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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

FROM: April Simpson, Office of the Lieutenant Governor 
465.4081

DATE: January 31, 2024

RE: Filed Permanent Regulations: Department of Health

Department of Health regulations re: Medicaid Enrollment, Coverage, & Payment for
Advanced Practice Dental Hygienist & Dental Specialist (7 AAC 105, 110, 120, 145, 160)

Attorney General File:	2023200187
Regulation Filed:	1/31/2024
Effective Date:	3/1/2024
Print:	249, April 2024

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



THE STATE
of ALASKA
GOVERNOR MIKE DUNLEAVY

Department of Law

CIVIL DIVISION

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January 26, 2024

The Honorable Nancy Dahlstrom
Lieutenant Governor
State of Alaska
P.O. Box 110015
Juneau, AK 99811-0015

Re: *7 AAC 105, 110, 120, 145, 160 - Medicaid Enrollment, Coverage, & Payment for Advanced Practice Dental Hygienist & Dental Specialist*
Our file: 2023200187

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 the services of a dental hygienist holding an advanced practice permit under AS 08.32.125, effective January 1, 2023 (sec. 4, ch. 56, SLA 2022 (CSSB 173(FIN) am H)); or a dental specialist under AS 08.36.242 and 08.36.243, effective July 1, 2023 (sec. 6, ch. 56, SLA 2022 (CSSB 173(FIN) am H)).

The October 12, 2023 public notice and the January 25, 2024 adoption order both state that this action is not expected to require an increased appropriation. Therefore, a fiscal note under AS 44.62.060 is not required.

We have made a technical correction to conform the regulations in accordance with AS 44.62.060. The correction is 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: 2024.01.26
10:36:16 -09'00'

RCP/SCW

CC w/enclosure: Triptaa Surve, Regulations Contact
Department of Health

Steven C. Weaver, Assistant Attorney General
Department of Law

ORDER ADOPTING CHANGES TO REGULATIONS
OF THE DEPARTMENT OF HEALTH.

The attached six pages of regulations, dealing with Medicaid Enrollment, Coverage, and Payment for Advanced Practice Dental Hygienist & Dentist Specialist 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 47.05.012, 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.

This action is not expected to require an increased appropriation.

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.

Digitally signed by Heidi
Hedberg
Date: 2024.01.25 12:50:20
-09'00'

Heidi Hedberg

Heidi Hedberg, Commissioner
Department of Health

April Simpson for

FILING CERTIFICATION

I, Nancy Dahlstrom, Lieutenant Governor for the State of Alaska, certify that on

January 31, 2024, at 8:45 a.m., I filed the attached regulations according to the provisions of AS 44.62.040 - 44.62.120.

Nancy Dahlstrom
for Lieutenant Governor Nancy Dahlstrom

Effective: March 1, 2024.

Register: 29, April 2024

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:

April Simpson, Regulations and Initiatives Specialist

IN TESTIMONY WHEREOF, I have signed and affixed the Seal of the State of Alaska, in Juneau, on May 15th, 2023.



Nancy Dahlstrom

**NANCY DAHLSTROM
LIEUTENANT GOVERNOR**

7 AAC 105.200(a)(1) is amended by adding a new subparagraph to read:

(V) a licensed dental hygienist who holds an advanced practice permit issued by the Board of Dental Examiners under AS 08.32.125; (Eff. 2/1/2010, Register 193; am 10/1/2011, Register 199; am 5/1/2016, Register 218; am 6/16/2016, Register 218; am 7/1/2018, Register 226; am 6/2/2019, Register 230; am 4/24/2020, Register 234; am 7/8/2020, Register 235; am 8/27/2021, Register 239; am 3 / 1 / 2024, Register 249)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 105.220(a)(1) is amended to read:

(1) comply with all applicable federal and state laws related to providing medical or medically related services to Medicaid recipients in this state, including laws related to recipient confidentiality, electronic transactions, **scope of practice**, and civil rights; (Eff. 2/1/2010, Register 193; am 10/1/2011, Register 199; am 3 / 1 / 2024, Register 249)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 110.140(a)(3) is amended to read:

(3) if practicing orthodontics **or other dental specialty**, have an active certification **or license under AS 08.36.242 and 08.36.243** [FROM THE APPROPRIATE SPECIALTY BOARD RECOGNIZED UNDER AS 08.36.246].

7 AAC 110.140 is amended by adding new subsections to read:

(c) To be eligible for payment under 7 AAC 105 - 7 AAC 160 for providing dental hygiene services, a dental hygienist must

- (1) be enrolled as an advanced practice dental hygienist in accordance with 7 AAC 105.210;
- (2) be licensed as a dental hygienist under AS 08.32; and
- (3) hold an active dental hygienist advanced practice permit under AS 08.32.125.

(d) To be eligible for payment under 7 AAC 105 - 7 AAC 160 for providing dental hygiene services in a group practice, the group must

- (1) be enrolled in accordance with 7 AAC 105.210; and
- (2) consist of one or more individuals who meet the requirements of (c) of this section. (Eff. 2/1/2010, Register 193; am 3 / 1 / 2024, Register 249)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 110.165 is amended by adding a new section to read:

7 AAC 110.165. Advanced practice dental hygienist services. (a) Payment for dental hygiene services provided under this section to recipients 21 years of age and older reduces the recipient's annual dental limit under 7 AAC 110.145(b) and the associated unused services provisions of 7 AAC 110.145(e).

(b) Prior authorization requirements under 7 AAC 110.145 and 7 AAC 110.150 apply to services provided under this section.

(c) Services provided under this section count toward service limits under 7 AAC 110.145 and 7 AAC 110.150.

(d) Except as specifically excluded under (f) of this section, the department will pay an advanced practice dental hygienist enrolled under 7 AAC 110.140 for services that are within the individual's scope of practice and identified in the *Fee Schedule: Advanced Practice Dental Hygienist Services*, adopted by reference in 7 AAC 160.900, including

- (1) radiographs necessary for routine dental care;
- (2) preventive care, including
 - (A) prophylaxis, including necessary scaling, polishing, and instructions;
 - (B) topical fluoride application; and
 - (C) anterior removable space maintainer;

(3) under the direct supervision of a licensed dentist, placement of a restoration into a cavity prepared by a dentist enrolled under this chapter and subsequent carving, contouring, and adjustment of the contacts and occlusion of the restoration; and

(4) non-surgical periodontics and local periodontal therapeutic agents, including treatment of pain or acute infection of supporting tissues of the teeth, including gingivitis, periodontitis, and periodontal abscess.

(e) The department will not pay an advanced practice dental hygienist for the noncovered services identified in 7 AAC 110.145(g).

(f) An advanced practice dental hygienist may provide services in the following locations to an individual who is unable to access dental hygiene services in a dental office setting because of age, infirmity, or disability:

- (1) a senior center;
- (2) a hospital;
- (3) a long-term care facility;

- (4) an adult foster home;
- (5) a residential care facility;
- (6) an adult congregate living facility;
- (7) a mental health residential program;
- (8) a facility for individuals with developmental or other disabilities;
- (9) fluoride only in a nursery school or day care program;
- (10) a vocational training facility;
- (11) a public, private, or charter primary or secondary school;
- (12) a private home;
- (13) a dental health professional shortage area (HPSA) designated under

42 U.S.C. 254e. (Eff. 3 / 1 / 2024, Register 249)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 120.112 is amended by adding a new paragraph to read:

(9) a drug that is

(A) prescribed by a provider who is not enrolled under 7 AAC 105.210; or

(B) not prescribed in accordance with 7 AAC 105.220(a), regardless of

whether the drug would otherwise be covered. (Eff. 5/18/2014, Register 210; am

3 / 1 / 2024, Register 249)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.120 is amended by adding a new subsection to read:

(e) The department will pay for services provided by an advanced practice dental

hygienist in accordance with 7 AAC 110.165 and the *Fee Schedule: Advanced Practice Dental*

Hygienist Services, adopted by reference in 7 AAC 160.900. (Eff. 2/1/2010, Register 193; am 11/1/2010, Register 196; am 1/15/2011, Register 197; am 3/22/2014, Register 209; am 5/1/2016, Register 218; am 7/1/2019, Register 231; am 12/1/2022, Register 244; am 3 / 1 / 2024, Register 249)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 160.900(e)(2) is amended to read:

(2) *State Fiscal Year 2024 [2022] Fee Schedule: Dental Services for Children*, revised as of **September 11, 2023** [JULY 1, 2021], *State Fiscal Year 2024 [2022] Fee Schedule: Emergent Adult Dental Services*, revised as of **September 11, 2023** [JULY 1, 2021], *State Fiscal Year 2024 [2022] Fee Schedule: Prosthodontic Adult Dental Services*, revised as of **September 11, 2023** [JULY 1, 2021, AND] *State Fiscal Year 2024 [2022] Fee Schedule: Enhanced Adult Dental Services*, revised as of **September 11, 2023** [JULY 1, 2021], **and State Fiscal Year 2024 Fee Schedule: Advanced Practice Dental Hygienist Services, dated September 11, 2023;**

(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 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; am 9/9/2021, Register 239; am 10/9/2021, Register 240; am 11/1/2021, Register 240; am 5/25/2022, Register 242; am 9/4/2022, Register 243; am 9/18/2022, Register 243; am 10/16/2022, Register 244; am 12/1/2022, Register 244; am 12/23/2022, Register 244; am 3/3/2023, Register 245; am 3/26/2023, Register 245; am 5/1/2023, Register 246; am 5/19/2023, Register 246; am 1/1/2024, Register 248; am 2/1/2024, Register 249; am 2/2/2024, Register 249; add'l am 2/2/2024, Register 249; am 3 / 1 / 2024, Register 249)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.085
AS 47.05.012 AS 47.07.040