

Kevin Meyer  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
907.465.3520  
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Anchorage, Alaska 99501  
907.269.7460  
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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   
465.4081

**DATE:** June 8, 2020

**RE:** Filed Permanent Regulations: Department of Health and Social Services  
  
Department of Health and Social Services regulation re: Medicaid coverage and payment: behavioral health marital and family services (7 AAC 70.010(b)(7); 7 AAC 105.200(a)(1)(T); 7 AAC 110.575; 7 AAC 135.010(b)(1))

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Attorney General File:	2019200787
Regulation Filed:	6/8/2020
Effective Date:	7/8/2020
Print:	235, October 2020

cc with enclosures: Harry Hale, Department of Law  
Judy Herndon, LexisNexis

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

The attached 3 pages of regulations, dealing with Medicaid Behavioral Health Marital & Family Services (7 AAC 70, 105, 110, 135), are adopted and certified to be a correct copy of the regulation changes that the Department of Health and Social Services adopts under the authority of AS 47.05.010, AS 47.07.030, AS 47.07.040, AS 47.30.470, AS 47.30.475, AS 47.30.477, AS 47.30.530, AS 47.30.540, AS 47.30.570, and AS 47.37.140, 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.

Adam Crum

Digitally signed by Adam Crum  
Date: 2020.06.04 09:15:24  
-08'00'

Adam Crum, Commissioner  
Department of Health & Social Services

FILING CERTIFICATION

April Simpson for

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that I on July 8<sup>th</sup>,  
2020, at 3:15p. m., I filed the attached regulations according to the provisions of AS 44.62.040 -  
44.62.120.

for April Simpson  
Lieutenant Governor Kevin Meyer

Effective: July 8, 2020

Register: 235, October 2020.

**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.**



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

**KEVIN MEYER  
LIEUTENANT GOVERNOR**

Register 235, October 2020 HEALTH AND SOCIAL SERVICES

7 AAC 70.010(b) is amended by adding a new paragraph to read:

(7) a marital and family therapist licensed under AS 08.63.

(Eff. 10/1/2011, Register 199; am 4/9/2017, Register 222; am 7/1/2018, Register 226; am 4/24/2020, Register 234; am 7 / 8 / 2020, Register 235)

**Authority:** AS 47.05.010 AS 47.30.477 AS 47.30.570  
AS 47.30.470 AS 47.30.530 AS 47.37.140  
AS 47.30.475 AS 47.30.540

7 AAC 105.200(a)(1) is amended by adding a new subparagraph to read:

(T) a marital and family therapist;

(Eff. 2/1/2010, Register 193; am 10/1/2011, Register 199; am 5/1/2016, Register 218; am 6/16/2016, Register 218; am 7/1/2018, Register 226; am 6/2/2019, Register 230; am 4/24/2020, Register 234; am 7 / 8 / 2020, Register 235)

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

7 AAC 110 is amended by adding a new section to read:

## **Article 15. Marital and Family Therapy Services.**

### **Section**

575. Marital and family therapy services

**7 AAC 110.575. Marital and family therapy services.** (a) To be eligible to provide marital and family therapy services for payment under 7 AAC 105 - 7 AAC 160, a provider must

(1) be enrolled as a marital and family therapist under 7 AAC 105.210; and

(2) have an active license to practice as a marital and family therapist issued by the jurisdiction in which the marital and family therapist provides services; if services are provided in this state, the marital and family therapist must hold an active license under AS 08.63.100.

(b) The department will only pay for covered marital and family therapy services. Covered marital and family therapy services are limited to the following behavioral health clinic services:

- (1) a mental health intake assessment;
- (2) an integrated mental health and substance use intake assessment;
- (3) individual psychotherapy;
- (4) group psychotherapy;
- (5) family psychotherapy;
- (6) multi-family group psychotherapy;
- (7) screening and brief intervention services described in 7 AAC 135.240;
- (8) behavioral health screening under 7 AAC 135.100.

(c) A marital and family therapy services provider must maintain records in accordance with 7 AAC 105.230.

(d) If a marital and family therapist covered under this section provides marital and family therapy services for another enrolled provider, the marital and family therapist must request payment for those services in accordance with 7 AAC 135.910(a). (Eff. 7 / 8 / 2020, Register 235)

Register 235, October 2020 HEALTH AND SOCIAL SERVICES

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

The introductory language to 7 AAC 135.010(b)(1) is amended to read:

(1) a mental health professional clinician, a physician licensed as required under 7 AAC 110.400, a physician assistant licensed as required under 7 AAC 110.455, an advanced practice registered nurse licensed and certified as required under 7 AAC 110.100, a psychologist licensed as required under 7 AAC 110.550, [OR] a clinical social worker licensed as required under 7 AAC 110.565, **or a marital and family therapist licensed as required under 7 AAC 110.575**, if the provider is working within the scope of the provider's education, training, and experience:

• • •

(Eff. 10/1/2011, Register 199; am 4/9/2017, Register 222; am 7/1/2018, Register 226; am 4/24/2020, Register 234; am 7/8/2020, Register 235)

**Authority:** AS 47.05.010 AS 47.07.030

# MEMORANDUM

## State of Alaska Department of Law

**To:** The Honorable Kevin Meyer  
Lieutenant Governor

**Date:** June 5, 2020

**File No.:** 2019200787

**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  
Legislation and Regulations Section

**Re:** Department of Health and Social  
Services regulations re: Medicaid  
coverage and payment: behavioral  
health marital and family services  
(7 AAC 70.010(b)(7); 7 AAC  
105.200(a)(1)(T); 7 AAC 110.575;  
7 AAC 135.010(b)(1))

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 coverage and payment for behavioral health marital and family services.

The November 14, 2019 public notice and the June 4, 2020 adoption order both state that this action is expected to require increased appropriations. Therefore, a fiscal note under AS 44.62.195 is attached.

SCW

cc w/enc: Hon. Adam Crum, Commissioner  
Department of Health and Social Services

Triptaa Surve, Regulations Contact  
Department of Health and Social Services

Gennifer Moreau-Johnson, Director  
Division of Behavioral Health  
Department of Health and Social Services

Farina Brown, Deputy Director  
Division of Behavioral Health  
Department of Health and Social Services

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



## Notice of Proposed Changes- Medicaid Behavioral Health Marital & Family Therapy Services

NOTICE OF PROPOSED CHANGES ON MEDICAID BEHAVIORAL HEALTH MARITAL & FAMILY THERAPY SERVICES IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES.

### BRIEF DESCRIPTION

The Department of Health & Social Services proposes to change regulations on the Medicaid behavioral health service and billing criteria for marital and family therapy services.

The Department of Health & Social Services proposes to adopt regulation changes in Title 7 of the Alaska Administrative Code, dealing with Medicaid behavioral health service and billing criteria for marital and family therapy services, including the following:

- 7 AAC 70, 105, 110, & 135, are proposed to be changed as follows:
  - Exclude a marital and family therapist from requirements under 7 AAC 70.
  - Add marital and family therapist to list of eligible providers under 7 AAC 105.
  - Add requirements for marital and family therapy services under 7 AAC 110.
  - Add marital and family therapist as eligible provider of behavioral health clinic services under 7 AAC 135.
- 
- **PLEASE NOTE:** The public review draft for this proposed regulation has lettering, numbering, and content that is based on a related regulation. The related regulation is being reviewed and finalized by the Department of Law, and will amend the existing regulations.

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 Mr. Rick Calcote, at 3601 C Street, Suite 878, Anchorage, AK 99503. Additionally, the Department of Health & Social Services will accept comments by facsimile at (907) 269-3623 and by electronic mail at [hss.dbh.publiccomments@alaska.gov](mailto:hss.dbh.publiccomments@alaska.gov). The comments must be received not later than 5 p.m. on December 26, 2019.

Oral or written comments also may be submitted at a hearing to be held on December 12, 2019, at Conference Room 890, 3601 C Street, Anchorage, AK 99503. The hearing will be held from 1 p.m. to 3:00 p.m. and might be extended to accommodate those present before 2:30 p.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 48041#.

You may submit written questions relevant to the proposed action to Mr. Rick Calcote, at [rick.calcote@alaska.gov](mailto:rick.calcote@alaska.gov), 3601 C Street, Suite 878, Anchorage, AK 99503. The questions must be received at least 10 days before the end of the public comment period. The Department of Health & Social Services will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Mr. Rick Calcote at [rick.calcote@alaska.gov](mailto:rick.calcote@alaska.gov) or at (907) 269-3617 later than December 3, 2019, 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. Rick Calcote at [rick.calcote@alaska.gov](mailto:rick.calcote@alaska.gov) , or at (907) 269-3617.

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; AS 47.30.470; AS 47.30.475; AS 47.30.477; AS 47.30.530; AS 47.30.540; AS 47.30.570; AS 47.37.140.

**Statutes being implemented, interpreted, or made specific:** AS 47.05.010; AS 47.07.030; AS 47.07.040; AS 47.30.470; AS 47.30.475; AS 47.30.477; AS 47.30.530; AS 47.30.540; AS 47.30.570; AS 47.37.140.

**Fiscal information:** It is estimated that the proposed regulation changes will require increased appropriations (in thousands of dollars) as follows: FY2020, \$56.9.

The Division of Behavioral Health/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 Division of Behavioral Health/Department of Health & Social Services notices of proposed regulation changes. To be added to or removed from the list, send a request to the Division of Behavioral Health/Department of Health & Social Services at 3601 C Street, Suite 878, Anchorage, AK 99503, giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

DATE: November 7, 2019.

/s/Adam Crum

Commissioner,

Department of Health & Social Services,

## Attachments, History, Details

### Attachments

[DBH.Medicaid.BH.Marital&FamilyTherapy Svcs.ADDITIONAL Reg.NoticeInfo.2019200787.SIGNED.10.29.2019.pdf](#)

[DBH.Medicaid.BH.Marital&FamilyTherapy Svcs.FISCAL NOTE.SIGNED.2019200787.10.29.2019.pdf](#)

[DBH.Medicaid.BH.Marital&FamilyTherapy Svcs.PUBLIC Review DRAFT.2019200787.11.07.2019.pdf](#)

### Revision History

Created 11/7/2019 3:32:00 PM by tvsurve

### Details

Department:	Health and Social Services
Category:	Regulations
Sub-Category:	Notice of Proposed Regulations
Location(s):	Statewide
Project/Regulation #:	2019200787

Publish Date:	11/7/2019
Archive Date:	12/27/2019

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 Behavioral Health Marital & Family Therapy Services.
3. Citation of regulation (may be grouped): 7 AAC 70, 105, 110, 135.
4. Department of Law file number, if any: 2019200787.

5. Reason for the proposed action:

- ( ) Compliance with federal law or action (identify): \_\_\_\_\_
- (X) Compliance with new or changed state statute
- ( ) Compliance with federal or state court decision (identify): \_\_\_\_\_
- ( ) Development of program standards
- ( ) Other (identify): \_\_\_\_\_

6. Appropriation/Allocation: General Fund Medicaid, Mental Health, & Federal Funds.

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 FY2020 ____	Subsequent Years
Operating Cost	\$ _____	\$ _____
Capital Cost	\$ _____	\$ _____
1002 Federal receipts	\$146.3 ____	\$ _____
1003 General fund match	\$56.9 ____	\$ _____
1004 General fund	\$ _____	\$ _____
1005 General fund/ program	\$ _____	\$ _____
Other (identify)	\$ _____	\$ _____

9. The name of the contact person for the regulation:

Name: Rick Calcote

Title: Mental Health Clinician III

Address: 3601 C St., Suite 878, Anchorage, AK 99503

Telephone: (907) 269-3617

E-mail address: rick.calcote@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: 6.29.17

Prepared by:

Rick Calcote, D.S.

[signature]

Name (printed): Rick Calcote

Title (printed): Mental Health Clinician III

Telephone: (907) 269-3617

# FISCAL NOTE

Agency: Department of Health & Social Services

Appropriation/Allocation: General Fund Medicaid, Mental Health, & Federal Funds

General subject of regulation: Medicaid Behavioral Health Marital & Family Therapy Services

Citation of regulation: 7 AAC 70, 105, 110, 135

Estimated appropriations required (in thousands of dollars) \$56.9

## Expenditures/Revenues

	FY ____ Appropriation Requested	(Thousands of Dollars)	
OPERATING EXPENDITURES	FY20	FY21	FY ____
Personal Services			
Travel			
Services			
Commodities			
Capital Outlay			
Grants & Benefits			
Miscellaneous			
<b>TOTAL OPERATING</b>			

FUNDING SOURCE		(Thousands of Dollars)	
1002	Federal Receipts	\$146.3	
1003	GF Match	\$56.9	
1004	General Fund		
1005	GF/Program (DGF)		
1007	I/A Rcpts (Other)		
1037	GF/MH (UGF)		

POSITIONS			
Full-time			
Part-time			
Temporary			

<b>CHANGE IN REVENUES</b>	\$203.2		
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Date 10.29.19

Prepared by R. Calcote, OHS

Rick M. Calcote

Mental Health Clinician III

Division of Behavioral Health/Department of Health &

Social Services

Telephone Number: (907) 269-3617

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION  
AND FURNISHING OF ADDITIONAL INFORMATION

I, Farina Brown, Deputy Director, of the Department of Health & Social Services, under penalty of perjury, certify the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 7 AAC 70, 105, 110, 135. Medicaid Behavioral Health Marital & Family 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.

There is no notary public or other official empowered to administer oaths available to notarize this document as a result of social distancing requirements implemented statewide.

I certify under penalty of perjury that the foregoing is true.

Date: \_\_\_\_\_

**Farina Brown**

Digitally signed by Farina Brown  
Date: 2020.05.06 12:18:47  
-08'00'

[original or password-protected electronic signature]

Farina Brown, Deputy Director

State of Alaska  
Anchorage, AK 99503.

AFFIDAVIT OF ORAL HEARING

I, Farina Brown, Deputy Director, of the Department of Health & Social Services, under penalty of perjury, state the following:

On December 12, 2019, at 1 p.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 70, 105, 110, 135. Medicaid Behavioral Health Marital & Family Services.

There is no notary public or other official empowered to administer oaths available to notarize this document as a result of social distancing requirements implemented statewide.

I certify under penalty of perjury that the foregoing is true.

Date: \_\_\_\_\_

**Farina Brown**

Digitally signed by Farina Brown  
Date: 2020.05.06 12:20:45 -08'00'

[original or password-protected electronic signature]

Farina Brown, Deputy Director

State of Alaska  
Anchorage, AK 99503.

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Farina Brown, Deputy Director, of the Department of Health & Social Services, under penalty of perjury, 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 7 AAC 70, 105, 110, 135. Medicaid Behavioral Health Marital & Family Services.

There is no notary public or other official empowered to administer oaths available to notarize this document as a result of social distancing requirements implemented statewide.

I certify under penalty of perjury that the foregoing is true.

Date: \_\_\_\_\_

**Farina Brown**

Digitally signed by Farina Brown  
Date: 2020.05.06 12:22:09 -08'00'

[original or password-protected electronic signature]

Farina Brown, Deputy Director

State of Alaska  
Anchorage, AK 99503.



# ANCHORAGE DAILY NEWS

## AFFIDAVIT OF PUBLICATION

Account #: 270229 ST OF AK/DHSS/COMMISSIONERS  
3601 C STREET STE 902, ANCHORAGE, AK 99503

Order #: W0012366

Cost: \$512.98

STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

Lisi Misa being first duly sworn on oath deposes and says that 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 afore-said 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

11/14/2019

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



Subscribed and sworn to before me  
this 14th day of November 2019.

Notary Public in and for  
The State of Alaska.  
Third Division  
Anchorage, Alaska

MY COMMISSION EXPIRES

7/14/2020

STATE OF ALASKA  
NOTARY

PUBLIC

Jada L. Nowling

### NOTICE OF PROPOSED CHANGES ON MEDICAID BEHAVIORAL HEALTH MARITAL & FAMILY THERAPY SERVICES 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 Medicaid behavioral health service and billing criteria for marital and family therapy services, including the following:

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Date: November 7, 2019.  
/s/Adam Crum  
Commissioner,  
Department of Health & Social Services.

Published: November 14, 2019