

Kevin Meyer
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520
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907.269.7460
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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: Kady Levale, Office of the Lieutenant Governor 
465.3509

DATE: April 25, 2022

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

Department of Health and Social Services regulations re: Medicaid coverage and payment rates for autism services (7 AAC)

Attorney General File:	2020200350
Regulation Filed:	4/25/2022
Effective Date:	5/25/2022
Print:	242, July 2022

cc with enclosures: Joseph Felkl, 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 Payment Rates, Behavioral Health Services Rates, Autism Services (7 AAC 135, 145, 160), 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 47.05.012, AS 47.07.030, AS 47.07.040, and AS 47.07.085, 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: 2022.04.18 10:34:50 -08'00'

Adam Crum, Commissioner
Department of Health & Social Services

FILING CERTIFICATION

Kady Levate for
I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that¹ on April 25,
2022, at 2:32p.m., I filed the attached regulations according to the provisions of AS 44.62.040 -
44.62.120.

for Kady L

Lieutenant Governor

Effective: May 25, 2022
Register: 242, July 2022

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.**




.....

**KEVIN MEYER
LIEUTENANT GOVERNOR**

The introductory language of 7 AAC 135.350(b) is amended to read:

(b) The department will pay for an initial behavior identification assessment if it is conducted by a licensed behavior analyst or a licensed assistant behavior analyst, and if it

The introductory language of 7 AAC 135.350(c) is amended to read:

(c) Not more frequently than once every six months, the department will pay for a behavior identification reassessment if conducted by a licensed behavior analyst or a licensed assistant behavior analyst to obtain prior authorization under 7 AAC 135.040(d) to extend autism services. The reassessment must establish

7 AAC 135.350(k)(6) is repealed:

(6) repealed 5 / 25 / 2022;

7 AAC 135.350 is amended by adding a new subsection to read:

(n) The department will pay for the following autism services provided during the same ¹⁵~~fifteen~~-minute time increment as a Medicaid covered service under this section:

(1) adaptive behavioral health treatment by protocol;

(2) adaptive behavioral health treatment by protocol modification. ↑

(Eff. 7/1/2018, Register 226; am 5 / 25 / 2022, Register 242)

Authority: AS 47.05.010

AS 47.07.030

7 AAC 145.580(d)(2) is amended to read:

(2) the rate established in the department's *Medicaid Procedure Codes and Rates - Autism Services*, adopted by reference in 7 AAC 160.900 [; FOR STATE FISCAL YEAR 2020, THE PAYMENT RATES WILL BE 95 PERCENT OF JANUARY 8, 2019 PAYMENT RATES].

(Eff. 2/1/2010, Register 193; am 10/1/2011, Register 199; am 4/9/2017, Register 222; am 5/21/2017, Register 222; am 7/1/2018, Register 226; am 1/1/2019, Register 228; am 7/1/2019, Register 231; am 10/25/2019, Register 232; am 4/24/2020, Register 234; am 6/30/2021, Register 238; am 5 / 25 / 2022, Register 242)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 160.900(d) is amended by adding a new paragraph to read:

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

(73)

(70)

Medicaid Procedure Codes and Rates - Autism Services, dated ~~May 5, 2020~~

October 11, 2021

(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 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 7/1/2019, Register 231; am 10/25/2019, Register 232; am 11/10/2019, Register 232; am 4/24/2020, Register 234; am 5/21/2020, Register 234; am 6/25/2020, Register 234; am 10/1/2020, Register 235; am 10/4/2020, Register 236; am 1/1/2021, Register 236; am 3/31/2021, Register 238; am

6/30/2021, Register 238; am 8/27/2021, Register 239; ^[ADD] am 9/9/2021, Register 239; ~~am~~ am 10/9/2021, Register 240; ^[ADD] am 11/1/2021, Register 240; ~~5/25/2022~~, Register 242
 _____, Register _____

Authority: AS 47.05.010

AS 47.07.030

AS 47.07.085

AS 47.07.040

AS 47.05.012

AS 47.07.040

(((Publisher: At the end of the editor's note for 7 AAC 160.900, please add a new paragraph to read:)))

(((Title)))

(((Code))) { The Medicaid Procedure Codes and Rates - Autism Services, dated October 11, 2021, adopted by reference in 7 AAC 160.900(d), may be obtained from the Department of Health and Social Services, Division of Behavioral Health, 3601 C Street, Suite 878, Anchorage, Alaska 99508-7167.


MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: April 25, 2022

File No.: 2020200350

From: Rebecca C. Polizzotto 
Chief Assistant Attorney General
and Regulations Attorney
Legislation, Regulations,
and Legislative Research Section

Tel. No.: 907-465-3600

Re: Department of Health and Social
Services: amendment to 7 AAC;
Medicaid coverage and payment rates
for autism services

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 Department of Health and Social Services adopted the regulations after the close of the public comment period that ended on November 23, 2021. The regulations amend 7 AAC to include licensed assistant behavior analysts in department-funded autism services and repeals the prohibition on Medicaid payments for concurrent services to allow for the adoption of 7 AAC 135.350(n), authorizing Medicaid payment for adaptive behavioral health treatment protocol and protocol modification services to occur within the same fifteen-minute timeframe. Additionally, the regulations adopt by reference the *Medicaid Procedure Codes and Rates - Autism Services*, dated October 11, 2021.

A number of technical edits are suggested to clarify and comport these regulations with the standards of the Drafting Manual for Administrative Regulations. Additionally, a new order for these regulations dated April 18, 2022 was adopted to ratify a correction to the effective date of the *Medicaid Procedure Codes and Rates - Autism Services*, dated October 11, 2021, adopted by reference. None of these changes are substantive in nature.

Both the October 14, 2021 public notice and the April 18, 2022 adoption order state that this action is expected to require an increased appropriation. Accordingly, the fiscal note required under AS 44.62.195 is attached.

Honorable Kevin Meyer, Lieutenant Governor
File No. 2020200350

April 25, 2022
Page 2 of 2

RCP:bws

Cc w/ enclosures: Triptaa Surve, Regulations Contact
Department of Health and Social Services

Kelly Henriksen, Senior Assistant Attorney General
Department of Law

NOTICE OF PROPOSED CHANGES ON MEDICAID PROCEDURE CODES & RATES FOR AUTISM SERVICES IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

BRIEF DESCRIPTION

The Department of Health & Social Services proposes to change regulations on the Medicaid procedure codes and rates related to autism services.

The Department of Health & Social Services proposes to adopt regulation changes in Title 7 of the Alaska Administrative Code, dealing with Medicaid procedure codes and rates for autism services, including the following:

- 7 AAC 145.580. Medicaid Payment Rates. Behavioral health services payment rates, is proposed to be changes as follows:
 - Amend rates related to autism services.
- 7 AAC 160.900. Medicaid Program; General Provisions. Requirements adopted by reference, is proposed to be changed as follows:
 - Adopt amended procedure codes and rates.

You may comment on the regulation changes, including the potential costs to private persons of complying with the changes, by submitting written comments to Ms. Alysa Wooden, State of Alaska, Division of Behavioral Health, 3601 C Street, Suite 878, Anchorage, AK 99503. Additionally, the Department of Health & Social Services will accept comments by electronic mail at alysa.wooden@alaska.gov. The comments must be received not later than 5 p.m. on August 27, 2020.

You may provide oral comments relevant to the proposed action **via telephone** at the hearing to be held on August 12, 2020, 1 p.m. – 4 p.m., **by calling 1-800-315-6338, and using the participant access code number #59481. Please note that in-person attendance will not be permitted at the hearing site because of the public health and safety concerns associated with the COVID – 19 pandemic. Please prepare to share your oral comments by telephone only.** If you call to provide oral testimony, you should be on the line **before** the hearing begins at 1 p.m. The Department of Health & Social Services will give priority to those who call in before 3:30 p.m. The Department of Health & Social Services may, before the hearing begins, limit the time allotted for each person providing oral testimony. The time limit may be necessary to conclude the hearing in the time provided.

You may submit written questions relevant to the proposed action to Ms. Alysa Wooden, by electronic mail at alysa.wooden@alaska.gov or at the State of Alaska, Department of Health & Social Services, Division of Behavioral Health, at 3601 C Street, Suite 878, 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.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Ms. Alysa Wooden at (907) 269-2051 not later than August 3, 2020, to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System at <https://aws.state.ak.us/OnlinePublicNotices/Default.aspx> and by contacting Ms. Alysa Wooden at alysa.wooden@alaska.gov or at (907) 269-2051.

A copy of material proposed for adoption by reference is available on the Alaska Online Public Notice System and may be viewed at the agency's office at the State of Alaska, Department of Health & Social Services, Division of Behavioral Health, 3601 C Street, Suite 878, Anchorage, AK 99503.

After the public comment period ends, the Department of Health & Social Service 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 47.05.012; AS 47.07.030; AS 47.07.040.

Statutes being implemented, interpreted, or made specific: AS 47.05.010; AS 47.05.012; AS 47.07.030; AS 47.07.040.

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

DATE: July 8, 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 Procedure Codes & Rates, Autism Services, specifically, 7 AAC 145.580. Medicaid Payment Rates. Behavioral health services payment rates; 7 AAC 160.900. Medicaid Program; General Provisions. Requirements adopted by reference.
3. Citation of regulation (may be grouped): 7 AAC 145, 160.
4. Department of Law file number, if any: 2020200350

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 FY2021	Subsequent Years FY2022
Operating Cost	\$ _____	\$ _____
Capital Cost	\$ _____	\$ _____
1002 Federal receipts	\$ _____	\$ _____
1003 General fund match	\$ _____	\$ _____
1004 General fund	\$ _____	
1005 General fund/ program	\$ _____	\$ _____
Other (identify)-Grants & Benefits	\$ _____	\$ _____

9. The name of the contact person for the regulation:

Name: Farina Brown

Title: Deputy Director

Address: 3601 C St., Suite 878, Anchorage, AK 99503

Telephone: (907) 269-5948

E-mail address: farina.brown@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:

Farina
Brown

Digitally signed by
Farina Brown
Date: 2020.06.28
12:50:33 -08'00'

[signature]

Name (printed): Farina Brown

Title (printed): Deputy Director

Telephone: (907) 269-5948

SUPPLEMENTAL NOTICE OF PROPOSED CHANGES ON MEDICAID COVERAGE & PAYMENT RATES
FOR AUTISM SERVICES IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL
SERVICES

BRIEF DESCRIPTION

The Department of Health & Social Services proposes to change regulations on Medicaid coverage and payment rates related to autism services.

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 rates for autism services, including the following:

- 7 AAC 135.350. Medicaid Coverage; Behavioral Health Services. Autism services, is proposed to be changed as follows:
 - Add a licensed assistant behavior health analyst to the initial behavior identification assessment and behavior identification reassessment.
 - Add a new section related to autism services provided concurrently as a Medicaid covered service.
- 7 AAC 145.580. Medicaid Payment Rates. Behavioral health services payment rates, is proposed to be changes as follows:
 - Amend rates related to autism services.
- 7 AAC 160.900. Medicaid Program; General Provisions. Requirements adopted by reference, is proposed to be changed as follows:
 - Adopt amended procedure codes and rates.

This is a SUPPLEMENTAL NOTICE adding to the NOTICE OF PROPOSED CHANGES that was issued on July 7, 2020, concerning the regulations contained in the Department of Law file number 2020200350. This SUPPLEMENTAL NOTICE is being issued by the Department of Health & Social Services to include (1) new proposed changes to 7 AAC 135.350 in response to public comments received; and (2) a fiscal note related to the fiscal impact of the new proposed changes. These new proposed changes and the related fiscal note were not included in the notice of proposed changes that was issued on July 7, 2020.

You may comment on the regulation changes, including the potential costs to private persons of complying with the changes, by submitting written comments to Ms. Allison Weeks, State of Alaska, Division of Behavioral Health, 3601 C Street, Suite 878, Anchorage, AK 99503. Additionally, the Department of Health & Social Services will accept comments by electronic mail at allison.weeks@alaska.gov. The comments must be received not later than 5 p.m. on November 23, 2021.

You may provide oral comments relevant to the proposed action **via telephone** at the hearing to be held on November 5, 11 a.m. – 2 p.m., **by calling 1-800-315-6338, and using the participant access code number #59481. Please note that in-person attendance will not be permitted at the hearing site because of the public**

health and safety concerns associated with the COVID – 19 pandemic. Please prepare to share your oral comments by telephone only. If you call to provide oral testimony, you should be on the line **before** the hearing begins at 11 a.m. The Department of Health & Social Services will give priority to those who call in before 1:30 p.m. The Department of Health & Social Services may, before the hearing begins, limit the time allotted for each person providing oral testimony. The time limit may be necessary to conclude the hearing in the time provided.

You may submit written questions relevant to the proposed action to Ms. Allison Weeks, by electronic mail at allison.weeks@alaska.gov or at the State of Alaska, Department of Health & Social Services, Division of Behavioral Health, 3601 C Street, Suite 878, 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.

If you are a person with a disability who needs a special accommodation to participate in this process, please contact Ms. Allison Weeks at (907) 385-8312 not later than October 29, 2021, to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System at <https://aws.state.ak.us/OnlinePublicNotices/Default.aspx> and by contacting Ms. Allison Weeks at allison.weeks@alaska.gov or at (907) 385-8312.

A copy of material proposed for adoption by reference is available on the Alaska Online Public Notice System and may be viewed at the agency's office at the State of Alaska, Department of Health & Social Services, Division of Behavioral Health, 3601 C Street, Suite 878, Anchorage, AK 99503.

After the public comment period ends, the Department of Health & Social Service 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 47.05.012; AS 47.07.030; AS 47.07.040.

Statutes being implemented, interpreted, or made specific: AS 47.05.010; AS 47.05.012; 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): FY2022, \$36.2; FY2023, \$145.0.

The Department of Health & Social Services, Division of Behavioral Health, 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 Behavioral Health, 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 Behavioral Health, at allison.weeks@alaska.gov, giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

DATE: October 11, 2021.
/s/Adam Crum

Commissioner,
Department of Health & Social Services,
State of Alaska.

FISCAL NOTE

Agency: Department of Health & Social Services.

Appropriation/Allocation: Medicaid/Medicaid Services

General subject of regulation: Medicaid Coverage & Payment Rates, Behavioral Health Services Rates,

Autism Services (7 AAC 135.350, 7 AAC 145.580, 7 AAC 160.900).

Estimated appropriations required (in thousands of dollars) \$36.2

Expenditures/Revenues

	FY __ Appropriation Requested	(Thousands of Dollars)	
OPERATING EXPENDITURES	FY2022	FY2023	
Personal Services			
Travel			
Services			
Commodities			
Capital Outlay			
Grants & Benefits	72.5	290.1	
Miscellaneous			
TOTAL OPERATING	72.5	290.1	

FUNDING SOURCE		(Thousands of Dollars)	
1002	Federal Receipts	36.2	145.0
1003	GF Match	36.2	145.0
1004	General Fund		
1005	GF/Program (DGF)		
1007	I/A Rcpts (Other)		
1037	GF/MH (UGF)		

POSITIONS			
Full-time			
Part-time			
Temporary			

CHANGE IN REVENUES	36.2	145.0	
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Date & Prepared by: Farina Brown

Farina Brown

Deputy Director

Division of Behavioral Health/Department of Health & Social Services

Telephone Number: (907) 269-5948

Digitally signed by
Farina Brown
Date: 2021.10.11
09:10:43 -08'00'

ADDITIONAL REGULATION NOTICE INFORMATION

(AS 44.62.190(d))

1. Adopting agency: Department of Health & Social Services
2. General subject of regulation: Medicaid Coverage & Payment Rates, Behavioral Health Services Rates, Autism Services.
3. Citation of regulation (may be grouped): 7 AAC 135, 145, 160.
4. Department of Law file number, if any: 2020200350

5. Reason for the proposed action:

- () Compliance with federal law or action (identify): _____
- (X) Compliance with new or changed state statute
- () Compliance with federal or state court decision (identify): _____
- (X) Development of program standards
- (X) Other (identify): Related to public comment received by the Division of Behavioral Health/Department of Health & Social Services/State of Alaska.

6. Appropriation/Allocation: Medicaid/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): 36.2

	Initial Year	Subsequent Years
	FY2022	FY2023
Operating Cost	<u>\$72.5</u>	<u>\$290.1</u>
Capital Cost	<u>\$</u>	<u>\$</u>
1002 Federal receipts	<u>\$36.2</u>	<u>\$145.0</u>
1003 General fund match	<u>\$36.2</u>	<u>\$145.0</u>
1004 General fund	<u>\$</u>	
1005 General fund/ program	<u>\$</u>	<u>\$</u>
Other (identify)-Grants & Benefits	<u>\$</u>	<u>\$</u>

9. The name of the contact person for the regulation:

Name: Farina Brown

Title: Deputy Director

Address: 3601 C St., Suite 878, Anchorage, AK 99503

Telephone: (907) 269-5948

E-mail address: farina.brown@alaska.gov

10. The origin of the proposed action:

☒ Staff of state agency

☐ Federal government

☐ General public

☐ Petition for regulation change⁷

☒ Other (identify): Related to public comment received by the Division of Behavioral Health/Department of Health & Social Services/State of Alaska.

11. Date & Prepared by:

Farina Brown

Digitally signed by Farina
Brown
Date: 2021.10.11 09:10:06
+08'00'

[signature]

Name (printed): Farina Brown

Title (printed): Deputy Director

Telephone: (907) 269-5948

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Farina Brown, Deputy Director, 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 Payment Rates, Behavioral Health Services Rates, Autism Services (7 AAC 145.580, 7 AAC 160.900) 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.

Farina Brown Digitally signed by Farina Brown
Date: 2020.09.10 18:06:38 -08'00'

[original or password-protected electronic signature]

Farina Brown, Deputy Director

State of Alaska
Anchorage, AK 99503.

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Allison Weeks, Health Program Manager III, 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 Payment Rates, Behavioral Health Services Rates, Autism Services (7 AAC 135, 145, 160) 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.

Allison Weeks Digitally signed by Allison Weeks
Date: 2022.01.20 08:09:16 -09'00'
[original or password-protected electronic signature]
Allison Weeks, Health Program Manager III

State of Alaska
Fairbanks, AK 99701.

AFFIDAVIT OF ORAL HEARING

I, Alysa Wooden, Program Coordinator II, of the Department of Health & Social Services, under penalty of perjury, state the following:

On August 12, 2020, at 1 p.m., via teleconference and without in-person attendance because of the public health and safety concerns related to the COVID-19 pandemic, 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 Medicaid Payment Rates, Behavioral Health Services Rates, Autism Services (7 AAC 145.580, 7 AAC 160.900).

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.

**Alysa
Wooden** Digitally signed
by Alysa Wooden
Date: 2020.08.31
19:04:57 -08'00'

[original or password-protected electronic signature]
Alysa Wooden, Program Coordinator II

State of Alaska
Anchorage, AK 99503.

AFFIDAVIT OF ORAL HEARING

I, Allison Weeks, Health Program Manager III, of the Department of Health & Social Services, under penalty of perjury, state the following:

On November 5, 2021, at 11 a.m., via teleconference and without in-person attendance because of the public health and safety concerns related to the COVID-19 pandemic, 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 Medicaid Payment Rates, Behavioral Health Services Rates, Autism Services (7 AAC 135, 145, 160).

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.

Allison Weeks

Digitally signed by Allison
Weeks
Date: 2022.01.20 08:10:20
-09'00'

[original or password-protected electronic signature]

Allison Weeks, Health Program Manager III

State of Alaska
Fairbanks, AK 99701.

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Farina Brown, Deputy Director, 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 Medicaid Payment Rates, Behavioral Health Services Rates, Autism Services (7 AAC 145.580, 7 AAC 160.900).

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.

Farina Brown

Digitally signed by Farina Brown
Date: 2020.09.02 08:56:22 -08'00'

[original or password-protected electronic signature]

Farina Brown, Deputy Director

State of Alaska
Anchorage, AK 99503.

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Allison Weeks, Health Program Manager III, 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 Medicaid Payment Rates, Behavioral Health Services Rates, Autism Services (7 AAC 135, 145, 160).

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.

Allison Weeks Digitally signed by Allison Weeks
Date: 2022.01.20 08:09:54 -09'00'

[original or password-protected electronic signature]

Allison Weeks, Health Program Manager III

State of Alaska
Fairbanks, AK 99701.

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 270229 ST OF AK/DHSS/COMMISSIONERS
3601 C STREET STE 902, ANCHORAGE, AK 99503

Order #: W0016886

Cost: \$453.22

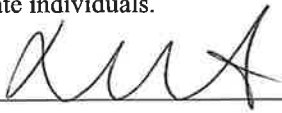
STATE OF ALASKA
THIRD JUDICIAL DISTRICT

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 aforesaid 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

07/13/2020

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 PROCEDURE CODES & RATES FOR AUTISM SERVICES 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 procedure codes and rates for autism services, including the following:

- 7 AAC 145.580. Medicaid Payment Rates. Behavioral health services payment rates, is proposed to be changes as follows:
 - o Amend rates related to autism services.
- 7 AAC 160.900. Medicaid Program; General Provisions. Requirements adopted by reference, is proposed to be changed as follows:
 - o Adopt amended procedure codes and rates.

You may comment on the regulation changes, including the potential costs to private persons of complying with the changes, by submitting written comments to Ms. Alysa Wooden, State of Alaska, Division of Behavioral Health, 3601 C Street, Suite 878, Anchorage, AK 99503. Additionally, the Department of Health & Social Services will accept comments by electronic mail at alysa.wooden@alaska.gov. The comments must be received not later than 5 p.m. on August 27, 2020.

You may provide oral comments relevant to the proposed action via telephone at the hearing to be held on August 12, 2020, 1 p.m. – 4 p.m., by calling 1-800-315-6338, and using the participant access code number #59481. Please note that in-person attendance will not be permitted at the hearing site because of the public health and safety concerns associated with the COVID – 19 pandemic. Please prepare to share your oral comments by telephone only. If you call to provide oral testimony, you should be on the line before the hearing begins at 1 p.m. The Department of Health & Social Services will give priority to those who call in before 3:30 p.m. The Department of Health & Social Services may, before the hearing begins, limit the time allotted for each person providing oral testimony. The time limit may be necessary to conclude the hearing in the time provided.

You may submit written questions relevant to the proposed action to Ms. Alysa Wooden, by electronic mail at alysa.wooden@alaska.gov or at the State of Alaska, Department of Health & Social Services, Division of Behavioral Health, at 3601 C Street, Suite 878, 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.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Ms. Alysa Wooden at (907) 269-2051 not later than August 3, 2020, to ensure that any necessary accommodation can be provided. A copy of the proposed regulation changes is available on the Alaska Online Public Notice System at <https://aws.state.ak.us/OnlinePublicNotices/Default.aspx> and by contacting Ms. Alysa Wooden at alysa.wooden@alaska.gov or at (907) 269-2051.

A copy of material proposed for adoption by reference is available on the Alaska Online Public Notice System and may be viewed at the agency's office at the State of Alaska, Department of Health & Social Services, Division of Behavioral Health, 3601 C Street, Suite 878, Anchorage, AK 99503.

After the public comment period ends, the Department of Health & Social Service 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 47.05.012; AS 47.07.030; AS 47.07.040.

Statutes being implemented, interpreted, or made specific: AS 47.05.010; AS 47.05.012; AS 47.07.030; AS 47.07.040.

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

DATE: July 8, 2020.
/s/Adam Crum
Commissioner,
Department of Health & Social Services State of Alaska.

Published: July 13, 2020

ANCHORAGE DAILY NEWS

AFFIDAVIT OF PUBLICATION

Account #: 100871 ST OF AK/DHSS/COMMISSIONERS
3601 C STREET STE 902, ANCHORAGE, AK 99503

Order #: W0025609

Cost: \$612.58

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Adam Garrigus 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 aforesaid 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

10/14/2021

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 14th day of October 2021.

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

SUPPLEMENTAL NOTICE OF PROPOSED CHANGES ON MEDICAID COVERAGE & PAYMENT RATES FOR AUTISM SERVICES 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 coverage and payment rates for autism services, including the following:

- 7 AAC 135.350, Medicaid Coverage: Behavioral Health Services. Autism services, is proposed to be changed as follows:
 - o Add a licensed assistant behavior health analyst to the initial behavior identification assessment and behavior identification reassessment.
 - o Add a new section related to autism services provided concurrently as a Medicaid covered service.
- 7 AAC 145.580, Medicaid Payment Rates. Behavioral health services payment rates, is proposed to be changed as follows:
 - o Amend rates related to autism services.
- 7 AAC 160.900, Medicaid Program: General Provisions. Requirements adopted by reference, is proposed to be changed as follows:
 - o Adopt amended procedure codes and rates.

This is a SUPPLEMENTAL NOTICE adding to the NOTICE OF PROPOSED CHANGES that was issued on July 7, 2020, concerning the regulations contained in the Department of Law file number 2020200350. This SUPPLEMENTAL NOTICE is being issued by the Department of Health & Social Services to include (1) new proposed changes to 7 AAC 135.350 in response to public comments received; and (2) a fiscal note related to the fiscal impact of the new proposed changes. These new proposed changes and the related fiscal note were not included in the notice of proposed changes that was issued on July 7, 2020.

You may comment on the regulation changes, including the potential costs to private persons of complying with the changes, by submitting written comments to Ms. Allison Weeks, State of Alaska, Division of Behavioral Health, 3601 C Street, Suite 878, Anchorage, AK 99503. Additionally, the Department of Health & Social Services will accept comments by electronic mail at allison.weeks@alaska.gov. The comments must be received not later than 5 p.m. on November 23, 2021.

You may provide oral comments relevant to the proposed action via telephone at the hearing to be held on November 5, 11 a.m. - 2 p.m., by calling 1-800-315-6338, and using the participant access code number 839481. Please note that in-person attendance will not be permitted at the hearing site because of the public health and safety concerns associated with the COVID-19 pandemic. Please prepare to share your oral comments by telephone only. If you call to provide oral testimony, you should be on the line before the hearing begins at 11 a.m. The Department of Health & Social Services will give priority to those who call in before 1:30 p.m. The Department of Health & Social Services may, before the hearing begins, limit the time allotted for each person providing oral testimony. The time limit may be necessary to conclude the hearing in the time provided.

You may submit written questions relevant to the proposed action to Ms. Allison Weeks, by electronic mail at allison.weeks@alaska.gov or at the State of Alaska, Department of Health & Social Services, Division of Behavioral Health, 3601 C Street, Suite 878, 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.

If you are a person with a disability who needs a special accommodation to participate in this process, please contact Ms. Allison Weeks at (907) 385-8312 not later than October 29, 2021, to ensure that any necessary accommodation can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System at <https://aws.state.ak.us/OnlinePublicNotices/Default.aspx> and by contacting Ms. Allison Weeks at allison.weeks@alaska.gov or at (907) 385-8312.

A copy of material proposed for adoption by reference is available on the Alaska Online Public Notice System and may be viewed at the agency's office at the State of Alaska, Department of Health & Social Services, Division of Behavioral Health, 3601 C Street, Suite 878, Anchorage, AK 99503.

After the public comment period ends, the Department of Health & Social Service 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 47.05.012; AS 47.07.030; AS 47.07.040.

Statutes being implemented, interpreted, or made specific: AS 47.05.010; AS 47.05.012; 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): FY2022, \$36.2; FY2023, \$145.0.

The Department of Health & Social Services, Division of Behavioral Health, 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 Behavioral Health, 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 Behavioral Health, at allison.weeks@alaska.gov, giving your name, and either your e-mail address or mailing address, as you prefer for receiving notices.

DATE: October 11, 2021.
/s/Adam Crum
Commissioner

Department of Health & Social Services
State of Alaska

Printed October 14, 2021

7 AAC 135.350(b) is amended to read:

(b) The department will pay for an initial behavior identification assessment if it is conducted by a licensed behavior analyst or a licensed assistant behavior analyst, and if it

...

7 AAC 135.350(c) is amended to read:

(c) Not more frequently than once every six months, the department will pay for a behavior identification reassessment if conducted by a licensed behavior analyst or a licensed assistant behavior analyst to obtain prior authorization under 7 AAC 135.040(d) to extend autism services. The reassessment must establish

...

7 AAC 135.350(k)(6) is repealed:

(6) repealed ____/____/____;

(Eff. 7/1/2018, Register 226; am ____/____/____, Register ____)

Authority: AS 47.05.010 AS 47.07.030

7 AAC 135.350 is amended by adding a new subsection to read:

(n) The department will pay for the following autism services provided during the same fifteen-minute time increment as a Medicaid covered service under this section:

- (1) adaptive behavioral health treatment by protocol;
- (2) adaptive behavioral health treatment by protocol modification.

(Eff. 7/1/2018, Register 226; am ____/____/____, Register ____)

Authority: AS 47.05.010 AS 47.07.030

7 AAC 145.580(d)(2) is amended to read:

(d) The department will pay a corresponding unit of service for providing autism services under 7 AAC 135.350 at the lesser of the following rates:

(1) the amount charged by the provider in accordance with 7 AAC 145.020; or

(2) the rate established in the department's *Medicaid Procedure Codes and Rates - Autism Services*, adopted by reference in 7 AAC 160.900 [; FOR STATE FISCAL YEAR 2020, THE PAYMENT RATES WILL BE 95 PERCENT OF JANUARY 8, 2019 PAYMENT RATES].

(Eff. 2/1/2010, Register 193; am 10/1/2011, Register 199; am 4/9/2017, Register 222; am 5/21/2017, Register 222; am 7/1/2018, Register 226; am 1/1/2019, Register 228; am 7/1/2019, Register 231; am 10/25/2019, Register 232; am ____/____/____, Register ____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 160.900(d) is amended by adding a new paragraph to read:

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

(XX) *Medicaid Procedure Codes and Rates - Autism Services*, dated May 5, 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

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 7/1/2019, Register 231; am 10/25/2019, Register 232; am 11/10/2019, Register 232; am ____/____/____, Register ____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040
AS 47.05.012

Medicaid Procedure Codes and Rates - Autism Services,
Effective: {Effective date of regulations - 5/15/2021}

Procedure Code	Service Description	Rate	Duration/Unit
97151	Behavioral identification assessment by qualified health care professional (QHP)	\$25.03	15 minutes
97153	Adaptive behavior treatment by protocol, administered by technician under direction of QHP to one patient	\$19.02	15 minutes
97154	Adaptive behavior treatment by protocol, administered by technician under direction of QHP to multiple patients	\$7.60	15 minutes
97155	Adaptive behavior treatment with protocol modification administered by QHP to one patient	\$25.03	15 minutes
97156	Family adaptive behavior treatment guidance by QHP (with or without patient present)	\$15.71	15 minutes
97157	Multiple-Family Group Adaptive Behavior Treatment Guidance, administered by QHP (without the patient present), face to face with multiple sets of guardians/caregivers	\$6.28	15 minutes
97158	Group Adaptive Behavior Treatment with Protocol Modification, administered by QHP face to face with multiple patients	\$10.01	15 minutes