

Kevin Meyer
Lieutenant Governor
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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: December 11, 2020

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

Department of Health and Social Services regulations re: Medicaid coverage and payment for vaccine products and vaccine administration (7 AAC 110.105(a)(1)(B); 7 AAC 110.405(b); 7 AAC 110.750; 7 AAC 120.110(d); 7 AAC 145.275; 7 AAC 145.400(f); 7 AAC 145.410(f))

Attorney General File:	2019200475
Regulation Filed:	12/11/2020
Effective Date:	01/10/2021
Print:	237, April 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 6 pages of regulations, dealing with Medicaid Vaccine Coverage & Payment (7 AAC 110, 120, & 145), 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, 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 & 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: 2020.12.10 14:45:55 -09'00'

Adam Crum, Commissioner
Department of Health & Social Services

April Gimpson for

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that¹ on December 11,
2020, at 2:49 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 -
44.62.120.

for April Gimpson
for Lieutenant Governor *Kevin Meyer*

Effective: January 10, 2021.

Register: 237, April 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**

Register ~~231~~, April 2021 HEALTH AND SOCIAL SERVICES

7 AAC 110.105(a)(1)(B) is amended to read:

(B) vaccine products and administration, in accordance with 7 AAC

110.750 [IMMUNIZATIONS TO A RECIPIENT

(i) UNDER 21 YEARS OF AGE;

(ii) 21 YEARS OF AGE OR OLDER, IN ACCORDANCE WITH

7 AAC 110.405(b)(2)];

(Eff. 2/1/2010, Register 193; am 4/24/2020, Register 234; am 1 / 10 / 2021, Register ~~231~~)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 110.405(b) is repealed and readopted to read:

(b) The department will pay a physician for vaccine products and administration, in accordance with 7 AAC 110.750.

(Eff. 2/1/2010, Register 193; am 6/13/2010, Register 194; am 8/25/2010, Register 195; am 5/1/2016, Register 218; am 1 / 10 / 2021, Register ~~231~~)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

[EDITOR'S NOTE: AS OF REGISTER 218 (JULY 2016), THE REGULATIONS ATTORNEY MADE A TECHNICAL CORRECTION UNDER AS 44.62.125(b)(6), TO 7 AAC 110.405(b).

AS OF REGISTER 218 (JULY 2016), THE REGULATIONS ATTORNEY MADE A TECHNICAL CORRECTION UNDER AS 44.62.125(b)(6), TO 7 AAC 110.405(b).]

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

Article 17. Vaccine Services.

Section

750. Vaccine services

7 AAC 110.750. Vaccine services. (a) To be a covered vaccine product, a vaccine product must be one

(1) for which the United States Food and Drug Administration (FDA) requires a national drug code (NDC) number; and

(2) that is listed electronically with the FDA.

(b) The department will pay for the following vaccine services provided by a provider who is acting within the scope of the individual's license or certificate to practice:

(1) a vaccine product for a recipient under 21 years of age, unless the product is available at no cost to the provider;

(2) the administration of a vaccine product to a recipient under 21 years of age;

(3) for a recipient 21 years of age or older, the following vaccine products, unless they are available at no cost to the provider, and the administration of those vaccine products, regardless of whether they are available at no cost to the provider:

(A) Hepatitis A;

(B) Hepatitis B;

(C) Herpes Zoster (Shingles);

(D) Human Papillomavirus;

- (E) Measles, Mumps, and Rubella (MMR);
- (F) Meningococcal;
- (G) Pneumococcal;
- (H) seasonal Influenza;
- (I) Tetanus Diphtheria (Td);
- (J) Tetanus, Diphtheria, and Acellular Pertussis (Tdap);
- (K) Varicella (Chickenpox);
- (L) Haemophilus Influenzae Type B;
- (M) post-exposure rabies vaccine or immune globulin;
- (N) pandemic influenza;
- (O) a vaccine product, and administration of a vaccine product, related to
 - (i) a state public health disaster emergency declared by the governor under AS 26.23.020; or
 - (ii) a federally declared public health emergency.

(c) The department will not pay for the following vaccine services:

- (1) vaccine products and administration for the sole purpose of international travel; and
- (2) pre-exposure rabies vaccine product and administration. (Eff. 1 / 10 / 2021,

Register 237)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

Editor's note: The National Drug Code Directory can be accessed on the United States

Register ~~237~~, April 2021 HEALTH AND SOCIAL SERVICES

Food and Drug Administration (FDA) website at <https://www.fda.gov/drugs/drug-approvals-and-databases/national-drug-code-directory> .

7 AAC 120.110(d) is amended to read:

(d) The department will pay for a vaccine **product and** administration **in accordance with 7 AAC 110.750** if provided to a recipient [UNDER 21 YEARS OF AGE] by a **licensed or registered** pharmacist **acting within that pharmacist's scope of practice under state law** [WHOM THE BOARD OF PHARMACY HAS APPROVED TO EXERCISE COLLABORATIVE PRACTICE AUTHORITY UNDER 12 AAC 52.240. PAYMENT FOR RECIPIENTS 21 YEARS OF AGE OR OLDER IS SUBJECT TO 7 AAC 110.405(b)(2) AND (3)].

(Eff. 2/1/2010, Register 193; am 6/13/2010, Register 194; am 7/7/2010, Register 195; 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 4/24/2020, Register 234; am 1 / 10 / 2021, Register ~~237~~)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

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

7 AAC 145.275. Vaccine services payment rates. The department will pay for

- (1) a vaccine product that is covered under 7 AAC 110.750 at the lesser of the
 - (A) billed charges;
 - (B) Medicare Part B upper payment limit, if established; or
 - (C) estimated acquisition cost as defined in 7 AAC 145.400(p); and

(2) administration of a vaccine product that is covered under 7 AAC 110.750, by

(A) a physician, at the rate established in 7 AAC 145.200(a) or (b);

(B) an advanced practice registered nurse, at the rate established in
7 AAC 145.100(a) or (b);

(C) a physician assistant, at the rate established in 7 AAC 145.200(f) or
(g); or

(D) a pharmacist, at 85 percent of the rate established in 7 AAC 145.050.

(Eff. 1 / 10 / 2021, Register ~~237~~)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.400(f) is repealed and readopted to read:

(f) The department will pay for a vaccine product at the rate established in 7 AAC
145.275(1).

(Eff. 2/1/2010, Register 193; am 1/1/2011, Register 196; am 5/18/2014, Register 210; am
1 / 10 / 2021, Register ~~237~~)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.410(f) is repealed and readopted to read:

(f) The department will pay for the administration of a vaccine product covered under
7 AAC 110.750 at the rate established in 7 AAC 145.275(2).

(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 237, April 2021 HEALTH AND SOCIAL SERVICES

Register 231; am 4/24/2020, Register 234; am 1 / 10 / 2021, Register 237)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

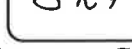
MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: December 11, 2020

File No.: 2019200475

Thru: Susan R. Pollard 
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 for vaccine
products and vaccine administration
(7 AAC 110.105(a)(1)(B); 7 AAC
110.405(b); 7 AAC 110.750; 7 AAC
120.110(d); 7 AAC 145.275; 7 AAC
145.400(f); 7 AAC 145.410(f))

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 update Medicaid coverage and payment provisions for vaccine products and vaccine administration, rearrange structure to improve readability, address the providers whose services are covered, particularly pharmacists, address the rates at which payments will be calculated, and expand the range of vaccine products and administration for which coverage and payment are available: in particular, vaccine products and administration related to a public health emergency or to protect against pandemic influenza strains like COVID-19.

The department requests these be filed as soon as possible.

The July 26, 2020 public notice and the December 10, 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.

SCW

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

Triptaa Surve, Regulations Contact
Department of Health and Social Services

Renee Gayhart, Director
Division of Public Health
Department of Health and Social Services

Jamie Walker, Division Operations Manager
Division of Public Health
Department of Health and Social Services

Susan Miller Dunkin
Division of Health Care Services
Department of Health and Social Services

Erin Narus, PharmD, RPh, Pharmacy Services Manager
Division of Health Care Services
Department of Health and Social Services

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

Stacie L. Kraly, Chief Assistant Attorney General
Human Services Section

NOTICE OF PROPOSED CHANGES ON MEDICAID VACCINE COVERAGE & PAYMENT IN THE
REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

BRIEF DESCRIPTION

The Department of Health & Social Services proposes to change regulations on Medicaid vaccine coverage and payment.

The Department of Health & Social Services proposes to adopt regulation changes in Title 7 of the Alaska Administrative Code, dealing with Medicaid coverage and payment for vaccines, including the following:

- 7 AAC 110. Medicaid Coverage; Professional Services; 7 AAC 120. Medicaid Coverage; Prescription Drugs and Medical Supplies; Durable Medical Equipment; Transportation Services. 7 AAC 145. Medicaid Payment Rates, are proposed to be changed as follows:
 - Amend coverage related to medically necessary vaccine products.
 - Amend payment related to vaccine products for international travel and pre-exposure rabies products.
 - Adopt new professional payment methodology for vaccine products.
 - Adopt new professional payment methodology for vaccine administration by a pharmacist.

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 Miler 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 September 4, 2020.

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. Susan Miller Dunkin at susan.dunkin@alaska.gov or at (907) 269-3638 not later than August 25, 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.

Statutory authority: AS 47.05.010; AS 47.07.030; AS 47.07.040.

Statutes being implemented, interpreted, or made specific: AS 47.05.010; AS 47.07.030; AS 47.07.040.

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: July 22, 2020.

/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: Medicaid Vaccine Coverage & Payment.
3. Citation of regulation (may be grouped): 7 AAC 110, 120, 145.
4. Department of Law file number, if any: 2019200505
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 change⁷
☐ Other (identify): _____

11. Date: _____ Prepared by: **Susan Miller Dunkin**
[signature]
Name (printed): Susan Miller Dunkin
Title (printed): Medicaid Program Specialist IV
Telephone: (907) 269-3638

Digitally signed by Susan Miller
Dunkin
Date: 2020.06.27 10:54:19 -08'00'

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 Medicaid Vaccine Coverage & Payment, specifically, 7 AAC 110. Medicaid Coverage; Professional Services; 7 AAC 120. Medicaid Coverage; Prescription Drugs and Medical Supplies; Durable Medical Equipment; Transportation Services; and 7 AAC 145. Medicaid Payment Rates, 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: 2020.10.01
10:47:49 -08'00'

[original or password-protected electronic signature] •
Susan Miller Dunkin, Medicaid Program Specialist IV

State of Alaska
Anchorage, AK 99503

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 as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Health & Social Services regulation on Medicaid Vaccine Coverage & Payment, specifically, 7 AAC 110. Medicaid Coverage; Professional Services; 7 AAC 120. Medicaid Coverage; Prescription Drugs and Medical Supplies; Durable Medical Equipment; Transportation Services; and 7 AAC 145. Medicaid Payment Rates.

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: 2020.10.01 10:49:10
-08'00'

[original or 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
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Order #: W0017072

Cost: \$413.38

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

07/26/2020

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 27th day of July 2020.

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

JADA L. NOWLING
Notary Public
State of Alaska

MY COMMISSION EXPIRES

My Commission Expires Jul 14, 2024

7/14/2024

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Statutory authority: AS 47.05.010; AS 47.07.030; AS 47.07.040.

Statutes being implemented, interpreted, or made specific: AS 47.05.010; AS 47.07.030; AS 47.07.040.

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DATE: July 22, 2020 /s/Adam Crum, Commissioner, Department of Health & Social Services.

Published: July 26, 2020