

Kevin Meyer
Lieutenant Governor
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Juneau, Alaska 99811
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Anchorage, Alaska 99501
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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: October 8, 2020

RE: Filed Permanent Regulations: Department of Health and Social Services
Department of Health and Social Services Regulation re: Background Check Program (7 AAC 10.910)

Attorney General File:	2019104279
Regulation Filed:	10/8/2020
Effective Date:	11/7/2020
Print:	236, January 2021

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 one page of regulations, dealing with the Background Check Program, specifically, 7 AAC 10.910. Licensing, Certification, and Approvals; Request for background check, is 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 47.05.300, AS 47.05.310, AS 47.05.330, AS 47.05.340, AS 47.32.010, and AS 47.32.030, 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.

This action is not expected to require an increased appropriation.

In considering public comments, the Department of Health and 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: 2020.09.23 14:57:15 -08'00'

Adam Crum, Commissioner
Department of Health & Social Services

April Simpson for

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that¹ on October 8th, 2020, at 2:59^{PM}, I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

Kevin Meyer
for Lieutenant Governor *Kevin Meyer*

Effective: November 7th, 2020.

Register: 236, January 2021.

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**

7 AAC 10.910(b)(5) is amended to read:

(5) an additional \$40 [\$25] application fee; the department will waive this fee for an unpaid volunteer who provides services to a provider that is operated by the state or recognized by the United States Internal Revenue Service as a nonprofit entity under 26 U.S.C. 501(c)(3).

(Eff. 2/9/2007, Register 181; am 8/25/2010, Register 195; am 6/29/2017, Register 222;

am 11 / 7 / 2020, Register 236)

Authority:	AS 47.05.300	AS 47.05.330	AS 47.32.010
	AS 47.05.310	AS 47.05.340	AS 47.32.030

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: September 30, 2020

File No.: 2019104279

Tel. No.: 465-3600

From: Susan R. Pollard *SRP*
Section Chief
and Regulations Attorney
Legislation and Regulations Section

Re: Department of Health and Social
Services Regulation re: 7 AAC
10.910: Background Check Program

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 the application fee for individuals requesting a background check for licensing or certification under AS 47.05.300, including public home care providers, providers of home or community-based waiver services, or case managers coordinating community mental health services.

The December 08, 2019, public notice and the September 23, 2020, adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.195 is not required.

SRP:sjw

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

Triptaa Surve, Regulations Contact
Department of Health and Social Services

Renee A. Gayhart, Director
Division of Health Care Services
Department of Health and Social Services

Susan Dunkin, Medicaid Program Specialist

Division of Health Care Services
Department of Health and Social Services

Kimberly Allen, Assistant Attorney General
Human Services Section
Department of Law

NOTICE OF PROPOSED CHANGES ON THE BACKGROUND CHECK PROGRAM IN THE
REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

BRIEF DESCRIPTION

The Department of Health & Social Services proposes to change regulations on the background check program application fee.

The Department of Health & Social Services proposes to adopt regulation changes in Title 7 of the Alaska Administrative Code, dealing with the Background Check Program, including the following:

- 7 AAC 10.910: Licensing, Certification, and Approvals; Request for background check, is proposed to be changed as follows:
 - Increase the background check program application fee.

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 Ms. Susan Miller Dunkin at the Department of Health & Social Services, Division of Health Care Services, 4501 Business Park Blvd., Building L, Attention: Susan Miller Dunkin, Anchorage, AK 99503. Additionally, the Department of Health & Social Services will accept comments by electronic mail at susan.dunkin@alaska.gov. The comments must be received not later than 5 p.m. on January 21, 2020.

Oral or written comments also may be submitted at a hearing to be held on January 10, 2020, at the Frontier Building, in conference rooms 880 and 890, 3601 C Street, Anchorage, AK 99503. The hearing will be held from 3:30 p.m. to 4:30 p.m., and might be extended to accommodate those present before 3:30 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 1-800-699-3715 (Toll Free).

You may submit written questions relevant to the proposed action to Ms. Susan Miller Dunkin by e-mail at susan.dunkin@alaska.gov or at the Department of Health & Social Services, Division of Health Care Services, 4501 Business Park Blvd., Building L, Attention: Susan Miller Dunkin, Anchorage, AK 99503. The questions must be received at least 10 days before the end of the public comment period. The Department of Health & Social Services will aggregate its response to substantially similar questions and make the questions and responses available on the Alaska Online Public Notice System and agency website at <http://www.dhss.alaska.gov/dhcs/Pages/default.aspx>.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Ms. Jolene Withers at jolene.withers@alaska.gov or at (907) 334-2446 not later than January 2, 2020, 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 Ms. Susan Miller Dunkin at susan.dunkin@alaska.gov or by telephone at (907) 269-3638.

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 47.05.300; AS 47.05.310; AS 47.05.330; AS 47.05.340; AS 47.32.010; AS 47.32.030.

Statutes being implemented, interpreted, or made specific: AS 47.05.300; AS 47.05.310; AS 47.05.330; AS 47.05.340; AS 47.32.010; AS 47.32.030.

Fiscal information: The proposed regulation changes are not expected to require an increased appropriation.

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

DATE: December 4, 2019.

/s/Adam Crum

Commissioner,

Department of Health & Social Services

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Department of Health & Social Services
2. General subject of regulation: Background Check (specifically, Licensing, Certification, & Approvals; Request for background check).
3. Citation of regulation (may be grouped): 7 AAC 110.910.
4. Department of Law file number, if any: 2019104279
5. Reason for the proposed action:
☐ Compliance with federal law or action (identify): _____
☐ Compliance with new or changed state statute
☐ Compliance with federal or state court decision (identify): _____
☒ Development of program standards
☐ Other (identify): _____
6. Appropriation/Allocation: N/A
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): None.

	Initial Year FY _____	Subsequent Years
Operating Cost	\$ _____	\$ _____
Capital Cost	\$ _____	\$ _____
1002 Federal receipts	\$ _____	\$ _____
1003 General fund match	\$ _____	\$ _____
1004 General fund	\$ _____	\$ _____
1005 General fund/ program	\$ _____	\$ _____
Other (identify)	\$ _____	\$ _____
9. The name of the contact person for the regulation:
Name: Ms. Susan Miller Dunkin
Title: Medicaid Program Specialist IV
Address: 4501 Business Park Blvd., Bldg. L, Anchorage, AK 99503.
Telephone: (907) 269-3638
E-mail address: susan.dunkin@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: 11-14-19

Prepared by: 
[signature]

Name (printed): Susan Miller Dunkin

Title (printed): Medicaid Program Specialist IV

Telephone: (907) 269-3638

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Susan Miller Dunkin, 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 the Background Check Program, specifically, 7 AAC 10.910: Licensing, Certification, and Approvals, 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.

**Susan Miller
Dunkin**

Digitally signed by
Susan Miller Dunkin
Date: 2020.09.22
15:55:13 -08'00'

[password-protected electronic signature]

Susan Miller Dunkin, Medicaid Program Specialist IV

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 #: W0012651

Cost: \$453.22

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

12/08/2019

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 21st day of February 2020.

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

MY COMMISSION EXPIRES

STATE OF ALASKA
NOTARY
PUBLIC
Jada L. Nowling

NOTICE OF PROPOSED CHANGES ON THE BACKGROUND CHECK PROGRAM 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 the Background Check Program, including the following:

* 7 AAC 10.910: Licensing, Certification, and Approvals; Request for background check, is proposed to be changed as follows:
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DATE: December 4, 2019.
/s/Adam Crum
Commissioner,
Department of Health & Social Services

Published: December 8, 2019

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Susan Miller Dunkin, of the Department of Health & Social Services, under penalty of perjury, state the following:

In compliance with AS 44.62.215, the Department of Health & Social Services has kept a record of its use or rejection of factual or other substantive information that was submitted in writing and orally as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Health & Social Services regulation on the Background Check Program, specifically, 7 AAC 10.910: Licensing, Certification, and Approvals.

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.

**Susan Miller
Dunkin**

Digitally signed by Susan
Miller Dunkin
Date: 2020.09.22 15:56:53
-08'00'

[password-protected electronic signature]

Susan Miller Dunkin, Medicaid Program Specialist IV

State of Alaska
Anchorage, AK 99503.

AFFIDAVIT OF ORAL HEARING

I, Susan Miller Dunkin, of the Department of Health & Social Services, under penalty of perjury, state the following:

On January 10, 2020, at 3:30 p.m., in rooms 880 and 890, at the Frontier Building, 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 the Background Check Program, specifically, 7 AAC 10.910: Licensing, Certification, and Approvals.

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.

Susan Miller
Dunkin

Digitally signed by Susan Miller
Dunkin
Date: 2020.09.22 15:56:11 -08'00'

[password-protected electronic signature]

Susan Miller Dunkin, Medicaid Program Specialist IV

State of Alaska
Anchorage, AK 99503.