

Nancy Dahlstrom
Lieutenant Governor
State Capitol
Juneau, Alaska 99811
907.465.3520
WWW.LTGOV.ALASKA.GOV




530 West 7th Ave, Suite 1700
Anchorage, Alaska 99501
907.269.7460
LT.GOVERNOR@ALASKA.GOV

**OFFICE OF THE LIEUTENANT GOVERNOR
ALASKA**

M E M O R A N D U M

TO: Triptaa Surve, Department of Health

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: March 17, 2023

RE: Filed Permanent Regulations: Department of Health

Department of Health regulations re: Medicaid Coverage & Payment for FQHC LMFT
& LPC Services (7 AAC 135, 140, 145)

Attorney General File:	2022200371
Regulation Filed:	3/17/2023
Effective Date:	4/16/2023
Print:	246, July 2023

cc with enclosures: Colleen Bailey, Department of Law
Judy Herndon, LexisNexis



THE STATE
of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

P.O. Box 110300
Juneau, Alaska 99811
Main: 907.465.3600
Fax: 907.465.2520

March 9, 2023

The Honorable Nancy Dahlstrom
Lieutenant Governor
State of Alaska
P.O. Box 110015
Juneau, AK 99811-0001

Re: *7 AAC 135, 140, 145: Dept. of Health - Medicaid Coverage & Payment for
FQHC LMFT & LPC Services*

Our file: 2022200371

Dear Lieutenant Governor Dahlstrom:

The Department of Law has reviewed the attached regulations of the Department of Health against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This letter 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 after the close of the public comment period. The regulations concern Medicaid coverage and payment for licensed marital and family therapists and professional counselor services provided at federally qualified health centers.

The August 15, 2022 public notice and the January 13, 2023 order adopting changes both state that this action is expected to require an increased appropriation. A fiscal note as required under AS 44.62.195 is attached.

We have made some technical corrections to conform the regulations in accordance with AS 44.62.125. The corrections are incorporated into the attached copy of the regulations.

Sincerely,

TREG TAYLOR
ATTORNEY GENERAL

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

Digitally signed by
Rebecca C. Polizzotto
Date: 2023.03.09
13:33:39 -09'00'

RCP/ehp

CC w/enclosure: Triptaa Surve
Department of Health

Alexander J. Hildebrand, Assistant Attorney General
Department of Law

Steven C. Weaver, Assistant Attorney General
Department of Law

ORDER ADOPTING CHANGES TO REGULATIONS
OF THE DEPARTMENT OF HEALTH

The attached three pages of regulations, dealing with Medicaid Coverage & Payment for Federally Qualified Health Center (FQHC) Licensed Marital & Family Therapist (LMFT) & Licensed Professional Counselor (LPC) Services, are adopted and certified to be a correct copy of the regulation changes that the Department of Health adopts under the authority of AS 47.05.010, AS 47.07.030, AS 47.07.040, AS 47.07.070, AS 47.07.073, and AS 47.07.074, 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 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.

Heidi Hedberg Digitally signed by Heidi Hedberg
Date: 2023.01.13 09:19:15 -09'00'

Heidi Hedberg, Commissioner
Department of Health

FILING CERTIFICATION

April Simpson for

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on March 17, 2023, at 3:24 p.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

for April Simpson

Lieutenant Governor *Nancy Dahlstrom*

Effective: April 16, 2023.

Register: 246, July 2023.

FOR DELEGATION OF THE LIEUTENANT GOVERNOR'S AUTHORITY

I, NANCY DAHLSTROM, 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,
2022.**




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**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

7 AAC 135.910 is amended by adding a new subsection to read:

(f) A service provided under 7 AAC 140.215 by a psychologist, clinical social worker, marital and family therapist, or professional counselor enrolled under 7 AAC 105.210 must be billed by the federally qualified health center and may not be billed separately by the psychologist, clinical social worker, marital and family therapist, or professional counselor. (Eff. 4/24/2020, Register 234; am 4 / 16 / 2023, Register 246)

Authority: AS 47.05.010 AS 47.07.030

7 AAC 140.200(d) is amended to read:

(d) On or before the last day of the fifth month after the close of its fiscal year, a health clinic shall file an annual year-end report, even if the clinic did not provide medical services to recipients during that fiscal year. The annual year-end report must contain the items listed in the definition of "year-end report" in 7 AAC 150.990, except that

(1) **worksheet A of the Medicare cost report must include separate cost centers for licensed marital and family therapists and for licensed professional counselors;**

(2) Medicare home office cost statements are not required;

(3) [(2)] the required reconciliation of the post-audit working trial balance must be to the Medicare cost report worksheets A, A-1, and A-2; reconciliation may not be made to the Medicare cost report worksheets A-8, C, and G series;

(4) **the report must also include a worksheet detailing the total number of visits for the clinic's fiscal year; the worksheet must include visits for dental, licensed marital and family therapist, licensed professional counselor, and other ambulatory services;**

(5) full-time-equivalent numbers must be reported separately for a licensed marital and family therapist or licensed professional counselor following the same calculation requirements as other rendering providers on Worksheet S-3 Part III of the Medicare cost report; and

(6) [(3)] rural health clinics may provide reviewed financial statements meeting the requirements of 7 AAC 150.190(j)(3)(A) and (B) instead of audited financial statements.

(Eff. 2/1/2010, Register 193; am 11/1/2021, Register 240; am 4 / 16 / 2023, Register 246)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.074
AS 47.07.030 AS 47.07.073

The introductory language of 7 AAC 140.215(e) is amended to read:

(e) The department will pay the established encounter rate to a health clinic for the behavioral health services identified in Table I-1. Procedure Codes: Mental Health Services of the Federally Qualified Health Center/Rural Health Clinic Services section of the Alaska *Provider Billing Manual*, adopted by reference in 7 AAC 160.900, if those services are provided to a recipient by a psychologist, [OR A] clinical social worker, **marital and family therapist, or professional counselor** acting within the scope of that individual's license to practice.

Behavioral health services covered under this subsection include

...

(Eff. 2/1/2010, Register 193; am 10/1/2011, Register 199; am 4/24/2020, Register 234; am 11/1/2021, Register 240; am 12/1/2022, Register 244; am 4 / 16 / 2023, Register 246)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.073
AS 47.07.030 AS 47.07.070

Register 246, July 2023 HEALTH

7 AAC 145.710(d) is amended by adding new paragraphs to read:

(5) a marital and family therapist licensed under AS 08.63.100; or

(6) a licensed professional counselor licensed under AS 08.29.110.

(Eff. 2/1/2010, Register 193; am 4/24/2020, Register 234; am 11/1/2021, Register 240; am

4 / 16 / 2023, Register 246)

Authority: AS 47.05.010 AS 47.07.040 AS 47.07.073

AS 47.07.030 AS 47.07.070