

DEPARTMENT OF HEALTH & SOCIAL SERVICES



PROPOSED CHANGES TO REGULATIONS

MEDICAID PAYMENT RATES. SUPPLEMENTAL EMERGENCY MEDICAL TRANSPORTATION (SEMT) PROGRAM.

- **7 AAC 145. Medicaid Payment Rates.**
 - 7 AAC 145.441-445. Supplemental Emergency Medical Transportation Program.

- **7 AAC 160.900. Medicaid Program; General Provisions.**
 - 7 AAC 160.900. Requirements adopted by reference.
 - 7 AAC 160.990. Definitions.



PUBLIC REVIEW DRAFT July 7, 2020.

**SUPPLEMENTAL NOTICE COMMENT PERIOD ENDS: October
23, 2020.**

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

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paragraph, or subparagraph is being added, or that an existing section, subsection, paragraph, or subparagraph is being repealed and readopted (replaced), *the new or replaced text is not bolded or underlined*.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 is amended by adding a new section to read:

7 AAC 145.441. Supplemental Emergency Medical Transportation Program (SEMT) program.

(a) The Supplemental Emergency Medical Transportation (SEMT) program is a voluntary program that will make supplemental payments to publically owned or operated SEMT providers that provide qualifying emergency medical transportation services to Alaska Medicaid recipients.

(1) The supplemental payment will cover the gap between the eligible SEMT provider’s total allowable costs for providing SEMT services as reported on the *SEMT Cost Report* adopted by reference in 7 AAC 160.900 and the amount of the base payment, mileage, and all other sources of reimbursement;

(2) The department will make supplemental payments only up to the amount uncompensated by all other sources of reimbursement for the SEMT services provided to applicable Alaska Medicaid recipients. The total reimbursement including the fee for service

Medicaid payment, third party liability payment, and SEMT payment may not exceed one hundred percent of actual costs.

(3) A supplemental payment does not increase the current Alaska Medicaid fee-for service (FFS) reimbursement rates. A participating provider will continue to bill for the applicable FFS services and will be paid at the rates listed in the Alaska Medicaid *Transportation/Accommodation Fee Schedule* adopted by reference in 7 AAC 160.900.

(4) The supplemental payment will only include SEMT services provided to Alaska FFS Medicaid recipients by eligible SEMT providers for dates of service on or after August 31, 2019.

(b) This program will only include FFS Medicaid recipients under Title XIX, Title XXI of the federal Social Security Act, the Affordable Care Act (ACA), and Indian Health Services. A participating provider shall not receive supplemental payments for transporting:

- (1) Medicaid applicants;
- (2) Medicare recipients with dual eligibility for Medicaid.

(c) The state general fund cannot be used for SEMT supplemental payments.

(Eff. am____/____/____, Register____)

Authority: AS 47.07.040 AS 47.07.085

7 AAC 145 is amended by adding a new section to read:

7 AAC 145.442. SEMT provider participation, qualification, and reporting requirements.

- (a) Participation in the program by SEMT providers will be voluntary.
- (b) A participating provider must comply with the following requirements to qualify as

an eligible SEMT provider and receive supplemental payments:

DHSS Proposed Changes to Regulations. ORR, Medicaid Payment Rates, Supplemental Emergency Medical Transportation Program (7 AAC 145.441-.446), Medicaid, Requirements Adopted by reference (7 AAC 160.900, .990); DHSS PUBLIC REVIEW DRAFT, 07/07/2020; SUPPLEMENTAL NOTICE, 09/09/2020.

(1) provide emergency medical transportation services to Medicaid fee-for-service (FFS) recipients under 7 AAC 120.415 – 7 AAC 120.420;

(2) be publically owned or operated;

(3) be enrolled as a Medicaid provider for the service period specified in the claim;

(4) if a provider who meets all the other provider qualifications for the SEMT program enrolls as a Medicaid provider in the middle of their fiscal year, only claims for dates of service on or after the provider’s Medicaid enrollment date will be included in the SEMT program.

(c) The SEMT provider must provide the required documentation not later than the last day of the fifth month after the close of the provider’s fiscal year unless the eligible SEMT provider made a written request for an extension at least 30 days before the due date of the annual report and the request to participate in the applicable year is granted by the department.

The SEMT provider must:

(1) renew SEMT participation annually by submitting a *SEMT provider participation agreement* adopted by reference in 7 AAC 160.900;

(2) submit the *SEMT Cost Report* adopted by reference in 7 AAC 160.900;

(3) provide supporting documentation for the cost report and the cost determination, including the following:

(A) an audited financial statement completed in accordance with generally accepted auditing standards (GAAS) or generally accepted government auditing standards (GAGAS) related to the cost report or include a separate schedule related to the cost report;

(B) a post audit working trial balance for the audited financial statements;

(C) a reconciliation of the post audit working trial balance to the cost report;

(D) supporting documentation requested by the department;

(4) comply with the allowable cost requirements provided in Title 42 of the Code of Federal Regulations, 2 CFR Part 200, and Medicaid non-institutional reimbursement policy; complete the *SEMT Cost Report* in accordance with the *SEMT Cost Report Instructions*, adopted by reference in 7 AAC 160.900 and CMS Publication 15-1, and annually certify and allocate the provider's direct and indirect costs as qualifying expenditures eligible for federal financial participation (FFP).

(5) maintain the records required in this section for at least seven years from the date the documentation is submitted; failure to maintain documentation to support allowable SEMT costs may result in the unsupported costs categorized as disallowed costs.

(d) Indirect costs will be determined using one of the following options:

(1) An eligible SEMT provider that receives more than \$35 million in direct federal awards shall either have a Cost Allocation Plan (CAP) or a cognizant agency approved indirect rate agreement with its federal cognizant agency to identify indirect costs. If the eligible SEMT provider does not have a CAP or an indirect rate agreement with its federal cognizant agency and wants to claim indirect cost in association with a non-institutional services, it shall obtain one or the other before it can claim any indirect costs.

(2) An eligible SEMT provider that receives less than \$35 million of direct federal awards must develop and maintain an indirect rate proposal for audit. If the eligible SEMT provider does not have an indirect rate proposal, that provider may use methods originating from a CAP to identify its indirect costs. If the eligible SEMT provider does not have an indirect rate

proposal on file or a CAP and wants to claim indirect cost in association with a non-institutional services, it shall secure one or the other before it can claim any indirect cost.

(3) An eligible SEMT provider that receives no direct federal funding may use the following previously established methodology to identify indirect cost:

- (A) a CAP with its local government;
- (B) an indirect rate negotiated with its local government;
- (C) direct identification through use of a cost report;

(4) If the eligible SEMT provider has never used any of the above methodologies, it may do so, or it may elect to use the 10 percent minimum rate to identify its indirect costs.

(e) Each participating provider will be responsible for submitting claims to the agency for services provided to eligible recipients. A participating provider must submit the claim according to the rules and billing instructions in effect at the time the service was provided.

(f) The documentation in (c) of this subsection required for the first report (CY19, FFY19, or SFY20) in the first year of the program, must be submitted not later than 90 days after the effective date of the SEMT regulations.

(Eff. am____/____/____, Register____)

Authority: AS 47.07.040 AS 47.07.085

7 AAC 145 is amended by adding a new section to read:

7 AAC 145.443. SEMT interim supplemental payment.

(a) The department will pay an interim supplemental payment for SEMT. The interim payment will approximate the SEMT costs eligible for federal financial participation claimed through the certified public expenditure (CPE) process.

(b) The department will calculate the interim supplemental payment rate for SEMT on an annual basis and will pay four quarterly installments of equal amounts to the provider during the four quarters following the cost report submission.

(c) The department will determine the interim supplemental payments using the most recently filed cost reports. The cost reports will be used to determine an average cost per qualifying transportation.

(1) The sum of a participating provider's allowable direct and indirect costs for ground, air, and water medical transports services will be divided by the number of medical transports for ground, air, and water to determine a participating provider's average cost per medical transportation for each ground, air, and water.

(2) The average cost per medical transportation for each ground, air, and water will be multiplied by the number of qualifying Medicaid fee for service emergency medical transports to determine allowable Medicaid emergency medical transportation costs.

(3) The allowable Medicaid emergency transportation costs will be offset by Medicaid revenue for fee-for-service (FFS) and third party liability (TPL) for Medicaid emergency medical transports, to calculate the Medicaid emergency medical transportation costs that have not been paid by any other source.

(4) The calculated Medicaid emergency medical transportation costs not paid by any other source will be multiplied by the Title XIX federal medical assistance percentage (FMAP) to determine the interim payment.

(d) The cost per participating provider and the amount of interim supplemental payments will vary among the participating providers based on the provider specific data.

(Eff. am_____/_____/_____, Register____)

Authority: AS 47.07.040 AS 47.07.085

7 AAC 145 is amended by adding a new section to read:

7 AAC 145.444. SEMT cost reconciliation and settlement process.

(a) The department will adjust the cost report submitted by the provider for costs based on financial documentation provided during the desk review process, and to revenues and transports based on the reconciliation results from the most recently retrieved Medicaid Management Information System (MMIS) report.

(1) The cost associated with a dry run will not be eligible for FFP and will not be an eligible expenditure.

(2) The SEMT administrative fee in 7 AAC 145.445 will not be eligible for FFP and is not an eligible expenditure.

(3) All financial and transport information must be based on an accrual method of accounting and the participating provider must comply with generally accepted accounting principles (GAAP).

(A) The revenue must be reported in the period earned, regardless of when payment was received, and

(B) the expense must be reported in the period in which incurred.

(b) To determine the final supplemental payment, the department will perform cost settlements based on the final *SEMT Cost Report* for all participating providers.

(1) The sum of a participating provider's allowable direct and indirect costs for ground, air, and water medical transports services will be divided by the number of medical

transports for ground, air, and water to determine a participating provider's average cost per medical transportation for each ground, air, and water.

(2) The average cost per medical transportation for each ground, air, and water will be multiplied by the number of qualifying Medicaid fee for service emergency medical transports by Medicaid fund type to determine allowable Medicaid emergency medical transportation costs for each Medicaid fund type.

(3) The allowable Medicaid emergency transportation costs will be offset by Medicaid revenue for fee-for-service, third party liability emergency medical transports, and the interim payments for the service year in which the interim supplemental payments are made for each Medicaid fund type for emergency medical transports, to calculate the Medicaid emergency medical transportation costs that have not been paid by any other source by Medicaid fund type.

(4) The calculated Medicaid emergency medical transportation costs not paid by any other source for each Medicaid fund type will be multiplied by the federal medical assistance percentage (FMAP) for that Medicaid fund type (Title XIX, Title XXI, Affordable Care Act's Medicaid Expansion, or Indian Health Services including claims for non-Indian Health Service providers that have been tribally refinanced in accordance with State Health Official letter #16-002) to determine the final settlement.

(c) The department, depending on the result of the process noted in (a-b), will

(1) recover from the participating provider the federal payments that exceed the participating provider's cost per qualifying transport after adjustments for other sources of reimbursement as noted in (b); or

(2) pay the participating provider a federal funds supplemental payment if the process noted in (b) results in additional Medicaid emergency medical transportation costs that have not been covered by any other source of reimbursement.

(d) The amount of supplemental payments, when combined with the amount received from all other sources of reimbursement, will not exceed one hundred percent of allowable costs.

(e) A participating provider may appeal the determination of the final cost per transport by submitting a written request to the commissioner not later than 30 days after the date that the final cost settlement letter is issued.

(f) Each participating provider must agree to reimburse the agency for the cost of administering the SEMT program. The cost must not be included as an expense in the participating provider’s cost report.

(g) The department will report to the Centers for Medicare and Medicaid Services (CMS) any difference between the payment of federal funds made to the participating providers and the federal share of the qualifying expenditures, and return the excess funds to CMS.

(Eff. am____/____/____, Register____)

Authority: AS 47.07.040 AS 47.07.085

7 AAC 145 is amended by adding a new section to read:

7 AAC 145.445. SEMT administrative fee.

(a) The provider must pay the department an administrative fee to cover the cost of the SEMT supplemental payment program.

(b) The fee will be the state general fund cost to the department to administer the SEMT supplemental payment program

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(c) The fee will be a flat fee per cost report submitted during the state fiscal year

(1) The state general fund cost of the SEMT program during the state fiscal year will be divided by the number of SEMT cost reports submitted during that state fiscal year to calculate the flat administrative fee for each cost report

(2) The fee will be due to the department on or before June 30 of the state fiscal year in which the cost report was submitted.

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

Authority: AS 47.07.040 AS 47.07.085

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:

(d) The following department documents are adopted by reference:

...

(XX) the *Supplemental Emergency Medical Transportation (SEMT) Cost Report*, dated May 20, 2020;

(XX) the *Supplemental Emergency Medical Transportation (SEMT) Cost Report Instructions*, dated May 20, 2020;

(XX) the *Supplemental Emergency Medical Transportation (SEMT) Provider Participation Agreement*, dated May 18, 2020.

(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

DHSS Proposed Changes to Regulations. ORR, Medicaid Payment Rates, Supplemental Emergency Medical Transportation Program (7 AAC 145.441-.446), Medicaid, Requirements Adopted by reference (7 AAC 160.900, .990); DHSS PUBLIC REVIEW DRAFT, 07/07/2020; SUPPLEMENTAL NOTICE, 09/09/2020.

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 6/2/2019, Register 230; am 6/13/2019, Register 230; am____/____/____, Register_____).

Authority: AS 47.05.010 AS 47.07.030 **AS 47.07.085**
AS 47.05.012 AS 47.07.040

7 AAC 160.990. Definitions.

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

(XXX) “allowable costs” means an expenditure which meets the test of the appropriate Executive Office of the President of the United States’ Office of Management and Budget Circular (OMB);

(XXX) “cognizant agency” means the federal agency with the largest dollar value of direct federal award with a governmental unit or component;

(XXX) “department” means the Alaska Department of Health and Social Services;

(XXX) “direct costs” means costs included under 45 CFR 75.413 that may be

(A) identified specifically with a particular final cost objective to meet emergency medical transportation requirements, such as a federal award, or other internally or externally funded activity; or

(B) directly assigned to such activity with a high degree of accuracy;

(XXX) “direct federal award” means an award that is paid directly by the federal government;

(XXX) “dry run” means SEMT services provided by an eligible SEMT provider to an individual who is released on the scene without transportation by ground, air, or water ambulance to a medical facility;

(XXX) “federal financial participation (FFP)” means the portion of medical assistance expenditures for emergency medical services paid or reimbursed by the Centers for Medicare and Medicaid Services (CMS) in accordance with the state plan for medical assistance;

(XXX) “indirect costs” means the costs that cannot be readily assigned, are for a common or joint purpose benefitting more than one cost objective which are then allocated to each objective using an agency-approved indirect rate or an allocation methodology;

(XXX) “publically owned or operated” means a unit of government which is a state, a city, a county, a special purpose district, or other governmental unit in the state that has taxing authority, has direct access to tax revenues, or is an Indian tribe as defined in Section 4 of the Indian Self Determination and Education Assistance Act;

(XXX) “service period” means the provider’s fiscal year.

(XXX) “SEMT Services” means the transport of an individual from any point of origin to the nearest medical facility capable of meeting the emergency medical needs of the individual,

including advanced, limited-advanced, and basic life support services provided to an individual by SEMT providers before or during transportation;

(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 7/1/2019, Register 231; am_____/_____/_____, Register____)

Authority: AS 47.05.010 AS 47.07.055 AS 47.07.085
AS 47.07.040