

Kevin Meyer
Lieutenant Governor
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Anchorage, Alaska 99501
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**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: June 9, 2021

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

Department of Health and Social Services regulations re: Medicaid eligibility and the transfer to providers of responsibility for collecting cost-of-care liabilities (7 AAC 100.552)

Attorney General File:	2021200066
Regulation Filed:	6/9/2021
Effective Date:	8/1/2021
Print:	239, October 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 1 page of regulations, dealing with Medicaid, Transfer Cost-of-Care Liability Collection, specifically, 7 AAC 100.552. Medicaid Eligibility. Payment of recipient's cost-of-care liability, 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 47.07.020, 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.

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 August 1, 2021, as provided in AS 44.62.180.

Adam Crum Digitally signed by Adam Crum
Date: 2021.06.07 15:34:26 -08'00'

Adam Crum, Commissioner
Department of Health & Social Services

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that¹ on June 9th,
2021, at 8:36^A m., I filed the attached regulations according to the provisions of AS 44.62.040 -
44.62.120.



Lieutenant Governor

Effective: August 1, 2021
Register: 239, October 2021

Register 239, October 2021 HEALTH AND SOCIAL SERVICES

7 AAC 100.552 is repealed and readopted to read:

7 AAC 100.552. Collection of recipient's cost-of-care liability. A provider that is enrolled under 7 AAC 105.200 and providing services as a long-term care facility, as a home and community-based waiver services provider, or as a residential supported-living services provider licensed under AS 47.32 as an assisted living home is responsible for collecting from the recipient or from the recipient's representative, on behalf of the recipient, the amount determined under 7 AAC 100.554 as the recipient's cost-of-care liability. The department will reduce its payment to a provider by the amount of the recipient's cost-of-care liability, even if the recipient or the recipient's representative, on behalf of the recipient, does not pay the cost-of-care liability to the provider. (Eff. 7/20/2007, Register 183; am 1/1/2011, Register 196; am 8/1/2020, Register 235; am 8 / 1 / 2021, Register 239)

Authority: AS 47.05.010 AS 47.07.020 AS 47.07.040

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: June 8, 2021

File No.: 2021200066

Thru: Susan R. Pollard Susan R Pollard Digitally signed by Susan R Pollard
Date: 2021.06.08 14:34:36 -0800
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
eligibility and the transfer to
providers of responsibility for
collecting cost-of-care liabilities
(7 AAC 100.552)

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 eligibility provisions to transfer--from the Department of Health and Social Services to specified providers, as directed under federal law--responsibility for the collection of unpaid recipient cost-of-care liabilities.

Please note that the adoption order sets a special effective date of August 1, 2021, for these regulations.

The March 11, 2021 public notice and the June 7, 2021 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 Health Care Services
Department of Health and Social Services

Jamie Walker, Division Operations 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

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

NOTICE OF PROPOSED CHANGES ON MEDICAID TRANSFER COST-OF-CARE LIABILITY
COLLECTION IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

BRIEF DESCRIPTION

The Department of Health & Social Services proposes to change regulations related to the transfer of cost-of-care liability collection to comply with federal requirements. The proposed change transfers the cost-of-care liability collection responsibility for waiver recipients residing in the community (i.e., not in assisted living or long-term care) from the department to waiver providers to comply with federal requirements

The Department of Health & Social Services proposes to adopt regulation changes in Title 7 of the Alaska Administrative Code, related to Medicaid, transfer cost-of-care liability collection, to comply with federal requirements, including the following:

- 7 AAC 100.552. Medicaid Eligibility. Payment of recipient's cost-of-care liability, is proposed to be changed as follows:
 - Repeal and readopt to comply with the federal requirement that providers collect cost-of-care liability and that the state reduce payment to the provider by the amount of the cost-of-care liability.

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 Dunkin at the Department of Health & Social Services, Division of Health Care Services, 4501 Business Park Blvd., Bldg. K, Attention: Susan Miler Dunkin, Anchorage, AK 99503-7167. 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 April 15, 2021.

You may submit written questions relevant to the proposed action to Ms. Susan 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., Bldg. K, Attention: Susan Miler Dunkin, Anchorage, AK 99503-7167. 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 to participate in this process, please contact Ms. Susan Miller Dunkin at susan.dunkin@alaska.gov or at (907) 269-3638 not later than April 5, 2021, 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 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 47.05.010; AS 47.07.020; AS 47.07.040.

Statutes being implemented, interpreted, or made specific: AS 47.05.010; AS 47.07.020; 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: March 8, 2021.

/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, Transfer Cost-of-Care Liability Collection, specifically, 7 AAC 100.552. Medicaid Eligibility. Payment of recipient's cost-of-care liability.
3. Citation of regulation (may be grouped): 7 AAC 100.552
4. Department of Law file number, if any: 2021200066
5. Reason for the proposed action:
 - (X) Compliance with federal law or action (identify): Conform the cost-of-care amount (CoCA) collection process with the Centers for Medicare & Medicaid Services' (CMS) interpretation of 42 C.F.R 435.
 - () Compliance with new or changed state statute
 - () Compliance with federal or state court decision (identify): _____
 - () Development of program standards
 - () Other (identify) _____
6. Appropriation/Allocation: Department of Health and Social Services/Health Care Services/Medical Assistance Administration
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. K, Anchorage, AK 99503-7167

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

Digitally signed by
Susan Miller Dunkin
Date: 2021.03.05
12:14:10 -09'00'

[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 Medicaid, Transfer Cost-of-Care Liability Collection, specifically, 7 AAC 100.552. Medicaid Eligibility. Payment of recipient's cost-of-care liability, 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: 2021.04.29
09:18:58 -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, Transfer Cost-of-Care Liability Collection, specifically, 7 AAC 100.552. Medicaid Eligibility. Payment of recipient's cost-of-care liability.

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: 2021.04.29
09:20:13 -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 #: 100871 ST OF AK/DHSS/COMMISSIONERS
3601 C STREET STE 902, ANCHORAGE, AK 99503

Order #: W0021120

Cost: \$418.36

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

03/11/2021

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 16th day of March 2021.

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

MY COMMISSION EXPIRES

7/14/2021

NOTARY PUBLIC
STATE OF ALASKA
Bulmon 1. Nowper

NOTICE OF PROPOSED CHANGES ON MEDICAID TRANSFER COST-OF-CARE LIABILITY COLLECTION IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

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DATE: March 8, 2021.
/s/Adam Crum
Commissioner,
Department of Health & Social Services
State of Alaska.

Pub: March 11, 2021