

Mead Treadwell  
Lieutenant Governor  
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Anchorage, Alaska 99501  
907.269.7460 269.0263  
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**OFFICE OF THE LIEUTENANT GOVERNOR  
ALASKA**

**MEMORANDUM**

**TO:** Kurt West, AAC Contact  
Department of Health and Social Services

**FROM:** Scott Meriwether  
Special Assistant  
907.465.3509 

**DATE:** January 7, 2014

**RE:** Filed Permanent Regulations: Department of Health and Social Services  
Department of Health and Social Services Regulations re: Payment for Abortion: 7 AAC  
160.900(d)(30)

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Attorney General File:	JU2013200550
Regulation Filed:	1/3/2014
Effective Date:	2/2/2014
Print:	209, April 2014

cc with enclosures: Linda Miller, Department of Law  
Crystal Koeneman, Administrative Regulation Review Committee  
Judy Herndon, LexisNexis

JU2013200550

ORDER ADOPTING CHANGES TO REGULATIONS OF THE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES


The attached one page of regulations, dealing with adoption by reference and abortion payments, are hereby 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, 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 AS 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 and Social Services paid special attention to the cost to private persons of the regulatory action being taken.

The regulation changes described in this order take effect on the 30<sup>th</sup> day after they have been filed by the lieutenant governor, as provided in AS 44.62.180.


DATE: 10 Dec 2013  
Juneau, Alaska

  
\_\_\_\_\_  
William J. Steur, Commissioner  
Department of Health and Social Services

FILING CERTIFICATION

I, Mead Treadwell, Lieutenant Governor for the State of Alaska, certify that on

January 3, 2014 at 3:52p.m., I filed the attached regulations according to the provisions of AS 44.62.040 – AS 44.62.120.

  
\_\_\_\_\_  
Mead Treadwell, Lieutenant Governor  
State of Alaska

Effective February 2, 2014.

Register 209, April 2014.

Register 209, April 2013<sup>4</sup>

HEALTH AND SOCIAL SERVICES

7 AAC 160.900(d)(30) is amended to read:

(30) the *Certificate to Request Funds for Abortion*, revised as of December 2013  
[NOVEMBER 2012];

(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 2 / 2 /2014, Register 209 )

**Authority:** AS 47.05.010      AS 47.07.030      AS 47.07.040  
AS 47.05.012

NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE  
DEPARTMENT OF HEALTH AND SOCIAL SERVICES

BRIEF DESCRIPTION

The Department of Health and Social Services proposes to adopt an update to the *Certificate to Request Federal (Medicaid) or State (General) Funds for Abortion*, that is adopted by reference to include specific medical conditions that would be considered as medically necessary.

The Department of Health and Social Services proposes to adopt regulation changes in Title 7, Chapter 160, of the Alaska Administrative Code, dealing with abortion payments and adoption by reference, including the following:

- 7 AAC 160.900, Requirements adopted by reference, is proposed to be amended to revise the form titled, *Certificate to Request Federal (Medicaid) or State (General) Funds for Abortion*, that is adopted by reference to include specific medical conditions that would be considered as medically necessary.

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 William J. Streur, Commissioner, Department of Health & Social Services, 3601 C Street, Suite 902, Anchorage, AK 99524-0249, E-mail: [william.streur@alaska.gov](mailto:william.streur@alaska.gov)

The comments must be received no later than 4:00 p.m. on September 27, 2013.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact William J. Streur at the address above or by phone at (907) 269-7800 no later than September 20, 2013 to ensure that any necessary accommodations can be provided.

For a copy of the proposed regulation changes, contact William J. Streur at the address, phone number, or E-mail address above, or go to the Alaska Online Public Notice System website at: <http://aws.state.ak.us/OnlinePublicNotices/> and click on the attachment at the bottom of the page for this public notice

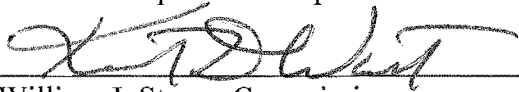
After the public comment period ends, the Department of Health and Social Services will either adopt these or other provisions dealing with the same subject, without further notice, or decide to take no action on them. The language of the final regulations may be different from that of the proposed regulations. **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: 8/16/13

  
William J. Streur, Commissioner  
Department of Health and Social Services

ADDITIONAL REGULATIONS NOTICE INFORMATION  
(AS 44.62.190(d))

1. Adopting agency: Department of Health and Social Services
2. General subject of regulation: Medicaid Payment for Abortions.
3. Citation of regulation (may be grouped): 7 AAC 160.
4. Reason for the proposed action:
  - compliance with federal law
  - compliance with new or changed state statute
  - compliance with court order
  - development of program standards
  - other: (please list)
5. RDU/component affected: Health Care Services
6. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY 14	Subsequent Years
Operating Cost	\$0	\$0
Capital Cost	\$0 _____	\$0 _____
Federal receipts	\$0	\$0
General fund match	\$0	\$0
General fund	\$0 _____	\$0 _____
General fund/ program receipts	\$0 _____	\$0 _____
General fund/ mental health	\$0 _____	\$0 _____
Other funds (specify)	\$0 _____	\$0 _____


7. The name of the contact person for the regulations:

William J. Streur, Commissioner  
Department of Health & Social Services  
3601 C Street, Suite 902  
Anchorage, AK 99524-0249  
E-mail: [william.streur@alaska.gov](mailto:william.streur@alaska.gov)

8. The origin of the proposed action:

staff of state agency  
 federal government  
 general public  
 petition for regulation change  
 other (please list) \_\_\_\_\_

9. Date: 8/16/13

Prepared by:   
Kurt D. West  
Project Coordinator  
(907) 465-3228

## Certificate to Request Funds for Abortion

The Hyde Amendment allows federal funds to be expended for an abortion only "(1) if the pregnancy is the result of an act of rape or incest; or (2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed." *Section 508(a) of Public Law 111-8.*

In accordance with a 2001 order of the Supreme Court of the State of Alaska, the Alaska Medicaid program must, under certain circumstances, provide funding for abortions for women who receive Alaska Medicaid but for whom the abortion is not covered by the federal Medicaid program. If the abortion is medically necessary and not elective, the Alaska Medicaid program may pay some or all of the costs. This form will permit the program to determine the proper source of funds for such payment.

\_\_\_\_\_  
(Recipient's Full Name PRINT OR TYPE)

\_\_\_\_\_  
(Recipient's Medicaid Identification Number)

had an abortion procedure performed on \_\_\_\_/\_\_\_\_/\_\_\_\_ (month /day/ year).

I certify based upon all of the information available to me that before performing the abortion procedure on the above patient her pregnancy was the result of an act of rape or incest, or the abortion procedure on the above patient was performed due to physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would place the woman in danger of death unless an abortion was performed.

I certify based upon all of the information available to me that the above does not apply, but in my professional medical judgment the abortion procedure was medically necessary to avoid a threat of serious risk to the physical health of the woman from continuation of her pregnancy due to the impairment of a major bodily function including but not limited to one of the following:

\_\_\_ diabetes with acute metabolic derangement or severe end organ damage

\_\_\_ renal disease that requires dialysis treatment

\_\_\_ severe preeclampsia

\_\_\_ eclampsia

\_\_\_ convulsions

\_\_\_ status epilepticus

\_\_\_ sickle cell anemia

\_\_\_ severe congenital or acquired heart disease class IV

\_\_\_ pulmonary hypertension

\_\_\_ malignancy where pregnancy would prevent or limit treatment

\_\_\_ severe kidney infection

- congestive heart failure
- epilepsy
- seizures
- coma
- severe infection exacerbated by the pregnancy
- rupture of amniotic membranes
- advanced cervical dialation of more than six centimeters at less than 22 weeks gestation
- cervical or cesarean section scar ectopic implantation
- pregnancy not implanted in the uterine cavity
- amniotic fluid embolus
- another physical disorder, physical injury, physical illness, including a physical condition arising from the pregnancy
- a psychiatric disorder that places the woman in imminent danger of medical impairment of a major bodily function if an abortion is not performed.

This certificate must be signed and dated by the recipient's attending physician and must be submitted to the Division of Health Care Services at the address below. The original is to be kept in the provider's file for the patient with all supporting documentation. No payment will be made for an abortion without a signed certificate on file.

\_\_\_\_\_  
(Recipient's Full Name PRINT OR TYPE)

\_\_\_\_\_  
(Recipient's Medicaid Identification Number)

\_\_\_\_\_  
Printed Name of Recipient's Attending Physician M.D. or D.O.

\_\_\_\_\_  
of Recipient's Attending Physician M.D. or D.O.      \_\_\_\_/\_\_\_\_/\_\_\_\_      Signature  
Date of Physician's Signature

**Submit a copy of the completed and signed certificate by mail or fax to:**

**Alaska Division of Health Care Services  
Attention: Medical Review  
4501 Business Park Blvd., Bldg. L Suite 24  
Anchorage, AK 99503-7167**

**Fax: 907.269.8868**

# MEMORANDUM


## State of Alaska Department of Law

**To:** The Honorable Mead Treadwell  
Lieutenant Governor

**Date:** December 26, 2013

**File No.:** JU2013200550

**Tel. No.:** 465-3600

  
**From:** Deborah E. Behr  
Chief Assistant Attorney General  
and Regulations Attorney  
Legislation and Regulations Section

**Re:** Department of Health and Social  
Services Regulations re: Payment for  
Abortion  
(7 AAC 160.900(d)(30))

We have reviewed the attached Department of Health and Social Services changes to these regulations. A duplicate of this memorandum is being furnished to Commissioner Streur, along with a copy of the regulations, including the updated certificate to request funds for abortion.

The Department of Law has reviewed the attached regulations against the statutory standards of the Administrative Procedure Act. Based upon our review, we find no legal problems. This memorandum and the attached duplicate memorandum dated December 26, 2013 constitute 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 concern adopting an update to the *Certificate to Request Funds for Abortion*, that is adopted by reference in 7AAC 160.900(d)(30).

The August 17, 2013 public notice and the December 10, 2013 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.

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

DEB:ljm

cc: Honorable William J. Streur, Commissioner  
Department of Health and Social Services



# MEMORANDUM


State of Alaska  
Department of Law

To: Honorable William J. Streur  
Commissioner  
Department of Health and Social  
Services

Date: December 26, 2013

File No.: JU2013200550

Tel. No.: 465-3600

From:   
Deborah E. Behr  
Chief Assistant Attorney General  
and Regulations Attorney  
Legislation and Regulations Section

Re: Department of Health and Social  
Services Regulations re Payment for  
Abortion  
(7 AAC 160.900(d)(30))

Under AS 44.62.060, we have reviewed the Department of Health and Social Services adoption and amendment of these regulations and approve the changes for filing by the lieutenant governor. A duplicate original of this memorandum is being furnished to the lieutenant governor, along with the one page of the regulations changes, including the updated certificate to request funds for an abortion, and the related documents.

You might wish to contact the lieutenant governor's office to confirm the filing date and effective date of the attached regulations changes.

The August 17, 2013 public notice and the December 10, 2013 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.

We have made some minor technical corrections to the regulations in accordance with AS 44.62.125, as shown on the attached copy.

DEB:ljm

cc w/enc:

Kurt West, Regulations Contact  
Department of Health and Social Services

Stacie Kraly, Chief Assistant Attorney General  
Human Services Section

STATE OF ALASKA)  
FIRST JUDICIAL DISTRICT } ss.

AFFIDAVIT OF NOTICE OF PROPOSED ADOPTION OF REGULATIONS  
AND FURNISHING OF ADDITIONAL INFORMATION

I, Kurt West, Project Coordinator, of the Department of Health and Social Services, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to 7 AAC 160 dealing with abortion payments and adoption by reference related to the department, has been given by being:

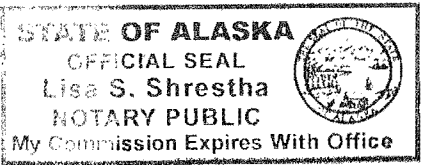
1. published in a newspaper or trade publication;
2. furnished to interested persons;
3. furnished to appropriate state officials;
4. furnished to the Department of Law, along with a copy of the proposed regulations;
5. electronically transmitted to incumbent State of Alaska legislators;
6. furnished to the Legislative Affairs Agency, Legislative Legal and Research Services;
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);
8. furnished electronically, along with a copy of the proposed regulations, to the Legislative Affairs Agency, the chairs of the Health and Social Services Committee of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

As required by AS 44.62.190(d), additional regulations notice information regarding the proposed adoption of the regulation changes described above has been furnished to interested persons and to those in (5) and (6) of the list above. The additional regulations notice information also has been posted on the Alaska Online Public Notice System.

DATE: 12/11/13  
Juneau, Alaska

[Signature]  
Kurt West  
Project Coordinator

SUBSCRIBED AND SWORN TO before me this 11th day of December, 2013.



[Signature]  
Notary Public in and for the State of Alaska  
My commission expires: u/Office

STATE OF ALASKA                    )  
  ) ss.  
FIRST JUDICIAL DISTRICT        )

AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Kurt West, Project Coordinator for the Department of Health and Social Services, being duly sworn, state the following:

In compliance with AS 44.62.215, the Department of Health and 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 and Social Services regulations on abortion payments and adoption by reference.

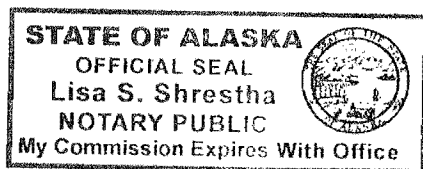
Date: 12/11/13  
Juneau, Alaska

*Kurt West*  
Kurt West, Project Coordinator

SUBSCRIBED AND SWORN TO before me this 11<sup>th</sup> day of December, 2013.

*Lisa S. Shrestha*  
Notary Public in and for the  
State of Alaska  
My commission expires: w/ office

[NOTARY SEAL]



# AFFIDAVIT OF PUBLICATION

STATE OF ALASKA  
THIRD JUDICIAL DISTRICT

Joleesa Stepetin  
being first duly sworn on oath deposes  
and says that he 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

August 17, 2013

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.

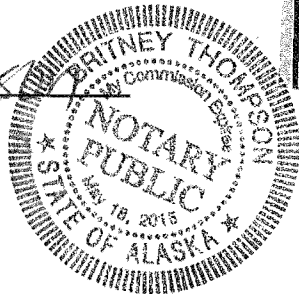
Signed Joleesa Stepetin

Subscribed and sworn to before me  
this 19th day of August, 2013

Britney Thompson

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

05/18/15



**NOTICE OF PROPOSED CHANGES IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES**

The Department of Health and Social Services proposes to adopt regulation changes in Title 7, Chapter 160, of the Alaska Administrative Code, dealing with abortion payments and adoption by reference, including the following:

- 7 AAC 160.900, Requirements adopted by reference, is proposed to be amended to revise the form titled, Certificate to Request Federal (Medicaid) or State (General) Funds for Abortion, that is adopted by reference to include specific medical conditions that would be considered as medically necessary.

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The comments must be received no later than 4:00 p.m. on September 27, 2013.

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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: \_\_\_\_\_  
William J. Streur, Commissioner  
Department of Health and Social Services

Published: August 17, 2013