

Kevin Meyer  
Lieutenant Governor  
State Capitol  
Juneau, Alaska 99811  
907.465.3520  
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Anchorage, Alaska 99501  
907.269.7460  
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Triptaa Surve  
Department of Health and Social Services

**FROM:** April Simpson, Office of the Lieutenant Governor   
465.4081

**DATE:** January 13, 2021

**RE:** Filed Permanent Regulations: Department of Health and Social Services  
  
Department of Health and Social Services regulations re: Medicaid coverage and payment for pharmacy services during a declared disaster emergency (7 AAC 105.140)

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Attorney General File:	2020200496
Regulation Filed:	1/13/2021
Effective Date:	2/12/2021
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 3 pages of regulations, dealing with Medicaid Pharmacist Reimbursement – Declared Disaster Emergency, specifically, Medicaid Provider and Recipient Participation. Covered services during declared disaster emergency (7 AAC 105.140), 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, and 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.

It is estimated that this action will require increased appropriations as shown on the attached fiscal note.

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: 2021.01.07 10:03:14 -09'00'

Adam Crum, Commissioner  
Department of Health & Social Services

*Amil Simpson for*

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that<sup>1</sup> on January 13, 2021, at 1:14 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

*Amil Simpson*  
for Lieutenant Governor *Kevin Meyer*

Effective: February 12, 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**

7 AAC 105 is amended by adding a new section to Article 1 to read:

**7 AAC 105.140. Covered services during declared disaster emergency. (a)**

Notwithstanding the provisions of 7 AAC 105.610, 7 AAC 110.750, 7 AAC 120.112, 7 AAC 145.400, and 7 AAC 145.410, the department may make adjustments to covered services listed under (b) of this section for the length of a declared disaster emergency if

(1) the governor issues a disaster emergency declaration for the state or a region within the state under AS 26.23.020;

(2) the federal government issues a related disaster declaration or declaration of national emergency for the state or a region within the state under 42 U.S.C. 5121 - 5207 (Stafford Disaster Relief and Emergency Assistance Act) or 50 U.S.C. 1601 - 1651 (National Emergencies Act) and the Secretary of the United States Department of Health and Human Services invokes authority under 42 U.S.C. 1320b-5(b) (sec. 1135(b) of the Social Security Act), with respect to the secretary's declaration of a public health emergency as described under 42 U.S.C. 1320b-5(b) and (g)(1), to waive or modify certain requirements of titles XVIII, XIX, and XXI of the Social Security Act as a result of the disaster declaration; and

(3) the state either

(A) applies for and receives an approved disaster relief state plan amendment, authorized under 42 U.S.C. 1320b-5, based on the disaster emergency declaration, to make the changes provided for in this section; or

(B) has existing state plan authority from CMS to exercise the provisions of (b) of this section during a declared disaster emergency.

(b) If the conditions listed in (a) of this section are met, the department may

(1) for covered outpatient drugs under 7 AAC 105 - 7 AAC 160,

(A) extend the fill duration authorization under 7 AAC 120.112(4) from a 34-day to 68-day supply;

(B) increase the professional dispensing fee rates for in-state claims under 7 AAC 145.410(a)(1) and (2) by up to \$2.50;

(C) increase the professional dispensing fee reimbursement frequency under 7 AAC 145.410(a)(1) and (2) to not more than once every 14 days;

(D) allow ingredient reimbursement at actual acquisition cost if the actual acquisition cost is above the lowest determined cost under the formula provided in 7 AAC 145.400 and the provider maintains proof of the actual acquisition cost of the drug consistent with 7 AAC 105.230, substantiated by an unaltered invoice under 7 AAC 105.240;

(E) waive the cost-sharing amounts eligible recipients are required to pay under 7 AAC 105.610(a)(4), if the service is related to screening for, diagnosing, or treating the condition at issue in a public health emergency; or

(F) waive the requirement under 7 AAC 145.400(j) that a provider return to the pharmacy covered but unused outpatient drugs dispensed in unit doses to a recipient in a long-term care facility, if a public health emergency includes a risk of infection control;

(2) for vaccines authorized by the Federal Drug Administration in response to a public health emergency, reimburse providers under 7 AAC 110.750, consistent with 7 AAC 145.020; or

(3) reimburse a registered pharmacist acting within the scope of the person's practice under 12 AAC 52 for services consistent with 7 AAC 105 - 7 AAC 160 and with this subsection during the disaster emergency, including providing testing and other services authorized by a standing order of the chief medical officer when not explicitly defined within the scope of the person's practice.

(c) Reimbursements provided for under this section may be requested or disbursed after a declaration of emergency has expired, within standard timely filing under 7 AAC 145.005, for services provided during the emergency. (Eff. 2/12/2021, Register 237)

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

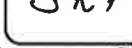
# MEMORANDUM

## State of Alaska Department of Law

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

**Date:** January 8, 2021

**File No.:** 2020200496

**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 pharmacy  
services during a declared disaster  
emergency (7 AAC 105.140)

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 provide for additional Medicaid coverage and payment for pharmacy services during a disaster emergency declared by the governor under AS 26.23.020 and related federal disaster or emergency declarations that involve public health.

The August 6, 2020 public notice and the January 7, 2021 adoption order both state that this action is expected to require increased appropriations. Therefore, a fiscal note under AS 44.62.195 has been prepared and 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

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

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

Susan Miller Dunkin, Medicaid Program Coordinator  
Division of Health Care Services  
Department of Health and Social Services

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

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



NOTICE OF PROPOSED CHANGES ON MEDICAID PHARMACIST REIMBURSEMENT, COVERED  
SERVICES DURING DECLARED PUBLIC HEALTH EMERGENCY,  
IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

BRIEF DESCRIPTION

The Department of Health & Social Services proposes to change regulations on Medicaid pharmacist reimbursement, covered services during declared public health emergency.

The Department of Health & Social Services proposes to adopt regulation changes in Title 7 of the Alaska Administrative Code, dealing with Medicaid pharmacist reimbursement, covered services during declared public health emergency, including the following:

- 7 AAC 105. Medicaid Provider and Recipient Participation, is proposed to be changed by adding a new section 7 AAC 105.140. Covered services during declared public health emergency, that proposes to
  - Reimburse a pharmacist that provides professional services, within defined state scope of practice authority, or under statewide standing order.
  - Allow
    - extended day supply and reimburse professional dispensing;
    - increased drug acquisition cost if there is a drug shortage;
    - a mandatory waiver of copay for services related to the public health emergency;
    - necessary infection control processes related to the return of unit dose of unused medication from a long-term care facility to a pharmacy.

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 Erin Narus, at the Department of Health & Social Services, Division of Health Care Services, 4501 Business Park Blvd., Building L, Attention: Erin Narus, Anchorage, AK 99503. Additionally, the Department of Health & Social Services will accept comments by electronic mail at [erin.narus@alaska.gov](mailto:erin.narus@alaska.gov). The comments must be received not later than 5 p.m. on September 15, 2020.

You may submit written questions relevant to the proposed action to Erin Narus by e-mail at [erin.narus@alaska.gov](mailto:erin.narus@alaska.gov) or at the Department of Health & Social Services, Division of Health Care Services, 4501 Business Park Blvd., Building L, Attention: Erin Narus, 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 Erin Narus at [erin.narus@alaska.gov](mailto:erin.narus@alaska.gov) or at (907) 334-2425 not later than September 4, 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 Erin Narus at [erin.narus@alaska.gov](mailto:erin.narus@alaska.gov) or by telephone at (907) 334-2425.

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:** It is estimated that the proposed regulation changes will require increased appropriations as follows (in thousands of dollars) FY2021, \$100.

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 [erin.narus@alaska.gov](mailto:erin.narus@alaska.gov), giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

DATE: August 4, 2020.

/s/Adam Crum

Commissioner,

Department of Health & Social Services

State of Alaska.

ADDITIONAL REGULATION NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Department of Health & Social Services
2. General subject of regulation: Medicaid Pharmacist Reimbursement; Covered services during declared public health emergency, specifically, 7 AAC 105. Medicaid Provider and Recipient Participation.
3. Citation of regulation (may be grouped): 7 AAC 105
4. Department of Law file number, if any: 2020200496
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
  - (X) Other (identify): Public health emergency response.
6. Appropriation/Allocation: Department of Health and Social Services/Medicaid Services/Health Care Medicaid Services
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): \$100.

	Initial Year FY <u>2021</u>	Subsequent Years
Operating Cost	\$ _____	\$ _____
Capital Cost	\$ _____	\$ _____
1002 Federal receipts	\$ <u>65.</u> _____	\$ _____
1003 General fund match	\$ <u>35.</u> _____	\$ _____
1004 General fund	\$ _____	\$ _____
1005 General fund/ program	\$ _____	\$ _____
Other (identify)	\$ _____	\$ _____
9. The name of the contact person for the regulation:  
Name: Erin Narus, Pharm.D., R.Ph.  
Title: Pharmacy Services Manager, Lead Pharmacist

Address: 4501 Business Park Blvd., Bldg. L, Anchorage, AK 99503.  
Telephone: (907) 334-2425  
E-mail address: [erin.narus@alaska.gov](mailto:erin.narus@alaska.gov)

10. The origin of the proposed action:

- ☒ Staff of state agency  
☐ Federal government  
☐ General public  
☐ Petition for regulation change<sup>7</sup>  
☐ Other (identify): \_\_\_\_\_

**Erin Narus**

Digitally signed by Erin Narus  
Date: 2020.07.31 16:37:38  
-08'00'

11. Date & Prepared by: \_\_\_\_\_

[signature]

Name (printed): Erin Narus, Pharm.D., R.Ph.

Title (printed): Pharmacy Services Manager, Lead Pharmacist

Telephone: (907) 334-2425

## FISCAL NOTE

Agency: Department of Health & Social Services.

Appropriation/Allocation: Department of Health & Social Services/Medicaid Services/Health Care Medicaid Services

General subject of regulation: Medicaid Pharmacist Reimbursement; Covered services during declared public health emergency, specifically, 7 AAC 105. Medicaid Provider and Recipient Participation.

Citation of regulation: 7 AAC 105

Estimated appropriations required (in thousands of dollars) \$100.

### Expenditures/Revenues

	FY __ Appropriation Requested	(Thousands of Dollars)	
OPERATING EXPENDITURES	FY2021	FY2022	FY2023
Personal Services			
Travel			
Services			
Commodities			
Capital Outlay			
Grants & Benefits	\$100		
Miscellaneous			
<b>TOTAL OPERATING</b>	<b>\$100</b>	<b>\$0</b>	<b>\$0</b>

FUNDING SOURCE		(Thousands of Dollars)	
1002	Federal Receipts	\$65	
1003	GF Match	\$35	
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>	<b>\$100</b>	<b>\$0</b>	<b>\$0</b>
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**Erin Narus**

Digitally signed by Erin Narus

Date: 2020.07.31 17:34:02

-08'00'

Date & Prepared by: \_\_\_\_\_

Erin Narus, Pharm.D., R.Ph.

Pharmacy Services Manager, Lead Pharmacist

Division of Health Care Services/Department of Health &

Social Services

Telephone Number: (907) 334-2425

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION  
AND FURNISHING OF ADDITIONAL INFORMATION

I, Erin Narus, 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 Pharmacist Reimbursement During a Declared Public Health Emergency, specifically, 7 AAC 105.140. Medicaid Provider & Recipient Participation. Covered services during declared public health emergency, 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.

**Erin Narus**

Digitally signed by Erin Narus  
Date: 2020.10.23 05:45:48  
-08'00'

[original or password-protected electronic signature]

Erin Narus, Pharm.D., R.Ph.

Pharmacy Services Manager, Lead Pharmacist

State of Alaska  
Anchorage, AK 99503

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Erin Narus, 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 Pharmacist Reimbursement During a Declared Public Health Emergency, specifically, 7 AAC 105.140. Medicaid Provider & Recipient Participation. Covered services during declared public health emergency.

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.

**Erin Narus**

Digitally signed by Erin Narus  
Date: 2020.10.23 05:46:46  
-08'00'

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[original or password-protected electronic signature]

Erin Narus, Pharm.D., R.Ph.

Pharmacy Services Manager, Lead Pharmacist

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 #: W0017217

Cost: \$468.16

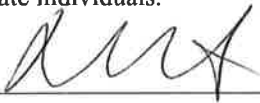
STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

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

08/06/2020

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 7th day of December 2020.

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

MY COMMISSION EXPIRES

7/14/2024

NOTARY PUBLIC  
JADA L. NOWLING  
STATE OF ALASKA  
MY COMMISSION EXPIRES JULY 14, 2024

NOTICE OF PROPOSED CHANGES ON MEDICAID PHARMACIST REIMBURSEMENT, COVERED SERVICES DURING DECLARED PUBLIC HEALTH EMERGENCY, 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 pharmacist reimbursement, covered services during declared public health emergency, including the following:

- 7 AAC 105, Medicaid Provider and Recipient Participation, is proposed to be changed by adding a new section 7 AAC 105.140. Covered services during declared public health emergency, that proposes to:
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  - o Allow:
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A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Erin Narus at [erin.narus@alaska.gov](mailto:erin.narus@alaska.gov) or by telephone at (907) 334-2425.

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DATE: August 4, 2020.  
/s/Adam Crum  
Commissioner  
Department of Health & Social Services  
State of Alaska.

Published: August 6, 2020