Register 193; am 12/1/2011, Register 200; am 5/11/2012, Register 202; am 3/22/2014, Register 209; am 10/1/2017, Register 223; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

Article 3

Payment Rates; Professional Services.

7 AAC 145.100. Advanced nurse practitioner services payment rates.

7 AAC 145.100 is amended by adding a new sub-section to read:

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

(f) The department will pay for laboratory services in accordance with payment methodology identified in 7 AAC 145.460.

(Eff. 2/1/2010, Register 193; am 5/1/2016, Register 218; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

Article 3

Payment Rates; Professional Services

7 AAC 145.120. Dental services payment rates.

7 AAC 145.120(c) is amended to read:

(c) The department will review dental payment rates at the beginning of each fiscal year and may adjust the rates to reflect changes in the United States Department of Labor consumer price index and after reviewing fee profiles from the most recent calendar year's Medicaid dental claims to determine the need for adjusting payment rates. **For state fiscal year 2020, payment rates will not be adjusted by the consumer price index.**

7 AAC 145.120 is amended by adding a new subsection to read:

(e) For state fiscal year 2020, the payment rates under (a) – (d) of this section will be 95 percent of the state fiscal year 2019 payment rates.

(Eff. 2/1/2010, Register 193; am 11/1/2010, Register 196; am 1/15/2011, Register 197; am 3/22/2014, Register 209; am 5/1/2016, Register 218; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.200. Physician services payment rates.

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

7 AAC 145.200(e) is repealed:

(e) Repealed 7 / 1 / 2019. (Eff. 2/1/2010, Register 193; am 1/1/2011, Register 196; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.070
AS 47.07.030

7 AAC 145.250. Private-duty nursing payment rates.

7 AAC 145.250 is amended to read:

(a) The department will pay an in-state private-duty nurse in accordance with 7 AAC 145.020. [.] **For state fiscal year 2020, the payment rates will be 95 percent of the payment rates listed in this subsection. The payment rates must not exceed** [NOT TO EXCEED]

(1) \$20 per 15 minutes of service provided by a registered nurse or advanced nurse practitioner, including a nurse midwife; or

(2) \$18.75 per 15 minutes of service provided by a licensed practical nurse.

(Eff. 2/1/2010, Register 193; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.265. Targeted case management payment rates.

7 AAC 145.265(b)(10) is amended to read:

(10) for state fiscal year **2020** [2018], the department will not apply the inflation adjustment described in (9) of this subsection.

(Eff. 2/1/2010, Register 193; am 10/1/2017, Register 223; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.040 AS 47.20.070
AS 47.07.030 AS 47.20.060 AS 47.20.110

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

7 AAC 145.290. Long-term services and supports targeted case management.

7 AAC 145.290(a)(2) is amended to read:

(a) For long-term services and supports targeted case management services provided under 7 AAC 128.010, the department will pay a unit of service at the lesser of the

...

(2) the rate established in the department's Chart of Long Term Services and Supports Targeted Case Management Services Rates, adopted by reference in 7 AAC 160.900; for state fiscal year 2020, the payment rates under this paragraph will be 95 percent of the state fiscal year 2019 payment rates.

7 AAC 145.290(c) is amended to read:

(c) Each July 1, except July 1, 2019, that the rate of payment listed in the Chart of Long Term Services and Supports Targeted Case Management Services Rates is not reestablished under (b) of this section, the department will adjust the payment rate 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. 10/1/2018, Register 227; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

Article 4

Payment Rates; Therapies and Related Services

7 AAC 145.340. Hearing services payment rates.

7 AAC 145.340(a)(2) is amended to read:

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

(a) Subject to the limitations in 7 AAC 115.530, and this section, the department will pay an in-state audiologist for audiology services

...

(2) in accordance with the CPT Fee Schedule for Audiology Services table and HCPC Fee Schedule for Audiology Services table, adopted by reference in 7 AAC 160.900; for state fiscal year 2020, starting the later date of August 1, 2019, or and after a 30 day notice to the providers, the payment rates for audiology services reimbursed under the Resource Based Relative Value Scale (RBRVS) methodology will be as described in 7 AAC 145.050 and the payment rates for audiology services not reimbursed under RBRVS will be 95 percent of the state fiscal year 2019 payment rates.

(Eff. 2/1/2010, Register 193; am 3/22/2014, Register 209; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

Article 5

Payment Rates; Prescription Drugs and Medical Supplies; Durable Medical Equipment; Transportation; Laboratory Services

7 AAC 145.410. Dispensing fee.

Sec 410. Dispensing fee

7 AAC 145.410(g) amended to read.

(g) A claim for a covered outpatient drug dispensed by a dispensing provider to a recipient for outpatient use will be reimbursed in accordance with 7 AAC 145.400 with no dispensing fee. A covered outpatient drug administered to an outpatient recipient by a physician, advanced nurse practitioner, or physician assistant, and billed using a covered code under the

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

Current Procedural Terminology (CPT) or Healthcare Common Procedure Coding System (HCPCS), adopted by reference in 7 AAC 160.900, will be reimbursed at the estimated acquisition cost defined in 7 AAC 145.400(p) for the amount administered with no dispensing fee. For state fiscal year 2020, starting on the later of August 1, 2019 or after a 30 day notice to the providers, a covered outpatient drug administered to an outpatient recipient by a physician, advanced practice registered nurse, or physician assistant that is not enrolled in the Medicaid Management Information System (MMIS) as a provider type or provider specialty identified in 7 AAC 145.050(c)(1) – (c)(3), and who is identified as the rendering provider on the claim submitted to the MMIS billed using a covered CPT or HCPCS code will be reimbursed at 95% of the estimated acquisition cost defined in 7 AAC 145.400(p) with no dispensing fee.

(Eff. 2/1/2010, Register 193; am 1/1/2011, Register 196; am 9/7/2011, Register 199; am 1/4/2012, Register 201; am 5/18/2014, Register 210; am 6/16/2016, Register 218; am 7 / 1 / 2019 Register 231)

Authority: AS 47.05.010 AS 47.07.030 AS 47.05.040

7 AAC 145.440. Transportation and accommodation services payment rates.

7 AAC 145.440(a) is amended to read:

(a) The department will pay for transportation and accommodation services in accordance with 7 AAC 145.020, not to exceed the maximum amount identified in the *Transportation/Accommodation Fee Schedule* table, adopted by reference in 7 AAC 160.900.

For state fiscal year 2020, the payment rates will be 95 percent of the state fiscal year 2019

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

payment rates. The services paid at 100 percent of billed charges during state fiscal year 2019, will continue to be paid at 100 percent of billed charges during state fiscal year 2020.

(Eff. 2/1/2010, Register 193; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.460. Laboratory services payment.

7 AAC 145.460(a) is amended to read:

(a) The department will pay for laboratory services provided in state by an independent laboratory in accordance with 7 AAC 145.020, **at the rate established for Medicare in 42 C.F.R. 405.515, adopted by reference in 7 AAC 160.900; laboratory services for which no rate is established will be paid at a rate established under 7 AAC 145.050(e)** [NOT TO EXCEED 100 PERCENT OF THE AMOUNT DETERMINED UNDER 7 AAC 145.050].

7 AAC 145.460 is amended by adding a new subsection to read:

(e) For state fiscal year 2020, payment rates for laboratory services will be 95% of the payment rates established in (a) of this section starting on the later date of August 1, 2019, or after a 30 day notice to the providers, for providers who are not enrolled in the Medicaid Management Information System (MMIS) as the provider types or provider specialties listed in 7 AAC 145.050(c)(1) – (c)(3), and who are identified as the rendering provider on the claims submitted to the Medicaid Management Information System (MMIS).

(Eff. 2/1/2010, Register 193; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

Article 6

Payment Rates; Personal Care and Home Health Care

7 AAC 145.500. Personal care services payment rates.

7 AAC 145.5009(a)(1) is amended to read:

(a) For providing personal care services under 7 AAC 125.010 - 7 AAC 125.199 and 7 AAC 127, the department will pay a unit of service at the lesser of

(1) rates established in the department's Chart of Personal Care Services, Community First Choice Services [AND WAIVER SERVICES] Rates, adopted by reference in 7 AAC 160.900; **for state fiscal year 2020, the payment rates will be 95 percent of the state fiscal year 2019 payment rates;** those rates will be adjusted in accordance with (b) of this section; or

...

7 AAC 145.500(b) is amended to read:

(b) Each July 1, **except July 1, 2019,** rates established in *the Chart of Personal Care Services and Community First Choice Services [AND WAIVER SERVICES] Rates*, **adopted by reference in 7 AAC 160.900, are not re-established under (d) of this section, the department will adjust the rates of payment in the Chart of Personal Care and Community First Choice Services 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** [WILL BE ADJUSTED AS PROVIDED IN 7 AAC 145.525(b)].

7 AAC 145.500 is amended by adding a new subsection to read:

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

(c) Each July 1, rates of payment in the *Chart of Personal Care and Community First Choice Services Rates*, adopted by reference in 7 AAC 160.900, are re-established under (d) of this section or adjusted under (b) of this section will be further adjusted to reflect regional differences in the cost of doing business based on the designated planning regions described in Table I-1 of the Alaska Geographic Differential Study 2008, dated April 30, 2019 and adopted by reference in 7 AAC 160.900 with a factor of 1.00 being the lowest factor applied and with the four southeast regional factors being averaged to a single weighted applicable factor of 1.09.

7 AAC 145.500 is amended by adding a new subsection to read:

(d) On or after July 1, 2018, rates of payment in the department's *Chart of Personal Care Services Community First Choice Services Rates*, adopted by reference in 7 AAC 160.900, will be re-established at least every four years using the department's *Personal Care Assistant and Waiver Rate-Setting Methodology*, adopted by reference in 7 AAC 160.900.

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

(Eff. 2/1/2010, Register 193; am 3/1/2011, Register 197; am 8/18/2015, Register 215; am 10/1/2017, Register 223; am 3/1/2018, Register 225; am 10/1/2018, Register 227; am 7 / 1 / 2019, Register 231)

Article 7

Payment Rates; Home and Community-Based Waiver Services.

7 AAC 145.520. Home and community-based waiver services payment rates.

7 AAC 145.520(b)(1)(B) is amended to read:

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

(B) rates established in the department's *Chart of [PERSONAL CARE SERVICES, COMMUNITY FIRST CHOICE SERVICES, AND] Waiver Service Rates*, adopted by reference in 7 AAC 160.900.

7 AAC 145.520(b)(3) is amended to read:

(3) each July 1, **except July 1, 2019**, that the rates of payment for care coordination services in the *Chart of [PERSONAL CARE SERVICES, AND COMMUNITY FIRST CHOICE SERVICES, AND] Waiver Services Rates* are not reestablished under (2) of this section, the rates will be adjusted as provided in 7 AAC 145.525(b).

7 AAC 145.520(f)(2) is amended to read:

(2) rates established in the department's *Chart of [PERSONAL CARE SERVICES, COMMUNITY FIRST CHOICE SERVICES, AND] Waiver Services Rates*, adopted by reference in 7 AAC 160.900.

7 AAC 145.520(h) is amended to read:

(h) A qualified recipient receiving residential supported-living services under 7 AAC 130.255 that are assigned procedure code T2031 in the *Healthcare Common Procedure Coding System (HCPCS)*, adopted by reference in 7 AAC 160.900, or group-home habilitation services under 7 AAC 130.265 that are assigned procedure code T2016 in the *Healthcare Common Procedure Coding System*, is eligible for, in addition to the qualified recipient's daily rate provided under (f) and (g) of this section, an acuity add-on rate at the daily rate established in the *Chart of [PERSONAL CARE SERVICES, COMMUNITY FIRST CHOICE SERVICE,*

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

AND] Waiver Services Rates, adopted by reference in 7 AAC 160.900. For purposes of this subsection, a qualified recipient is a recipient for whom the department has given prior authorization under 7 AAC 130.267 for additional services.

(Eff. 2/1/2010, Register 193; am 3/1/2011, Register 197; am 4/1/2012, Register 201; am 7/1/2013, Register 206; am 1/1/2014, Register 208; am 7/1/2015, Register 214; am 8/18/2015, Register 215; am 10/1/2017, Register 223; am 3/1/2018, Register 225; am 10/1/2018, Register 227; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010

AS 47.07.030

AS 47.07.040

7 AAC 145.525. Re-establishing and adjusting payment rates in the department's Chart of Personal Care Services, Community First Choice Services and Waiver Services Rates.

7 AAC 145.525(a) is amended to read:

(a) On or after July 1, 2018, rates of payment in the department's *Chart of [PERSONAL CARE SERVICES, COMMUNITY FIRST CHOICE SERVICES, AND] Waiver Services Rates*, adopted by reference in 7 AAC 160.900, will be re-established at least every four years using the department's *Personal Care Assistant and Waiver Rate-Setting Methodology*, adopted by reference in 7 AAC 160.900, as follows:

7 AAC 145.525(b) is amended to read:

(b) Each July 1, **except July 1, 2019**, that rates of payment in the *Chart of Waiver Services Rates*, adopted by reference in 7 AAC 160.900, are not re-established under (a) of this section, the department will adjust the rates of payment in the *Chart of Waiver Services Rates* for _____

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

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.

7 AAC 145.525(c) is amended to read:

(c) Each July 1, rates of payment in the *Chart of [PERSONAL CARE SERVICES, COMMUNITY FIRST CHOICE SERVICES, AND] Waiver Services Rates*, adopted by reference in 7 AAC 160.900, that are re-established under (a) of this section or adjusted under (b) of this section will be further adjusted to reflect regional differences in the cost of doing business based on the designated planning regions described in Table I-1 of the *Alaska Geographic Differential Study 2008*, dated April 30, 2009 and adopted by reference in 7 AAC 160.900, with a factor of 1.00 being the lowest factor applied and with the four southeast regional factors being averaged to a single weighted applicable factor of 1.09

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

(Eff. 3/1/2018, Register 225; am 10/1/2018, Register 227; am 7 / 1 / 2019, Register 231)

Article 8

Payment Rates; Behavioral Health Services.

7 AAC 145.580. Behavioral health services payment rates.

7 AAC 145.580(a)(2) is amended to read:

(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:

...

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

(2) the rate established in the department's *Chart of Community Behavioral Health Services Medicaid Rates*, adopted by reference in 7 AAC 160.900; **for state fiscal year 2020, the payment rates will be 95 percent of the state fiscal year 2019 payment rates.**

7 AAC 145.580(c) is amended to read:

(c) Each July 1, **except July 1, 2019**, 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 after July 1.

7 AAC 145.580 is amended by adding a new subsection to read:

(d) The department will pay a corresponding unit of service for providing autism services under 7 AAC 135.350 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 Medicaid Procedure Codes and Rates – Autism Services, adopted by reference in 7 AAC 160.900; for state fiscal year 2020, the payment rates will be 95 percent of the state fiscal year 2019 payment rates.

7 AAC 145.580 is amended by adding a new subsection to read:

(e) The department will pay a corresponding unit of service for providing residential behavioral rehabilitation services under 7 AAC 135.800 at the lesser of the following rates:

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

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

(2) the rate established in the department's *Residential Behavioral Rehabilitation Services Handbook* adopted by reference in 7 AAC 160.900.

(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 1/1/2019, Register 228; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

Article 9

Payment Rates; Facility and Facility-Based Services.

The heading of 7 AAC 145.600 is amended to read:

7 AAC 145.600. General acute care hospital [HOSPITAL] payment rates.

7 AAC 145.600(b) is amended to read:

(b) The department will pay an out-of-state general acute care hospital at the Medicaid rate used by the jurisdiction where the hospital is located, or if no Medicaid rate has been established, the Medicare rate for the hospital [, OR IF NO MEDICARE RATE HAS BEEN ESTABLISHED, THE BLUE CROSS RATE].

(Eff. 2/1/2010, Register 193; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.620. Residential psychiatric treatment center payment rate.

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

7 AAC 145.620(c) is amended to read:

(c) Based on periodic review of appropriate cost studies, the department will determine a daily rate to be paid for residential psychiatric treatment center services that is sufficient to enlist enough providers so that residential psychiatric treatment center services are available to Medicaid recipients at least to the extent that those services are available to the general population. **For state fiscal year 2020, the daily payment rates will be 95 percent of the state fiscal year 2019 payment rates.**

(Eff. 2/1/2010, Register 193; am 10/1/2011, Register 199; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.680. Free-standing birth center payment rates.

7 AAC 145.680(b) is amended to read:

(b) The department will not set an all-inclusive flat rate that exceeds 75 percent of the weighted average of the Medicaid hospital inpatient rates paid to the general acute care hospitals in Anchorage, Fairbanks, Juneau, Palmer, and Soldotna, for one inpatient hospital day. **For state fiscal year 2020, the payment rate will be 95 percent of the payment rate that would have been calculated in this subsection.**

The introductory language of 7 AAC 145.680(c) is amended to read:

(c) The department will calculate the weighted average described in (b) of this section using the Medicaid hospital inpatient rates for each facility under (b) of this section that are in effect at the start of the fourth quarter of the state fiscal year preceding the July 1 effective date. **For state fiscal year 2021, the inpatient hospital payment rates used in the calculation will be what the rates would have been April 1, 2020, had the 5 percent rate reduction not been**

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

applied excluding the inflation that would have been granted in state fiscal year 2019. The

department will base the weighted average on the number of paid Medicaid inpatient claims filed for a normal vaginal hospital delivery with a one-day length of stay

...

(Eff. 5/1/2016, Register 218; am 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.070

Chapter 160. Medicaid Program; General Provisions.

7 AAC 160.900. Requirements adopted by reference.

7 AAC 160.900(d)(10) is amended to read:

(10) the *Chart of Personal Care Services and Community First Choice Services* [AND WAIVER SERVICES] rates, dated June 26, 2019 [AUGUST 2, 2018], for providers of personal care services under 7 AAC 125.010 – 7 AAC 125.199 and Community First Choice personal care services under 7 AAC 127 [, AND HOME AND COMMUNITY-BASED WAIVER SERVICES UNDER 7 AAC 130];

7 AAC 160.900(d)(26) is amended to read:

(26) the *Residential Behavioral Rehabilitation Services Handbook*, 2019 [2013] Edition, revised as of January 2, 2019 [AUGUST 7, 2013];

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

(61) *Medicaid Procedure Codes and Rates – Autism Services*, dated May 1, 2018.

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

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

(62) the *Chart of Waiver Services Rates*, dated June 26, 2019, for providers of home and community-based waiver services under 7 AAC 130;

7 AAC 160.900(e) is amended to read:

(e) The following department fee schedules are adopted by reference:

(1) *State Fiscal Year 2019 [2014] CPT Fee Schedule for Chiropractic Services*, revised as of August 24, 2018 [JULY 12, 2013];

(2) *State Fiscal Year 2019 [2014] CDT Fee Schedule: Dental Services for Children*, revised as of April 19, 2019 [JULY 9, 2013], *State Fiscal Year 2019 [2014] CDT Fee Schedule: Emergent Adult Dental Services*, revised as of April 19, 2019 [AUGUST 1, 2013], *State Fiscal Year 2019 [2014] CDT Fee Schedule: Prosthodontic Adult Dental Services*, revised as of April 19, 2019 [JULY 9, 2013], and *State Fiscal Year 2019 [2014] CDT Fee Schedule: Enhanced Adult Dental Services*, revised as of April 19, 2019 [JULY 16, 2013];

(3) *State Fiscal Year 2019 [2014] CPT Fee Schedule for Direct Entry Midwife Services*, and *State Fiscal Year 2019 [2014] HCPC Fee Schedule for Direct Entry Midwife Services*, revised as of November 26, 2018 [JULY 29, 2013];

(4) *State Fiscal Year 2019 [2013] CPT Fee Schedule for Audiology Services*, Table I-2(a), *State Fiscal Year 2019 [2013] HCPC Fee Schedule for Audiology Services*, Table I-2(b), and *State Fiscal Year 2019 [2013] HCPC Fee Schedule for Hearing Aid Dealer Services*, Table I-3, revised as of January 15, 2019 [SEPTEMBER 5, 2012];

(5) 2019 [2010] *CPT Fee Schedule for Home Infusion Therapy Services*, Table I-3(a), revised as of September 10, 2018 [MARCH 4, 2010], and 2019 [2010] *HCPC Fee*

EMERGENCY REGULATIONS

Register 23, October 2019

HEALTH AND SOCIAL SERVICES

Schedule for Home Infusion Therapy Services, Table I-3(b), revised as of September 10, 2018 [March 4, 2010];

(6) repealed 7 / 1 / 2019;

(7) *State Fiscal Year 2019 [2014] CPT Fee Schedule for Occupational Therapy Services*, revised as of January 22, 2019 [AUGUST 30, 2013], and *State Fiscal Year 2019 [2014] HCPC Fee Schedule for Occupational Therapy Services*, revised as of January 22, 2019 [JULY 26, 2013];

(8) *State Fiscal Year 2019 [2014] CPT Fee Schedule for Outpatient Therapy Services*, revised as of January 22, 2019 [AUGUST 30, 2013], and *State Fiscal Year 2019 [2014] HCPC Fee Schedule for Outpatient Therapy Services*, revised as of January 22, 2019 [JULY 26, 2013];

(9) *State Fiscal Year 2019 [2014] CPT Fee Schedule for Independent Physical Therapists*, revised as of January 22, 2019 [AUGUST 30, 2013], and *State Fiscal Year 2019 [2014] HCPC Fee Schedule for Independent Physical Therapists*, revised as of January 22, 2019 [JULY 26, 2013];

(10) *State Fiscal Year 2019 [2014] CPT Fee Schedule for Podiatry Services*, and *State Fiscal Year 2019 [2014] HCPC Fee Schedule for Podiatry Services*, revised as of August 24, 2018 [JULY 30, 2013];

(11) *State Fiscal Year 2019 [2014] CPT Fee Schedule for School-Based Services*, and *State Fiscal Year 2019 [2014] HCPC Fee Schedule for School-Based Services*, revised as of January 22, 2019 [JULY 25, 2013];

EMERGENCY REGULATIONS

Register 231, October 2019

HEALTH AND SOCIAL SERVICES

(12) *State Fiscal Year 2019 [2014] CPT Fee Schedule for Speech Pathologists*, revised as of **January 22, 2019** [AUGUST 30, 2013], and *State Fiscal Year 2019 [2014] HCPC Fee Schedule for Speech Pathologists*, revised as of **January 22, 2019** [JULY 26, 2013];

(13) *Transportation/Accommodation Fee Schedule*, revised as of **June 29, 2018** [AUGUST 2012];

(14) *State Fiscal Year 2019 [2014] CPT Fee Schedule for Vision Services*, and *State Fiscal Year 2019 [2014] HCPC Fee Schedule for Vision Services*, revised as of **January 22, 2019** [JULY 31, 2013].

(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 7 / 1 / 2019, Register 231)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

AS 47.05.012



THE STATE
of **ALASKA**
GOVERNOR MICHAEL J. DUNLEAVY

**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

TO: April Simpson
Regulations & Initiatives Coordinator
Office of the Lieutenant Governor
State of Alaska

DATE: June 28, 2019

FILE NO.: 2019200429

TEL. NO.: (907) 269-7870

FROM: Triptaa Surve, Regulations Contact
Department of Health & Social Services

SUBJECT: Request for filing EMERGENCY
REGULATIONS on Medicaid
Payment Rates, Cost
Containment (7 AAC 145, 160).

We request that you file the EMERGENCY REGULATIONS on Medicaid Payment Rates, Cost Containment (7 AAC 145, 160).

Attached:

- Emergency regulation.
- Finding of Emergency/Adoption Order.

Please contact me if you have any questions about this request.

Thank you.

DEPARTMENT OF HEALTH & SOCIAL SERVICES



EMERGENCY REGULATIONS PROPOSED CHANGES TO REGULATIONS

MEDICAID PAYMENT RATES COST CONTAINMENT

7 AAC 145. Medicaid Payment Rates.

7 AAC 160. Medicaid Program; General Provisions; Requirements adopted by reference.



PUBLIC REVIEW DRAFT
June 28, 2019

COMMENT PERIOD ENDS: August 8, 2019

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