DEPARTMENT OF HEALTH

PROPOSED CHANGES TO REGULATIONS.

Certified Health Provider Encounter Rate.

- **7 AAC 155.040. Tribal Health Programs. Certified health provider encounter rate.**

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PUBLIC REVIEW DRAFT.
January 14, 2025.

SUPPLEMENTAL PUBLIC NOTICE COMMENT PERIOD ENDS:
March 14, 2025.

Please see the public notice for details about how to comment on these proposed changes.

Notes to reader:

1. Except as discussed in note 2, new text that amends an existing regulation is **bolded and underlined**.

2. If the lead-in line above the text of each section of the regulations states that a new section, subsection, paragraph, or subparagraph is being added, or that an existing section, subsection, paragraph, or subparagraph is being repealed and readopted (replaced), *the new or replaced text is not bolded or underlined*.

3. [ALL-CAPS TEXT WITHIN BRACKETS] indicates text that is to be deleted.

4. When the word "including" is used, Alaska Statutes provide that it means "including, but not limited to."

5. Only the text that is being changed within a section of the current regulations is included in this draft. Refer to the text of that whole section, published in the current Alaska Administrative Code, to determine how a proposed change relates within the context of the whole section and the whole chapter.

Title 7. Health and Social Services.

Chapter 155. Tribal Health Programs.

7 AAC 155.040 is repealed and readopted to read:

7 AAC 155.040. Certified health provider encounter rate. (a) The department will pay a single statewide certified health provider per encounter rate for the services of a

(1) community health aide or community health practitioner certified by the Community Health Aide Program Certification Board; and

(2) behavioral health aide or behavioral health practitioner certified by the Community Health Aide Program Certification Board, except for behavioral health aide services when delivered as part of a reimbursable service at an enrolled tribal community behavioral health clinic.

(b) The department's single statewide certified health provider per encounter rate will be

(1) set using a cost based prospective payment methodology as provided in (c) of this section;

(2) reestablished at least every four years; and

(3) adjusted for inflation each January 1

(A) if the rate is not reestablished under (2) of this subsection; and

(B) using the most recent *S&P Global Market Intelligence, Healthcare Cost Review, Skilled Nursing Facility Market Basket* available 60 days before January 1.

(c) To calculate the per encounter rate, the department will

(1) require the three largest tribal health organizations, or the number of tribal health organizations that make up 75 percent of total Medicaid certified health provider encounters, to submit financial reporting that includes cost and encounter information, as set out in (d) of this section;

(2) perform a desk review of the cost and encounter information to determine allowable costs from the Medicare cost report as set out in (f) of this section and total encounters;

(3) inflate the allowable costs to the midpoint of the base year using the number set out in the most recent *S&P Global Market Intelligence, Healthcare Cost Review, Skilled Nursing Facility Market Basket* available 60 days before January 1; and

(4) divide the inflated allowable costs by the total number of encounters to determine the per encounter rate.

(d) Each October 1, the department will publish a public notice on the department's website and on the Alaska Online Public Notice System (AS 44.62.175) to notify tribal health organizations whether certified health provider annual financial reporting is due during the federal fiscal year. If

(1) no financial reporting is due during the federal fiscal year, the department will not require tribal health organizations to submit financial reporting;

(2) financial reporting is due during the federal fiscal year, the department will list the following in its public notice:

(A) each tribal health organization that is required to submit financial reporting;

(B) the due date of the financial reporting, either

(i) five months after the notice is published; or

(ii) the due date given by the Medicare intermediary if the Medicare intermediary gives a tribal health organization an extension to file the Medicare cost report, and the tribal health organization forwards to the department, before the due date noted in (i) of this subparagraph, a copy of the intermediary's letter granting the extension; and

(C) the financial reporting items that each tribal health organization will be required to submit for the annual report, including

(i) the uniform Medicare cost report that the tribal health organization submitted to the Medicare intermediary;

(ii) the Medicare home office cost statements and any audit performed by Medicare of those statements, if applicable;

(iii) any supporting schedules sent to the Medicare intermediary with the Medicare cost report;

(iv) audited financial statements specific to the reporting facility and matching the time period of the Medicare cost report that identify the tribal health organization's financial information;

(v) audit adjustments made by the financial statement auditors;

(vi) reconciliation of the audited financial statements to the Medicare cost report worksheet A;

(vii) the post-audit working trial balance;

(viii) reconciliation of the post-audit working trial balance to the Medicare cost report worksheet A; and

(ix) detailed level encounter data that includes all certified health provider encounters for all payers including at least the patient name, patient Medicaid identification number if applicable, provider billing name, rendering certified health provider name, rendering certified health provider level, date of service, payer, procedure code, procedure code modifier, billed amount, and paid amount.

(e) The department will determine whether a tribal health organization will be required to submit financial reporting for rebasing. A tribal health organization required to submit financial reporting for rebasing will

(1) be determined by the Medicaid encounter claims data for certified health providers,

(A) including community health aide and practitioner Medicaid encounters and behavioral health aide and practitioner Medicaid encounters;

(B) excluding behavioral health aide and practitioner Medicaid encounters that are furnished by a behavioral health aide when delivered as part of a reimbursable service at an enrolled tribal community behavioral health clinic, by provider tax identification number over the most recent state fiscal year for which timely filing has passed; and

(C) selecting the tribal health organizations that provided the highest number of Medicaid encounters until the department has selected 75 percent of the Medicaid encounters or three providers, whichever occurs first; and

(2) not receive an inflation adjustment under (b)(3) of this section during non-rebasing years if the annual financial reporting required in (d)(2)(C) of this section is not timely submitted.

(f) For purposes of establishing the payment rate under this section,

(1) "allowable costs" means

(A) the costs from the appropriate base year's Medicare cost report specific to certified health providers;

(B) costs that are consistent with efficient, cost-effective management and operations; and

(C) reasonable costs determined by using the same methodology used under 42 C.F.R. 413.1 - 413.157, adopted by reference in 7 AAC 160.900, and the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), *The Provider Reimbursement Manual - Part 1, Publication Number 15-1, Chapter 21 (Costs Related to Patient Care)*, adopted by reference in 7 AAC 160.900;

(2) "unallowable costs" means

(A) costs for services reimbursed under another methodology in 7 AAC 105 - 7 AAC 160; services paid by a different payment rate methodology include

(i) covered outpatient drugs in 7 AAC 120.110; and

(ii) inpatient, outpatient, and clinic tribal encounter services in 7 AAC 155.010;

(B) costs listed as unallowable in the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), *The Provider Reimbursement Manual - Part 1, Publication Number 15-1, Chapter 21 (Costs Related to Patient Care)*, adopted by reference in 7 AAC 160.900;

(C) advertising costs, except that the cost of advertising, including marketing, is allowable only if the advertising is directly related to the care of patients at the tribal health organization; the reasonable cost of only the following types of advertising and marketing is allowable:

(i) announcing the opening of or change of name of a facility;

(ii) recruiting for personnel;

(iii) advertising for the procurement or sale of items;

(iv) obtaining bids for construction or renovation;

(v) advertising for a bond issue;

(vi) informational listing of the provider in a telephone directory;

(vii) listing a facility's hours of operation;

(viii) advertising specifically required as part of a facility's accreditation process;

(D) intergovernmental transfers; an intergovernmental transfer of money is not an allowable cost for purposes of calculating a cost-based payment rate;

(E) advocacy expenses, lobbying activity costs, and special assessments to fund the preparation of advocacy and position papers; however,

(i) for dues, meetings, conference fees, and memberships in trade organizations and associations, a facility may claim up to 75 percent as allowable

costs; and

(ii) health care training expenses will not be considered unallowable solely because a trade organization or association sponsors the training;

(F) costs incurred by a tribal health organization related to a court or administrative proceeding originally initiated by a tribal health organization; however, costs incurred on an issue in a court or administrative proceeding originally initiated by a tribal health organization are allowable operating costs under this section if the tribal health organization is the prevailing party on the issue under a final order, and the rules governing the proceeding make no provision for award of fees and costs to a prevailing party; allowable operating costs under this subparagraph related to a court or administrative proceeding originally initiated by the tribal health organization are limited to expenses incurred in the base year.

(g) The certified health provider encounter rate is limited to one certified health provider encounter per patient, per certified health provider, per day. (Eff. 3/30/2018, Register 225; am ____/____/_____, Register _____)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

Chapter 160. Medicaid Program; General Provisions.

7 AAC 160.900. Requirements adopted by reference.

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

(31) United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), *The Provider Reimbursement Manual - Part 1,*

Publication Number 15-1, Chapter 21 (Costs Related to Patient Care), published December 30, 2020 as a .pdf document, as indicated on the United States Department of Health and Human Services guidance portal website.

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

(26) 42 C.F.R. 413.1 - 413.157 (principles of reasonable cost reimbursement), revised as of October 1, 2024.

(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** [ADDT'L] am 2/2/2024, Register 249; am 3/1/2024, Register 249; am 11/8/2024, Register 252; am 1/5/2025, Register 253; am ____/____/_____, Register _____)

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

At the end of the editor's note that follows 7 AAC 160.900, please add a new paragraph to read:

The United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS), *The Provider Reimbursement Manual - Part 1, Publication Number 15-1, Chapter 21 (Costs Related to Patient Care)*, published December 30, 2020, is available as a printable .pdf document from the Department of Health and Human Services website at https://www.hhs.gov/guidance/document/provider-reimbursement-manual-part-1-2-pub-15-1 .

(((Publisher: please change the periods at the end of 7 AAC 160.900(a)(30) and (b)(25) to semicolons.)))