

Kevin Meyer
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**

MEMORANDUM

TO: Triptaa Surve
Department of Health and Social Services

FROM: April Simpson, Office of the Lieutenant Governor
465.4081 

DATE: May 3, 2019

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

Department of Health and Social Services regulations re: Medicaid coverage, durable medical equipment, prosthetics and orthotics, supplies, and Medicaid payment rates and fee schedules (7 AAC 105.200(a)(3)(B); 7 AAC 115.110(e); 7 AAC 110.310(e); 7 AAC 120.200 - 7 AAC 120.399; 7 AAC 127.085(d)(2); 7 AAC 130.305(c)(2); 7 AAC 145.420; 7 AAC 145.421; 7 AAC 160.900)

Attorney General File:	JU2016200858
Regulation Filed:	5/3/2019
Effective Date:	6/2/2019
Print:	230, July 2019

cc with enclosures: Linda Miller, Department of Law
Judy Herndon, LexisNexis

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

The attached 69 pages of regulations, dealing with Durable Medical Equipment Prosthetics and Orthotics and Supplies (DMEPOS), Medicaid coverage and payment, 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 47.05.015; AS 47.07.030; AS 47.07.040, 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.

Date: 4-24-19



Adam Crum, Commissioner
Department of Health & Social Services

FILING CERTIFICATION

I, Kevin Meyer, Lieutenant Governor for the State of Alaska, certify that¹ on MAY 3,
2019, at 9:57A m., I filed the attached regulations according to the provisions of AS 44.62.040 -
44.62.120.



Lieutenant Governor

Effective: June 2, 2019

Register: 230, July 2019

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7 AAC 105.200(a)(3)(B) is amended to read:

(B) under 7 AAC 120.200 - 7 AAC 120.399 [7 AAC 120.200 - 7 AAC 120.299], durable medical equipment, medical supplies, prosthetics, orthotics, noncustomized-fabricated orthotics, respiratory therapy, enteral and oral nutritional products, or home infusion therapy; or

(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)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 115.110 is amended by adding a new subsection to read:

(e) An occupational therapy provider enrolled under this section may request payment for select medically necessary durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, or related items and services under 7 AAC 120.200(a)(2) listed on the *HCPC Fee Schedule for Occupational Therapy Services* table, adopted by reference in 7 AAC 160.900, if the item is furnished to a recipient and dispensed by the occupational therapist in the standard course of therapy within the scope of that professional's license. (Eff. 2/1/2010, Register 193; am 9/1/2017, Register 223; am 6 / 2 / 2019, Register 230)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 115.310 is amended by adding a new subsection to read:

(e) A physical therapy provider enrolled under this section may request payment for select medically necessary durable medical equipment, medical supplies, prefabricated off-the-

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shelf orthotics, or related items and services under 7 AAC 120.200(a)(2) listed on the *HCPC Fee Schedule for Physical Therapy Services* table, adopted by reference in 7 AAC 160.900, if the item is furnished to a recipient and dispensed by the physical therapist in the standard course of therapy within the scope of that professional's license. (Eff. 2/1/2010, Register 193; am 9/1/2017, Register 223; am 0 / 2 / 2019, Register 230)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

The chapter heading for 7 AAC 120 is changed to read:

Chapter 120. Medicaid Coverage; Prescription Drugs and Medical Supplies; Durable Medical Equipment; Prosthetics and Orthotics; Transportation Services.

7 AAC 120.200 is repealed and readopted to read:

7 AAC 120.200. Enrollment; general provisions; covered items and services. (a) To be eligible for payment under 7 AAC 105 - 7 AAC 160 for providing durable medical equipment, medical supplies, and related items and services, a provider must

(1) have and maintain a valid business license issued under AS 43.70 and 12 AAC 12;

(2) be enrolled under 7 AAC 105.210 as a durable medical equipment provider, if the provider provides

- (A) durable medical equipment;
- (B) medical supplies;
- (C) respiratory therapy assessment visits;

(D) home infusion therapy services; or

(E) prefabricated off-the-shelf orthotics;

(3) provide to the department evidence at enrollment, and at any other time upon request, that the provider is enrolled as a Medicare provider for durable medical equipment, supplies, and related items and services, and Medicare enrollment is maintained concurrent with Medicaid enrollment;

(4) comply, throughout enrollment, with federal certification standards found in 42 C.F.R. 424.57(c), adopted by reference in 7 AAC 160.900(b); and

(5) notify the department in writing not later than 30 days after the provider has a change in status of any of the requirements of this subsection; the department may sanction or disenroll under 7 AAC 105.400 - 7 AAC 105.490 a provider for failing to continuously meet the requirements of enrollment under this section.

(b) Subject to the applicable provisions of 7 AAC 120.200 - 7 AAC 120.399, a provider enrolled under 7 AAC 105.210 as a durable medical equipment provider may request payment for medically necessary durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, or related items and services under (a)(2) of this section that the provider furnished to a recipient, if

(1) the item or service is

(A) prescribed by a physician, physician assistant, or advanced practice registered nurse who is enrolled under 7 AAC 105.210 and acting within the scope of that person's license;

(B) appropriate for use in the recipient's home, school, or community;

(C) not provided by, or under arrangements made by, a home health agency; and

(D) dispensed or provided under a valid prescription order from an individual under (A) of this paragraph; if a current piece of durable medical equipment needs to be repaired, each of the following must be met:

(i) all applicable warranties are expired;

(ii) the cost of the repair is less than 50 percent of the cost of a new piece of durable medical equipment, and the provider has submitted supporting documentation;

(iii) the repair has a warranty for a minimum of 30 days;

(iv) repair parts are dispensed or provided under a valid prescription order from an individual under (A) of this paragraph;

(2) the provider furnishes orientation and training to the recipient regarding the proper use of the item, and includes proof of compliance with this paragraph in its records; the provider shall submit this proof to the department upon request; and

(3) service authorization, if required under 7 AAC 120.210, is obtained from the department.

(c) Subject to the applicable provisions of 7 AAC 120.200 - 7 AAC 120.399, a provider enrolled under 7 AAC 105.210 as a durable medical equipment provider may request payment for continuous oxygen used by a recipient in a skilled nursing facility or intermediate care facility if the skilled nursing facility or intermediate care facility has not been authorized to provide continuous oxygen under 7 AAC 140.580.

(d) Subject to the applicable provisions of 7 AAC 120.200 - 7 AAC 120.399, a provider enrolled under 7 AAC 105.210 as a durable medical equipment provider may request payment for the purchase or rental of durable medical equipment for a recipient in a skilled nursing facility or intermediate care facility if the purchase or rental is medically necessary for the recipient's preparation for discharge or for the actual discharge to home. A rental or purchase must be arranged not earlier than 30 days before the scheduled discharge and will be authorized only if the equipment is not provided by the skilled nursing facility or intermediate care facility. The department may pay for trial use of rental equipment necessary for preparing a recipient for discharge.

(e) Subject to the applicable provisions of 7 AAC 120.200 - 7 AAC 120.399, a provider enrolled under 7 AAC 105.210 as a durable medical equipment provider may request payment for home infusion therapy services if the services are

(1) ordered by a physician, a physician assistant, or an advanced practice registered nurse;

(2) reviewed at least every 60 days by the physician, physician assistant, or advanced practice registered nurse to determine the ongoing medical need for the service; and

(3) appropriate for use in the recipient's home, school, or community.

(f) If a home infusion therapy provider is also providing skilled nursing visits ordered by the physician, physician assistant, or advanced practice registered nurse under (e) of this section, those skilled nursing visits for home infusion therapy must be provided in the recipient's home, except that the department will pay a home infusion therapy provider

(1) for one skilled nursing visit for catheter insertion and recipient instruction at

- (A) a hospital on the day of discharge from the hospital;
- (B) a hospital one day before the day of discharge from the hospital; or
- (C) one of the following on the day of surgery:
 - (i) a hospital-based infusion clinic;
 - (ii) an ambulatory surgical center;

(2) for not more than one skilled nursing visit a day, if the total cumulative time of the visit, including multiple trips, is two hours or less; if the total cumulative time exceeds two hours in the same day, each additional hour is paid separately; or

- (3) a per diem amount, if

- (A) the skilled nursing visit is provided on the same day the recipient receives infusion therapy services at a hospital-based infusion clinic or an ambulatory surgical center; and

- (B) a physician, physician assistant, or advanced practice registered nurse has ordered additional infusion therapy services to continue in the home.

(g) Subject to the applicable provisions of 7 AAC 120.200 - 7 AAC 120.399, a provider enrolled under 7 AAC 105.210 as a durable medical equipment provider may request payment for medically necessary medical supplies or respiratory therapy assessment visits furnished to a recipient who is receiving hospice care services, if the supplies or assessment visits are

- (1) ordered by a physician as part of a written hospice plan of care under 7 AAC 140.275 and the physician reviews the recipient's continuing medical need for the supplies or visits; and

- (2) appropriate for use in the recipient's home, school, or community.

(h) Subject to the applicable provisions of 7 AAC 120.200 - 7 AAC 120.399, a provider enrolled under 7 AAC 105.210 as a durable medical equipment provider may request payment for dispensing the following covered items described by a national drug code (NDC) listed on the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900, up to the maximum allowable quantities and amounts described on that fee schedule if the item is medically necessary due to a medical condition resulting in bladder or bowel incontinence:

- (1) skin sealant;
- (2) skin protectant;
- (3) skin moisturizer;
- (4) skin ointment;
- (5) skin cleanser;
- (6) skin sanitizer.

(i) A provider enrolled under 7 AAC 105.210 as a durable medical equipment provider may request payment for the reasonable and necessary direct costs of delivery or shipping of durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, or home infusion therapy pharmaceutical products incurred by the dispensing provider when using the most cost-effective means; to be eligible for payment, the following conditions must apply:

- (1) the recipient resides outside the municipality where the business of the enrolled dispensing provider is located;
- (2) the item or service is unavailable from a provider enrolled under this section in the municipality where the recipient resides;

(3) if for shipping a home infusion pharmaceutical product, the cost of the shipping by means of the most cost-effective method exceeds 40 percent of the sum of the per diem rate for the number of days represented in the shipment;

(4) the item shipping from the manufacturer to the provider is durable medical equipment or replacement parts that are specialized or unique to a recipient's equipment and for which the final unaltered purchase invoice price exceeds \$250.

(j) When the shipping cost submitted to the department by the provider under (i) of this section exceeds \$50, the payment request supporting documents must include

(1) the recipient's name;

(2) the address to which the item was delivered;

(3) an itemized list of the products included in the shipment or delivery, to include the product name, the product identifier, the quantity, and the serial number, when applicable;

(4) the shipment and delivery date;

(5) the recipient's signature with the date of receipt; and

(6) the total charges minus all discounts, substantiated by a paid shipping invoice reflecting the actual payment.

(k) The department will not pay separately for the costs of administrative expenses. The following costs are considered administrative expenses and are included in the payment for the durable medical equipment, medical supplies, and prefabricated off-the-shelf orthotics:

(1) telephone responses to questions;

(2) mileage;

- (3) travel expenses;
- (4) travel time;
- (5) setting up an item;
- (6) installation;
- (7) orientation and training regarding the proper use of the item;
- (8) preparation and maintenance of necessary records required under 7 AAC

105.230 and 7 AAC 120.210.

(l) A prescribing provider under (b)(1)(A) of this section shall review the continued medical necessity of durable medical equipment or supplies billed to Medicaid at least annually. The department may require more frequent reviews based on the nature of the item prescribed. A durable medical equipment provider enrolled under 7 AAC 105.210 who repairs a durable medical equipment product may only request payment if the product is still medically necessary. The department may seek recovery under 7 AAC 105.260 of payment for services or items determined to be medically unnecessary and impose sanctions under 7 AAC 105.400 - 7 AAC 105.490.

(m) A provider of durable medical equipment, medical supplies, and prefabricated off-the-shelf orthotics shall

(1) document and maintain record of a recipient's request for a refill, including the quantity of items that the recipient

(A) needs and requests; and

(B) possesses;

(2) supply not more than what the recipient needs for a 30-day period;

(3) accept returns from a recipient of a substandard item; for purposes of this paragraph, "substandard item" means an item that does not function in a manner that meets the prescribed need or specification;

(4) upon request, provide proof in the form of copies of letters, logs, or signed notices, that it has provided recipients with warranty information for Medicaid-covered items;

(5) maintain proof of receipt for items supplied to recipients consistent with 7 AAC 105.230; the provider shall submit the proof of receipt to the department upon request; and

(6) ensure that each recipient is eligible to receive the product.

(n) The department will only pay for medically necessary medical supplies for up to a 30-day supply within each 22-day period. The department may seek recovery under 7 AAC 105.260 of payment for services or items determined to be medically unnecessary and impose sanctions under 7 AAC 105.400 - 7 AAC 105.490.

(o) The department may enter into a contract under AS 36.30, a grant, or other arrangement permitted by law with a provider authorizing that provider to

(1) provide durable medical equipment, medical supplies, or prefabricated off-the-shelf orthotics; or

(2) serve a specific geographic region and provide incontinence supplies, including

(A) garments;

(B) liners;

(C) underpads;

- (D) nonsterile gloves;
- (E) diaper wipes; and
- (F) disposable washcloths.

(p) A provider enrolled under 7 AAC 105.210 as a durable medical equipment provider may request payment and the department may pay for disposable incontinence products, including diapers, liners, underpads, reusable protective underpads, wipes, and washcloths for recipients three years of age or older if

- (1) the items meet national quality standards as defined by the National Association for Continence (NAFC);
- (2) the items are medically necessary for a medical condition resulting in bladder or bowel incontinence;
- (3) the recipient has not responded to, would not benefit from, or has failed bowel or bladder training;
- (4) the quantities prescribed do not exceed those established on the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900, except that subject to a service authorization required under 7 AAC 120.210, a provider may request and the department may pay for medically necessary incontinence supplies in quantities exceeding those on the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900, if a clinical assessment of need and plan attested to by the prescriber is submitted by the servicing provider; and
- (5) the items are prescribed on a form that includes the items required by (t) of this section, and documentation of clinical assessment and medical necessity, certified at least

annually by a physician, physician assistant, or advanced practice registered nurse who is enrolled under 7 AAC 105.210 and is acting within the scope of that person's license.

(q) In addition to meeting the requirements in 7 AAC 105.230, a recipient's medical record must contain documentation to substantiate the answers on the incontinence certificate of medical necessity. A copy of the signed incontinence certificate of medical necessity must be maintained in the recipient's medical record.

(r) A provider enrolled under 7 AAC 105.210 as a durable medical equipment provider may not make unsolicited contact with a recipient of medical assistance under 7 AAC 105 - 7 AAC 160 for the purpose of marketing the provider's products or services.

(s) The department will only pay a claim for durable medical equipment, medical supplies, or related items and services under (a)(2) of this section if the prescribing physician, physician assistant, or advanced practice registered nurse provides a face-to-face examination of the recipient not more than six months before the beginning of services as defined in 42 C.F.R. 440.70 and 42 C.F.R. 410.38. The face-to-face examination must be related to the primary reason that the recipient requires the durable medical equipment, medical supplies, or related items and services.

(t) A prescription order for durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, and related items and services must contain the

- (1) recipient's name and date of birth;
- (2) item or service being prescribed;
- (3) diagnosis;
- (4) international classification of disease code;

(5) quantity of the item or service being prescribed;

(6) directions or instructions for proper use of the item or service, including the frequency of use when applicable;

(7) duration or estimated length of need for the item;

(8) enrolled prescribing provider's signature and order signature date;

(9) number of refills, if applicable; and

(10) date of the face-to-face examination as required under (s) of this section if prescribing durable medical equipment, medical supplies, or related items and services.

(u) A prescription order for durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, and related items and services that require a certificate of medical necessity form may be part of the certificate of medical necessity, if the certificate of medical necessity includes all of the components of a prescription order as described in (t) of this section.

(v) The clinical assessment of need portion of a certificate of medical necessity that contains a prescription order for durable medical equipment, prefabricated off-the-shelf orthotics, medical supplies, or related items and services may not be prepared by a supplier of durable medical equipment, prefabricated off-the-shelf orthotics, medical supplies, or related items and services to the prescriber.

(w) The department will not pay for durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, or related items and services if they were prescribed more than one year before a claim for payment is submitted. For the purposes of payment, a prescription order written and signed by the prescriber after a product has been dispensed will not be accepted.

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(x) A prescriber shall sign a prescription or affix to a prescription an authenticated digital signature from an electronic health record system. The department will not accept a signature stamp or a copy of a signature as part of a valid prescription order even if affixed to the prescription order by the prescriber. The department will accept a prescription order or certificate of medical necessity received by facsimile with the prescriber's original or authenticated digital signature. (Eff. 2/1/2010, Register 193; am 7/7/2010, Register 195; am 6/2/2019, Register 230)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040
AS 47.05.015

Editor's note: The United States Food and Drug Administration, Center for Drug Evaluation and Research's national drug code compilation referred to in 7 AAC 120.200(h) [7 AAC 120.200(g)] is available at the following Internet address: <http://www.fda.gov/Drugs/InformationOnDrugs/ucm142438.htm>

Information on how to enroll with Medicare may be obtained from the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services (CMS) at the following Internet address: <https://www.cms.gov/Medicare-Medicaid-Coordination/Medicare-MedicaidCoordination.html>

[[HTTP://WWW.CMS.HHS.GOV/CMSFORMS/DOWNLOADS/CMS855S.PDF](http://www.cms.hhs.gov/CMSFORMS/DOWNLOADS/CMS855S.PDF).]

7 AAC 120.205 is repealed and readopted to read:

7 AAC 120.205. Noncovered items and services. (a) Except as provided otherwise in

this section or by federal law, the department will not pay separately for durable medical equipment while the recipient is

- (1) in a hospital, a skilled nursing facility, or an intermediate care facility; or
- (2) receiving hospice care services.

(b) The department will not pay separately for home infusion therapy services

- (1) while the recipient is in a hospital, a skilled nursing facility, or an intermediate care facility;
- (2) if like services, including skilled nursing visits, are provided by or under arrangements made by a home health agency;
- (3) if, on the same day, like services are provided by a hospital or facility during an outpatient visit; or
- (4) while the recipient is receiving hospice care services and the services are
 - (A) related to the treatment of the terminal illness that qualifies the recipient for hospice care; or
 - (B) provided by or under the arrangements made by the hospice program.

(c) The department will not pay for medical supplies or respiratory therapy assessment visits furnished to a recipient who is receiving hospice care services if the supplies or assessment visits are

- (1) related to the treatment of the terminal illness that qualifies the recipient for hospice care; or
- (2) provided by or under arrangements made by the hospice program.

(d) The department will not pay for the repair of durable medical equipment while the

recipient is in a skilled nursing facility or an intermediate care facility.

(e) The department will not pay separately for the repair, return shipping, or preventive maintenance or service of durable medical equipment for which the cost of repair, return shipping, or preventive maintenance or service is included in the rental fee.

(f) The department will not pay for the repair or preventative maintenance or service of durable medical equipment for which there is no documented medical necessity that is current under 7 AAC 120.200(*l*) for the continued use of that item.

(g) The department will not pay a provider enrolled as a durable medical equipment provider under 7 AAC 105.210 for medical supplies that are required under federal law to be provided at no cost to employees, including gloves, masks, and isolation gowns.

(h) For a recipient who is eligible for both Medicare and Medicaid,

(1) a provider enrolled as a durable medical equipment provider under 7 AAC 105.210 must follow Medicare guidelines for use of the Advance Beneficiary Notice of Noncoverage, Form CMS-R-131, in situations where Medicare payment is expected to be denied;

(2) the department will not pay for durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, or related items and services under 7 AAC 120.200(a)(2) billed with codes exceeding the recipient's medical necessity as determined by evidence-based clinical protocols and Medicare national and local coverage determinations; and

(3) the department will not pay for durable medical equipment for a Medicare-covered item, including a manual or power wheelchair, for a recipient who is eligible for both Medicare and Medicaid if Medicare has determined the equipment medically unnecessary for

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that recipient; a provider enrolled as a durable medical equipment provider under 7 AAC 105.210 must get a Medicare determination of medical necessity before seeking payment from the department in excess of the copay and deductible.

(i) A provider may not bill for durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics or related items and services under 7 AAC 120.200(a)(2) using a miscellaneous code from the *Healthcare Common Procedure Coding System (HCPCS)*, adopted by reference in 7 AAC 160.900, if a specific code is available and appropriate. If the department pays a claim based on a provider's erroneous use of a miscellaneous code under this subsection, the department may seek recovery under 7 AAC 105.260 of payment for those services or items and impose sanctions under 7 AAC 105.400 - 7 AAC 105.490.

(j) The department will not pay for durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, or related items and services under 7 AAC 120.200(a)(2) that require CMS prior authorization under 42 C.F.R. 414.234(c)(1) and for which the provider has not sought and received a service authorization under 7 AAC 120.210.

(k) The department will only pay for durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, or related items and services under 7 AAC 120.200(a)(2) that require the prescriber to perform a face-to-face examination of the recipient under 42 C.F.R. 440.70 and 42 C.F.R. 410.38 if that face-to-face examination was timely performed.

(l) The department will only pay for services rendered while the provider is in compliance with the provider enrollment requirements of 7 AAC 105.210. (Eff. 2/1/2010, Register 193; am 7/7/2010, Register 195; am 6/2/2019, Register 230)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 120.210 is repealed and readopted to read:

7 AAC 120.210. Service authorization. (a) A provider seeking service authorization must make a request electronically or in writing on a certificate of medical necessity.

(b) Service authorization is required for

(1) the rental of durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, or related items and services under 7 AAC 120.200(a)(2) that is indicated as requiring service authorization in the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900;

(2) medical supplies that exceed the maximum units or a 30-day limit set by the department;

(3) customized or optimally configured durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, or related items and services under 7 AAC 120.200(a)(2);

(4) items that are listed as requiring service authorization on the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900 or the *Alaska Medicaid DMEPOS Interim Fee Schedule*;

(5) items that are identified as miscellaneous in the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services' (CMS) *Healthcare Common Procedure Coding System (HCPCS)*, adopted by reference in 7 AAC 160.900;

(6) respiratory therapy assessment visits for ventilator-dependent recipients;

(7) home infusion therapy;

(8) enteral and oral nutritional products;

(9) the purchase of durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, or related items and services under 7 AAC 120.200(a)(2) for a recipient in a skilled nursing facility or intermediate care facility;

(10) continuous oxygen for a recipient in a skilled nursing facility or an intermediate care facility;

(11) the purchase of durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, or related items and services under 7 AAC 120.200(a)(2) if the charge to the department exceeds \$1,000;

(12) medical supplies and services for a single claim or for a 30-day supply if the charge to the department exceeds \$1,000;

(13) durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, or related items and services under 7 AAC 120.200(a)(2) requiring CMS prior authorization under 42 C.F.R. 414.234(c)(1);

(14) Medicare-covered durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, or related items and services under 7 AAC 120.200(a)(2) that are for a recipient who is eligible under both Medicare and Medicaid, and that Medicare

(A) has determined medically unnecessary for that recipient; or

(B) has denied after finding that a provider sought payment in excess of copay and deductible;

(15) optimally configured power wheelchairs that require payment under capped rental rules provided where the provider of durable medical equipment, medical supplies,

prefabricated off-the-shelf orthotics, or related items and services under 7 AAC 120.200(a)(2) requests direct purchase; and

(16) items that are medically necessary to be replaced before the qualified replacement time, even if they had not initially been identified as requiring service authorization.

(c) A request for service authorization must be consistent with Medicare requirements where applicable and must also include

(1) a prescription order with a certificate of medical necessity completed by the enrolled ordering

(A) physician;

(B) physician assistant; or

(C) advanced practice registered nurse;

(2) if the recipient is under 21 years of age, documentation by the person under (1) of this subsection that the item or service is necessary to treat, correct, or ameliorate a defect, condition, or physical or mental illness; the documentation may replace the certificate of medical necessity required under (1) of this subsection;

(3) for requests under (b)(2) and (4) of this section relating to a request for incontinence supplies, the certificate of medical necessity required under (1) of this subsection, on a form provided by the department, that includes the

(A) diagnosis, including the diagnosis code from the *International Classification of Disease*, adopted by reference in 7 AAC 160.900, that is related to the cause or is causing the incontinence of the bladder, bowels, or both;

(B) diagnosis, including the diagnosis code from the *International*

Classification of Disease, adopted by reference in 7 AAC 160.900, of the type of incontinence;

(C) for recipients at least three years of age and under 10 years of age, documentation that the recipient has not responded to, would not benefit from, or has failed bowel or bladder training;

(D) prognosis for controlling incontinence;

(E) name of each item to be dispensed;

(F) frequency of incontinence;

(G) duration of need;

(H) diuretic or other medications that increase output;

(I) products currently being used;

(J) skin integrity, including vulnerability to skin breakdown;

(K) measurements of product sizes;

(L) quantity of each item medically necessary;

(M) known allergies to product materials; and

(N) description of ability to manage incontinence independently or with assistance.

(d) In addition to the requirements of (c) of this section, a service authorization request for the following items must, if available, include the manufacturer information, item description or number, global trade item number (GTIN), suggested list price, and serial number:

(1) items that are identified as miscellaneous in the *Healthcare Common Procedure Coding System (HCPCS)*, adopted by reference in 7 AAC 160.900;

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(2) customized or optimally configured durable medical equipment; and

(3) items listed in (c)(3) of this section; a service authorization request for those items must also include the product code and national drug code (NDC), when applicable. (Eff. 2/1/2010, Register 193; am 6 / 2 / 2019, Register 230)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

Editor's note: The certificate of medical necessity form referred to in 7 AAC 120.210(a) and (c) may be obtained from the Department of Health and Social Services, Division of Health Care Services, 4501 Business Park Boulevard, Suite 24, Anchorage, Alaska 99503-7167.

The United States Food and Drug Administration, Center for Drug Evaluation and Research's national drug code **directory** [COMPILATION] referred to in 7 AAC 120.210(d) is available at the following Internet address:

<https://www.fda.gov/Drugs/InformationOnDrugs/ucm142438.htm>

[[HTTP://WWW.FDA.GOV/DRUGS/INFORMATIONDRUGS/UCM142438.HTM](http://www.fda.gov/Drugs/InformationOnDrugs/ucm142438.htm)].

The department's *Alaska Medicaid DMEPOS Interim Fee Schedule*, referenced in 7 AAC 145.210(b), may be obtained from the Department of Health and Social Services, Division of Health Care Services, 4501 Business Park Boulevard, Building L, Anchorage, Alaska 99503-7167, or at <http://www.medicaidalaska.com/providers/FeeSchedule.asp>.

7 AAC 120.215 is repealed and readopted to read:

7 AAC 120.215. Purchase of items. (a) The department may authorize the purchase of new or used durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics,

or related items and services under 7 AAC 120.200(a)(2). The item or service becomes the property of the recipient for whom it is purchased. The enrolled provider shall

(1) transfer ownership of the item, including a warranty, if applicable, to the recipient; and

(2) assure compliance with (j) of this section if the item was previously used.

(b) The department will not authorize the purchase of an item that requires continuous rental under the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900.

(c) The department will not reimburse in a single upfront payment the full cost of an item identified as a capped rental item under the *Alaska Medicaid DMEPOS Fee Schedule Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900, except that medically necessary optimally configured power or ultralight wheelchairs may be considered for direct purchase on a case-by-case basis through the service authorization process under 7 AAC 120.210.

(d) Rental of durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, or related items and services under 7 AAC 120.200(a)(2) that are identified as capped rental items on the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900, are considered purchased in full by the department after 13 months of continuous rental or after 100 percent of the purchase price has been paid, whichever occurs first. Ownership information, including warranties and title, must be transferred to the recipient on the first day after 13 months of continuous rental or the first day after 100 percent of the purchase price has been paid, whichever occurs first.

(e) The 13 months of continuous rental begins when the recipient first receives the rental

item. The 13 months of continuous rental does not include temporary interruptions of less than 60 consecutive days, including the days remaining in the rental month in which the use stops. Unreimbursed months of temporary interruptions in rental do not count towards the 13 months of continuous rental and also do not begin a new rental period.

(f) Interruptions of greater than 60 consecutive days, including the days remaining in the rental month in which the use stops, will begin a new rental period and the provider must get a new prescription order and submit a new service authorization request for the new rental period.

(g) Modification of the existing continuous rental equipment due to a change in the recipient's medical needs during a 13-month continuous rental period does not begin a new rental period. If applicable, a new rental period for the added equipment will begin.

(h) Continuous rental equipment that is replaced with different, but similar, equipment during the 13-month continuous rental period, and that is billed with the same code under the *Healthcare Common Procedure Coding System (HCPCS)*, adopted by reference in 7 AAC 160.900, will not begin a new rental period.

(i) A temporary or permanent change in the recipient's residence during the 13-month continuous rental period will not begin a new rental period.

(j) A provider enrolled under 7 AAC 105.210 as a durable medical equipment provider may request payment in accordance with 7 AAC 145.420 for the rental or purchase of used or refurbished durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, or related items and services under 7 AAC 120.200(a)(2) at a rate of not more than 75 percent of the rate established in the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900, as long as the following criteria are met:

(1) the provider must have the recipient acknowledge in writing, and must maintain the written acknowledgment, that the recipient is receiving used or refurbished equipment;

(2) the provider must bill with the appropriate modifier that distinguishes used or refurbished equipment from new equipment;

(3) the used or refurbished equipment provided must be clean and sanitized;

(4) the product serial number of the used or refurbished equipment must be retained in the dispensing record and provided to the department upon request; and

(5) the used or refurbished equipment provided must meet the current needs of the recipient, must be close to the manufacturer's suggested specifications for a newly purchased piece of equipment, and must be able to withstand at least three years of use; if the equipment supplied does not meet current replacement standards of three years of use and the item needs to be replaced before the standard replacement limit has been met, the provider must replace the item with a new or used piece of equipment at no charge to the department or the recipient except under 7 AAC 120.220. (Eff. 2/1/2010, Register 193; am 6/2/2019, Register 230)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 120.220 is repealed and readopted to read:

7 AAC 120.220. Replacement of items. Subject to applicable requirements of 7 AAC 120.200 - 7 AAC 120.399, a provider enrolled under 7 AAC 105.210 as a durable medical equipment provider may request a payment and the department may pay for the purchase or rental of replacement durable medical equipment, medical supplies, prefabricated off-the-shelf

orthotics, or related items and services under 7 AAC 120.200(a)(2) if the

(1) replacement is necessary to replace an item that that been in continuous use by the recipient for the item's reasonable useful lifetime;

(2) department determines that the item is lost or irreparably damaged;

(3) recipient has not required replacement of the product within the immediate three years due to abuse or neglect of the product;

(4) item is not covered by a manufacturer's warranty; and

(5) provider replaces the item with a like item, and if the original item was rented, continues renting the replacement in accordance with this chapter. (Eff. 2/1/2010,

Register 193; am 6/2/2019, Register 230)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 120.225 is repealed and readopted to read:

7 AAC 120.225. Rental of items; general provisions. (a) Service authorization under 7 AAC 120.210 is required for the following rentals of durable medical equipment:

(1) rental of items for anticipated short-term use indicated as requiring service authorization on the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900;

(2) capped rental of items indicated as requiring service authorization on the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900;

(3) continuous rental of items indicated as requiring service authorization on the

Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9, adopted by reference in 7 AAC 160.900.

(b) Regardless of the type of rental under (a) of this section,

(1) the department will review the length of need for the item and its cost before authorizing payment for rental or purchase;

(2) if the department determines it necessary to purchase the item instead of continuing to rent the item, the department will only pay the remaining portion of the full purchase price, not rental plus the full purchase price; the provisions of this paragraph do not apply to an item that is continuously rented under (a)(3) of this section;

(3) the cost of necessary repair, return shipping, or maintenance is included in the rental fee; and

(4) when total rental payments reach the purchase price, except for an item that is continuously rented under (a)(3) of this section, repair is covered after 60 days or when the warranty expires, whichever is later.

(c) The department will pay a provider by rental period.

(d) The department will not pay a provider for a rental item that exceeds 13 months of continuous use or for which 100 percent of the purchase price has been paid, except for an item described in (a)(3) of this section.

(e) A provider enrolled under 7 AAC 105.210 as a durable medical equipment provider may request payment for medically necessary used or refurbished durable medical equipment and may be reimbursed at a rate of not more than 75 percent of the rate for new equipment or services established in the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*,

adopted by reference in 7 AAC 160.900, when a specific used rate is not listed, in accordance with 7 AAC 145.420, as long as the following criteria are met:

- (1) the provider must have the recipient acknowledge in writing, and must maintain the written acknowledgment, that the recipient is receiving used equipment;
- (2) the provider must bill with the appropriate modifier that distinguishes used or refurbished equipment from new equipment;
- (3) the provider must submit and maintain the equipment's serial number;
- (4) the used or refurbished equipment provided must be clean and sanitized; and
- (5) the used or refurbished equipment provided as rental equipment must
 - (A) meet the current medical needs of the recipient;
 - (B) be without defect;
 - (C) comply with the manufacturer's suggested specifications for a newly purchased piece of equipment; and
 - (D) be able to withstand at least three years of use; if the equipment supplied does not meet current replacement standards of three years of use and the item needs to be replaced before the standard replacement limit has been met, the provider must replace the item with a new or used piece of equipment at no charge to the department or the recipient.

(f) A provider enrolled under 7 AAC 105.210 as a durable medical equipment provider is not obligated to dispense used equipment. However, if a provider dispenses used equipment, the provider may not submit a claim representing that new equipment was dispensed. Otherwise, the department may seek recovery under 7 AAC 105.260 of payment for those items and impose

sanctions under 7 AAC 105.400 - 7 AAC 105.490.

(g) A provider enrolled under 7 AAC 105.210 as a durable medical equipment provider may not request payment for equipment, options, supplies, and accessories that are considered included in the monthly rental payment.

(h) A provider enrolled under 7 AAC 105.210 as a durable medical equipment provider may not request payment for equipment, options, supplies, and accessories that are still considered to be covered by the manufacturer warranty. (Eff. 2/1/2010, Register 193; am 6 / 2 / 2019, Register 230)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 120.230 is repealed and readopted to read:

7 AAC 120.230. Rental of items; changes during rental periods. Except as otherwise provided in this section, an interruption in a rental period affects the department's payment as follows:

(1) a rental period is not affected by an interruption of less than 60 consecutive days, including the days remaining in the rental month in which the use stops; if an interruption continues beyond 60 consecutive days, including the days remaining in the rental month in which use stops, the department will pay for the rental month in which use stopped, but will not make an additional payment until use resumes, a new service authorization request is submitted under 7 AAC 120.210, and a new rental period begins;

(2) rental items for which service authorization has been received, but for which no payment is made, do not apply toward a capped rental period. (Eff. 2/1/2010, Register 193;

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am 6/2/2019, Register 230)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

[EDITOR'S NOTE: THE CERTIFICATION OF MEDICAL NECESSITY FORM REFERRED TO IN 7 AAC 120.230(c) MAY BE OBTAINED FROM THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DIVISION OF HEALTH CARE SERVICES, 4501 BUSINESS PARK BOULEVARD, SUITE 24, ANCHORAGE, ALASKA 99503-7167.]

The introductory language of 7 AAC 120.240(a) is amended to read:

(a) Subject to applicable requirements of 7 AAC 120.200 - 7 AAC 120.399 [7 AAC 120.200 - 7 AAC 120.299], the department will pay a provider enrolled under 7 AAC 105.210 as a durable medical equipment provider providing durable medical equipment, medical supplies, and prefabricated off-the-shelf orthotics or related items and services under 7 AAC 120.200(a)(2) [7 AAC 120.200] for enteral and oral nutritional products at the rate established in 7 AAC 145.420 if the products are

...

(Eff. 2/1/2010, Register 193; am 6/2/2019, Register 230)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 120.299 is repealed:

7 AAC 120.299. Definitions. Repealed. (Eff. 2/1/2010, Register 193; am 1/1/2011, Register 196; repealed 6/2/2019, Register 230)

[EDITOR'S NOTE: FOR THE DEFINITION OF "NATIONAL DRUG CODE," FORMERLY IN 7 AAC 120.299, SEE 7 AAC 160.990.]

7 AAC 120 is amended by adding new sections to Article 2 to read:

7 AAC 120.300. Enrollment of a prosthetics and orthotics provider; general provisions; covered items and services. (a) To be eligible for payment under 7 AAC 105 - 7 AAC 160 for providing prosthetics, orthotics, and related items and supplies, a provider must

(1) have and maintain a valid business license issued under AS 43.70 and 12 AAC 12;

(2) be enrolled under 7 AAC 105.210 as a prosthetics and orthotics provider, if the provider provides prosthetics and customized orthotic devices and services;

(3) maintain continuous accreditation or certification by the American Board for Certification in Orthotics, Prosthetics, and Pedorthics, the Board for Orthotist/Prosthetist Certification, the National Examining Board of Ocularists, Inc., or other similar certifying or accrediting agency approved by the department demonstrating applicable professional standards and qualifications;

(4) continuously employ at least one individual who maintains the credentials of Certified Orthotist, Certified Prosthetist, Certified Prosthetist/Orthotist, or Certified Pedorthist and who is in-charge; in this paragraph, "in-charge" means that the individual has the authority and responsibility for the facility's compliance with practice standards at the enrolled provider location;

(5) provide to the department evidence at initial enrollment and upon request that

the provider is enrolled as a Medicare provider and Medicare enrollment is maintained concurrent with Medicaid enrollment; and

(6) notify the department in writing not later than 30 days after a change in status of any of the requirements of this subsection; the department may sanction or disenroll under 7 AAC 105.400 - 7 AAC 105.490 a provider for failing to continuously meet the requirements of enrollment under this section.

(b) Subject to the applicable provisions of 7 AAC 120.300 - 7 AAC 120.399, a provider enrolled under 7 AAC 105.210 as a prosthetics and orthotics provider may request payment for prosthetic or orthotic devices and services furnished to a recipient, if the item or service is

(1) prescribed by a physician, physician assistant, or advanced practice registered nurse who is enrolled in accordance with 7 AAC 105.210 and acting within the scope of that person's license;

(2) appropriate for use in the recipient's home or community;

(3) not provided by, or under arrangements made by, a home health agency; and

(4) dispensed in compliance with a valid prescription order from an individual

under (1) of this subsection; if a current prosthesis needs to be repaired or modified, each of the following must be met:

(A) all applicable warranties are expired;

(B) the cost of the repair or modification is less than 50 percent of the cost of a new prosthesis and the provider has submitted supporting documentation; and

(C) the repair has a minimum 30-day warranty.

(c) A prosthetics and orthotics provider shall

(1) ensure that the recipient is eligible to receive the product;

(2) maintain proof of receipt for items supplied to recipients consistent with

7 AAC 105.230 and submit the proof of receipt to the department upon request; and

(3) accept the return of a substandard item.

(d) Due to the complexity of the information required for prosthetics and custom fabricated orthotics, a certificate of medical necessity may be prepared by the prosthetics and orthotics provider if

(1) the prosthetic or custom fabricated orthotic is prescribed by the recipient's physician, physician assistant, or advanced practice registered nurse before the completion of the certificate of medical necessity by the prosthetics and orthotics provider;

(2) the certificate of medical necessity is reviewed and signed by the recipient's prescribing physician, physician assistant, or advanced practice registered nurse, acknowledging concurrence with the treatment plan; and

(3) documentation of the certificate of medical necessity is maintained in the recipient's medical record by the recipient's prescribing physician, physician assistant, or advanced practice registered nurse.

(e) A prescription order for a prosthetic or orthotic device or service must contain the

(1) recipient's name and date of birth;

(2) item or service being prescribed;

(3) diagnosis;

(4) international classification of disease code;

(5) quantity of the item or service being prescribed;

(6) duration or estimated length of need for the item; and

(7) enrolled prescribing physician, physician assistant, or advanced practice registered nurse's signature and order signature date;

(f) A prescription order for a prosthetic or orthotic device or service may be part of the certificate of medical necessity, if the certificate of medical necessity includes all of the components of a prescription order as described in (e) of this section.

(g) A prescription order for a prosthetic or orthotic device or service, including a certificate of medical necessity serving as a prescription order, will be accepted for not more than one year from the signature date. A backdated order will not be accepted as authorization for an item supplied before the provider receiving a valid prescription order for the item. A retrospective start date for a prescription order, with current day signature, may be considered for service authorization review under 7 AAC 120.210 upon individual medical necessity and if all other state and federal regulatory provisions are met. If a retrospective start date is permitted, the prescription order only be valid for one year from the retrospective start date.

(h) The prescribing physician, physician assistant, or advanced practice registered nurse's hard-copy original or authenticated digital signature must be affixed to the prescription order or the certificate of medical necessity serving as a prescription order. The department will not accept a signature stamp or a copy of a signature as part of a valid prescription order even if affixed to the prescription order by the prescriber. A prescription order or certificate of medical necessity received by means of facsimile, with the prescriber's signature, may be accepted.

(i) A prosthetics and orthotics provider enrolled under this section may request payment, as follows, for the reasonable direct costs of delivering or shipping prosthetics or orthotics

incurred by the dispensing provider when using the most cost-effective means:

(1) to be eligible for payment, the following conditions apply:

(A) the recipient resides outside the municipality where the business of the enrolled dispensing provider is located;

(B) the item or service is unavailable from a provider of prosthetics and orthotics enrolled under this section in the municipality in which the recipient resides;
and

(C) the item shipping from the manufacturer to the provider is durable medical equipment, prosthetics, orthotics, or unique or specialized replacement parts and for which the final unaltered purchase invoice price exceeds \$250;

(2) if the shipping charge submitted by the provider exceeds \$50, the claim and supporting documents must include

(A) the recipient's name;

(B) the address the item was shipped or delivered to;

(C) an itemized list of the products included in the shipment or delivery, to include product name, product identifier, quantity, and serial number, when applicable;

(D) the shipment and delivery date;

(E) the recipient's signature with date of receipt; and

(F) the total charges minus all discounts, substantiated by a paid shipping invoice reflecting the actual payment.

(j) The department will not pay separately for the costs of administrative expenses related to the provision of prosthetics and orthotics. The following costs are considered

administrative expenses and are included in the payment for prosthetics and orthotics:

- (1) telephone responses to questions;
- (2) mileage;
- (3) travel expenses;
- (4) travel time;
- (5) setting up an item;
- (6) installation;
- (7) orientation and training regarding proper use of the item;
- (8) preparation and maintenance of necessary records required under 7 AAC

105.230 and 7 AAC 120.210.

(k) The department may enter into a contract under AS 36.30, a grant, or other arrangement permitted by law with a prosthetics and orthotics provider enrolled under this section, authorizing that provider to provide prosthetics or orthotics.

(l) A prosthetics and orthotics provider enrolled under this section may not make unsolicited contact with a recipient of medical assistance under 7 AAC 100 for the purpose of marketing the provider's products or services.

(m) A prosthetics and orthotics provider enrolled under this section may request payment for the reasonable costs of follow-up fittings and adjustments on a per 15-minute basis unless these services were included in and previously reimbursed under a bundled rate. (Eff.

6/2/2019, Register 230)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 120.305. Noncovered items and services. (a) The department will not pay separately for the repair, return shipping, or preventive maintenance or service of prosthetics or orthotics for which the cost of repair, return shipping, or preventive maintenance or service is included in the rental fee or warranty.

(b) The department will not pay for the repair or preventative maintenance or service of prosthetics or orthotics for which there is no documented medical necessity that is current under 7 AAC 120.200(l) for the continued use of that item.

(c) The department will not pay a provider enrolled as a prosthetics and orthotics provider under 7 AAC 120.300 for medical supplies that are required under federal law to be provided at no cost to employees, including gloves, masks, and isolation gowns.

(d) The department will not pay for services rendered during any period in which the provider is out of compliance with provider enrollment requirements under 7 AAC 120.300. (Eff. 6 / 2 / 2019, Register 230)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 120.310. Service authorization; prosthetic or orthotic items or services. (a) A provider seeking service authorization must make a request electronically or in writing on a certificate of medical necessity.

(b) Service authorization is required for

(1) items or services indicated as requiring service authorization on the *Alaska Medicaid DMEPOS Fee Schedules, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900, including prosthetic or orthotic items or services;

(2) medical supplies that exceed the maximum units or a 30-day limit set by the department;

(3) items that are identified as miscellaneous in the United States Department of Health and Human Services, Centers for Medicare and Medicaid Services' (CMS) *Healthcare Common Procedure Coding System (HCPCS)*, adopted by reference in 7 AAC 160.900, and that are not unique to prosthetics and customized orthotics;

(4) prosthetic or orthotic items or services if the charge to the department is over \$10,000; and

(5) items or services that, based on medical necessity, may need to be replaced before the qualified time that the item or service would be allowed to be replaced otherwise, even if the item or service was not initially identified as requiring a service authorization.

(c) A request for service authorization must be consistent with Medicare requirements where applicable and include, at a minimum,

(1) a prescription order with a certificate of medical necessity completed by the enrolled ordering

(A) physician;

(B) physician assistant; or

(C) advanced practice registered nurse; and

(2) documentation by the person under (1) of this subsection that the item or service is necessary to treat, correct, or ameliorate a defect, condition, or physical or mental illness if the recipient is under 21 years of age. (Eff. 6/2/2019, Register 230)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 120.399. Definitions. In 7 AAC 120.200 - 7 AAC 120.399,

(1) "capped rental" means the rental of durable medical equipment for not more than 13 months;

(2) "custom fabricated orthotic" means an orthotic that is individually made for a specific patient and created using measurements or an impression generally by means of plaster or fiber cast, a digital image using computer aided design-computer aided manufacture (CAD-CAM) systems software, or direct form to patient;

(3) "customized or optimally configured durable medical equipment" means durable medical equipment that is uniquely constructed or substantially modified for a specific recipient in accordance with the description and orders of a physician, a physician assistant, or an advanced practice registered nurse, and that is so different from another item used for the same purpose that the two items cannot be grouped together for pricing purposes;

(4) "durable medical equipment" means equipment that

(A) can withstand repeated use;

(B) is primarily and customarily used to serve a medical purpose;

(C) generally is not useful to an individual in the absence of an illness or injury; and

(D) is appropriate for use in the home, school, or community;

(5) "manual wheelchair" means a federally approved, nonmotorized wheelchair that is capable of being independently propelled and fits one of the following categories:

(A) standard, as follows:

(i) usually is not capable of being modified;

(ii) accommodates a person weighing up to 250 pounds; and

(iii) has a warranty period of at least one year;

(B) lightweight, as follows:

(i) composed of lightweight materials;

(ii) is capable of being modified;

(iii) accommodates a person weighing up to 250 pounds;

(iv) usually has a warranty period of at least three years; and

(v) when applicable, the recliner option has an adjustable,

reclining back to facilitate weight shifts and provide support to the upper body and head;

(C) high-strength lightweight, as follows:

(i) is usually made of a composite material;

(ii) is capable of being modified;

(iii) accommodates a person weighing up to 250 pounds;

(iv) has an extended warranty period of over three years;

(v) accommodates the very active person; and

(vi) when applicable, is hemi-configurable with a seat-to-floor

height as low as 14.5 inches;

(D) ultra lightweight, as follows:

(i) is usually made of a composite material;

(ii) is capable of being optimally configured;

(iii) accommodates a person weighing up to 250 pounds;

(iv) is available in rigid and folding frames; and

(v) accommodates adjustable rear axle positioning;

(E) pediatric, as follows:

(i) has a narrower seat and shorter depth more suited to pediatric patients;

(ii) is usually adaptable to modifications for a growing child for about three years or growth up to four inches in seating width or depth;

(F) tilt-in-space, that has a positioning system that allows both the seat and back to tilt to a specified angle to reduce shear or allow for unassisted pressure releases;

(G) heavy duty, as follows:

(i) is specifically manufactured to support a person weighing up to 300 pounds; or

(ii) accommodates a seat width of up to 22 inches without custom manufacturing;

(H) extra heavy duty, as follows:

(i) is specifically manufactured to support a person weighing over 300 pounds; or

(ii) accommodates a seat width of over 22 inches without custom manufacturing;

(6) "medical supplies" means supplies that

(A) do not withstand repeated use;

(B) are primarily and customarily used to serve a medical purpose;

(C) generally are not useful to an individual in the absence of an illness or injury; and

(D) are appropriate for use in the home, school, or community;

(7) "minimal self-adjustment" means an adjustment that the beneficiary, caretaker for the beneficiary, or supplier of the device can perform; and that does not require the services of a certified orthotist described in 7 AAC 120.300(a)(2) or an individual who has specialized training;

(8) "miscellaneous" means an item or service listed in the *Healthcare Common Procedure Coding System (HCPCS)*, adopted by reference in 7 AAC 160.900, that is

(A) described as "miscellaneous," "not otherwise classified," or "not otherwise specified"; or

(B) without a specific description or identifier;

(9) "orthotic device" or "orthotic" means a corrective or supportive device that

(A) prevents or corrects physical deformity or malfunction; or

(B) supports a weak or deformed portion of the body;

(10) "power wheelchair" means a federally approved, motorized wheelchair that can be independently driven by a client and fits one of the following categories:

(A) custom power wheelchairs that are adaptable to

(i) alternative driving controls; and

(ii) power seating functions; and

(B) non-custom power wheelchairs that do not need special positioning or

controls and that have a standard frame;

(11) "prefabricated off-the-shelf orthotic" means an orthotic that

(A) is manufactured in quantity without a specific patient in mind;

(B) requires minimal self-adjustment for appropriate use; and

(C) does not require expertise in trimming, bending, molding, assembling, or customizing to fit a recipient;

(12) "prosthetic device" or "prosthetic" means a preventative, replacement, corrective, or supportive device prescribed by a physician or other licensed practitioner, within the scope of the person's practice under state law;

(13) "reasonable useful lifetime" means the duration of time that a piece of durable medical equipment is expected to perform according to manufacturer specifications without defect, generally three to five years;

(14) "substandard item" means an item that does not function in a manner that meets the prescribed need or specifications;

(15) "used equipment" means equipment that has been gently or lightly used, is in like-new condition, is considered to be as close as possible to the original specifications of the manufacturer, and has an anticipated remaining usable life of about three years;

(16) "warranty period" means a guarantee or assurance, of set duration from the date of purchase, according to the manufacturer's or provider's guidelines. (Eff. 6/2/2019, Register 230)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

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Editor's note: Definitions applicable to 7 AAC 120.200 - 7 AAC 120.399 were relocated from 7 AAC 120.299 to 7 AAC 120.399. The history note for 7 AAC 120.399 does not reflect the history of the earlier provision.

For the definition of "national drug code," formerly in 7 AAC 120.299, see 7 AAC 160.990.

7 AAC 127.085(d)(2) is amended to read:

(2) pay for a personal emergency response system as a Community First Choice service, if the same or comparable system is covered under 7 AAC 120.200 - 7 AAC 120.399 [7 AAC 120.200 - 7 AAC 120.299].

(Eff. 10/1/2018, Register 227; am 6/2/2019, Register 230)

Authority: AS 47.05.010 AS 47.07.036 AS 47.07.040
AS 47.07.030

7 AAC 130.305(c)(2) is amended to read:

(2) the department will not pay, as a home and community-based waiver service, the cost of any medical equipment or supplies payable under 7 AAC 120.200 - 7 AAC 120.399 [7 AAC 120.200 - 7 AAC 120.299];

(Eff. 2/1/2010, Register 193; am 3/1/2011, Register 197; am 7/1/2013, Register 206; am 11/5/2017, Register 224; am 6/2/2019, Register 230)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

7 AAC 145.420 is repealed and readopted to read:

7 AAC 145.420. Durable medical equipment, supplies, prosthetics, orthotics, and respiratory therapy payment rates. (a) Payment by the department to a provider enrolled under 7 AAC 105.210 as a durable medical equipment provider will be made in accordance with this section.

(b) A provider enrolled under 7 AAC 105.210 as a durable medical equipment provider providing durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, or related items and services under 7 AAC 120.200(a)(2) to eligible recipients may submit, as follows, claims covered in the *Healthcare Common Procedure Coding System (HCPCS)*, adopted by reference in 7 AAC 160.900, for which a rate or rate methodology has been established by CMS or the department or for covered codes with rate-setting methodologies set out in (c) - (e) of this section:

(1) payment rates set by the department for items and services provided by enrolled providers to recipients physically located in this state will be based on 100 percent of the current quarter's Medicare DMEPOS Fee Schedule established by CMS for these items and services in this state;

(2) payment rates set by the department for items and services provided to recipients when the recipient is physically located outside of this state will be based on 100 percent of the current quarter's Medicare DMEPOS Fee Schedule established by CMS for these items and services in the state where the item or service was provided;

(3) payment rates set by the department for items and services not established on the current quarter's Medicare DMEPOS Fee Schedule will be based on the methodology set out

in (c) - (f) of this section.

(c) Payment rates for durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, or related items and services under 7 AAC 120.200(a)(2) for covered non-miscellaneous codes that are from the *Healthcare Common Procedure Coding System (HCPCS)*, adopted by reference in 7 AAC 160.900, but for which CMS has not issued a rate on the current quarter's Medicare DMEPOS Fee Schedule as described in (b) of this section or for which the department has not established a rate and published the rate on the *Alaska Medicaid DMEPOS Fee Schedules, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900, or *Alaska Medicaid DMEPOS Interim Fee Schedule*, will be based on the submitted unaltered final purchase invoice price plus 35 percent, as follows, for claims submitted on or after {*effective date of regulations*} and before the date the rate is established, until a rate is set by CMS or the department:

(1) if the median unaltered final purchase invoice price of the non-miscellaneous *HCPCS* item for the first 10 claims is less than \$5,000, the final rate will be set at

(A) the median submitted unaltered final purchase invoice price of the first 10 claims plus 35 percent if the first 10 claims were paid to at least two different enrolled providers; or

(B) the median submitted unaltered final purchase invoice price of the number of claims paid, plus 35 percent after 15 claims are paid but have not been paid to at least two different enrolled providers;

(2) if the median unaltered final purchase invoice price of the non-miscellaneous *HCPCS* item for the first 10 claims is \$5,000 or more, the final rate will be set at

(A) the median submitted unaltered final purchase invoice price plus 30 percent if the first 10 claims were paid to at least two different enrolled providers; or

(B) the median submitted unaltered final purchase invoice price of the number of claims paid, plus 30 percent after 15 claims are paid but have not been paid to at least two different enrolled providers;

(3) when applicable, the rental rates for a covered item non-priced, non-miscellaneous *HCPCS* code for which CMS or the department has not issued a permanent rate will be 10 percent of the rate set out in (1) of this subsection;

(4) all claims paid under this subsection must be submitted with an unaltered final purchase invoice, free of alteration described in (o) of this section; claims submitted without an unaltered final purchase invoice or with anything other than an unaltered final purchase invoice will be denied.

(d) Payment rates for covered items submitted using a miscellaneous *HCPCS* code as defined in 7 AAC 120.399 for which CMS or the department has not issued a rate as described in (b) of this section will be paid, as follows, at the unaltered final purchase invoice price plus 20 percent:

(1) the department will not set a generic rate for the miscellaneous *HCPCS* code, but the department may set a rate based on a national drug code product identifier or other product identifier and may require the unique identifier to be submitted on claims to facilitate payment;

(2) claims submitted for miscellaneous *HCPCS* codes under this section for which a product-specific rate has not been established and published on the *Alaska Medicaid*

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DMEPOS Fee Schedules, Tables I-5 through I-9, adopted by reference in 7 AAC 160.900, or *Alaska Medicaid DMEPOS Interim Fee Schedule* must be submitted with an unaltered final purchase invoice, free of alteration described in (o) of this section; claims submitted without an unaltered final purchase invoice or with anything other than an unaltered final purchase invoice will be denied;

(3) when applicable, for a covered item defined under a miscellaneous code for which CMS or the department has not issued a price, the rental rate will be 10 percent of the purchase invoice price plus 20 percent.

(e) Rates established by the department under this section for a covered code for which CMS has not issued a rate may be published on the department's *Alaska Medicaid DMEPOS Interim Fee Schedule*.

(f) A provider enrolled under 7 AAC 105.210 as a durable medical equipment provider may submit claims for labor and repair parts for damaged durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, and related items and services under 7 AAC 120.200(a)(2) with the following limitations:

(1) the department will not pay more than the corresponding labor rate listed on the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900, for which CMS has issued a price for each 15 minutes of labor costs;

(2) the billing for a repair part must reflect a charge that complies with the applicable standards in 7 AAC 145.020 and this section;

(3) labor and repair parts for the item must be documented and the documentation must be submitted with each claim; documentation must include

- (A) a statement signed by the recipient or the recipient's authorized representative that describes the cause for and nature of the repair;
- (B) a description of the item being repaired and its serial number, if available;
- (C) the beginning and end dates of warranty coverage, if available;
- (D) documentation for labor charges that includes the amount of time spent on the repair, rounded up to the nearest quarter hour, and the hourly rate charged for the repair; and

(E) an itemized list of parts used in the repair and associated costs;

(4) a provider may not submit a claim for labor and repair parts if the item is covered under a manufacturer's or supplier's warranty, or if the labor or parts are necessary to repair an item that needs repair because of a manufacturer's defect;

(5) a provider may not submit a claim for labor and repair parts for a rented item; the provider shall ensure that a rented item functions as intended after the provider repairs or replaces the item.

(g) A provider enrolled under 7 AAC 105.210 as a durable medical equipment provider may submit claims for the following incontinence supplies up to the allowed quantities listed on the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900, except that if a service authorization has been approved to exceed the allowed quantities based on medical necessity, payment will be determined on those supplies based on the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900:

- (1) garments;
- (2) liners;
- (3) underpads;
- (4) nonsterile gloves;
- (5) diaper wipes;
- (6) disposable washcloths.

(h) For a rental period that is 30 days or more, the department will pay for rented durable medical equipment at the lesser of a monthly rental rate of 10 percent of the allowed purchase rate under this section or the billed rental charge, except

(1) codes that are from the *Healthcare Common Procedure Coding System (HCPCS)*, adopted by reference in 7 AAC 160.900, that are defined as rental codes or with a specific rental rate listed on the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900, may pay at the rental price listed on the *Alaska Medicaid DMEPOS Fee Schedule* or *Alaska Medicaid DMEPOS Interim Fee Schedule*:

(2) capped rental items or services may be paid at the rental rate listed on the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900, or on the *Alaska Medicaid DMEPOS Interim Fee Schedule* up to the lesser of the purchase price of the item or 13 months' worth of continuous rental.

(i) For a rental period that is less than 30 days, the department will pay for rented durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, or related items and services under 7 AAC 120.200(a)(2) at a monthly rental rate of 150 percent of the monthly fee in (h) of this section, divided by the number of days in the month, times the number of days in the

rental period. Payment may not exceed the monthly rate. Codes that are from the *Healthcare Common Procedure Coding System (HCPCS)*, adopted by reference in 7 AAC 160.900, that are defined as daily rental codes or with a specific daily rate identified on the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900, will pay at the lesser of the rental price listed on the *Alaska Medicaid DMEPOS Fee Schedule*, the *Alaska Medicaid DMEPOS Interim Fee Schedule*, or the billed rental rate.

(j) A provider enrolled under 7 AAC 105.210 as a durable medical equipment provider may submit claims and payment may be authorized at a rate higher than the state-based rate published on the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900, for a more costly, medically necessary item of durable medical equipment, medical supply, prefabricated off-the-shelf orthotic, or related item or service under 7 AAC 120.200(a)(2) if the recipient's medical condition substantiates the need, and documentation is submitted with the claim that demonstrates, as follows, that a less expensive product is not available to meet the medical needs of the recipient:

(1) the provider may request a higher reimbursement rate by submitting the alternate reimbursement rate request form, available on the department website, with the claim and the required documentation with the claim;

(2) an approved request will be reimbursed at the actual acquisition cost, as substantiated by a submitted final, unaltered invoice, free of alteration described in (o) of this section, plus

(A) 35 percent for items with an actual acquisition cost below \$5,000; or

(B) 30 percent for items with an actual acquisition cost at or above

\$5,000;

(3) enteral nutrition products assigned a "B" code under the *Healthcare Common Procedure Coding System (HCPCS)*, adopted by reference in 7 AAC 160.900, and incontinence supplies assigned a "T" code are not eligible for reimbursement rates higher than those published on the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, or the *Alaska Medicaid DMEPOS Interim Fee Schedule*.

(k) Subject to the applicable provisions of 7 AAC 120.200 - 7 AAC 120.399, a provider enrolled under 7 AAC 105.210 as a durable medical equipment provider may request payment for the reasonable direct costs of delivery or shipping, as follows:

(1) from the manufacturer to the provider for customized or optimally configured durable medical equipment repair and replacement parts that are specialized or unique to a recipient's equipment or service and for which the final unaltered purchase invoice price exceeds \$250; the shipping method used must be the most cost-effective method available; the unaltered final purchase invoice, free of alterations described in (o) of this section, must include the purchase invoice for the replacement items or repair and must include shipping costs; if the unaltered final purchase invoice is free of alterations described in (o) of this section but contains one or more items in addition to the repair or replacement part, the department will pay for the shipping cost attributed to the repair or replacement part, as calculated by dividing the shipping cost on the unaltered final purchase invoice by the number of items purchased and multiplying by the number of repair or replacement parts specific to the recipient's need; expedited, next day, rush, or delivery charges resulting from the use of a shipping method other than the most cost-effective method available will not be covered;

(2) from the dispensing provider to the recipient when the following conditions apply:

(A) the recipient resides outside the municipality where the business of the enrolled dispensing provider is located;

(B) the item or service is unavailable from a provider enrolled under 7 AAC 105.210 in the municipality where the recipient resides;

(C) the submitted claim and supporting documents include the

(i) recipient's name;

(ii) address to where the item was delivered;

(iii) itemized list of the products included in the shipment or delivery, to include each product name, each product identifier, the quantity, and the serial number, when applicable;

(iv) shipment and delivery date;

(v) recipient's signature with the date of receipt; and

(vi) total shipping and delivery charges minus all discounts, substantiated by a paid shipping invoice reflecting the actual payment;

(3) from the recipient to the dispensing provider for the repair of recipient-owned equipment when the following conditions apply:

(A) the recipient resides outside the municipality where the business of the enrolled dispensing provider is located;

(B) the item or service is unavailable from a provider enrolled under this section in the municipality where the recipient resides;

- (C) the submitted claim and supporting documents include the
 - (i) address to where the item was delivered;
 - (ii) itemized list of the products included in the shipment or delivery, to include each product name, each product identifier, the quantity, and the serial number, when applicable;
 - (iii) shipment and delivery date;
 - (iv) recipient's signature with the date of receipt; and
 - (v) total shipping and delivery charges minus all discounts, substantiated by a paid shipping invoice reflecting the actual payment;
- (4) shipping costs that qualify for coverage under this section due to the recipient traveling within or outside of this state; those costs are eligible for coverage only if the recipient is traveling for medical, educational, or vocational reasons; documentation from the prescribing physician supporting the recipient's reason for travel and including the estimated duration of travel must be submitted with the claim; shipping costs related to recreational travel are not covered.

(l) Used or refurbished durable medical equipment, medical supplies, prefabricated off-the-shelf orthotics, or related items and services under 7 AAC 120.200(a)(2) will be reimbursed at not more than 75 percent of the allowed rate for the specific item as described in (b) - (e) of this section.

(m) Enteral nutrition products assigned a "B" code under the *Healthcare Common Procedure Coding System (HCPCS)*, adopted by reference in 7 AAC 160.900, and incontinence supplies assigned a "T" code must be billed with the respective specific manufacturer product

code dispensed and the correct corresponding *HCPCS* code and modifier as set out on the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900, to be eligible for payment. Enteral product and incontinence supply reimbursement will be consistent with this section and are not eligible for higher allowable adjustment requests.

(n) Providers may use the department's price research form to request formal research of a state-based specific price established by the department that has not been established by CMS using the *Alaska Medicaid DMEPOS Price Research Form*.

(o) An unaltered final purchase invoice is considered altered if

(1) information on the original invoice is removed, erased, redacted, omitted, or otherwise modified so that the copy submitted to the department is anything other than an exact copy of the original invoice received by the enrolled provider from the provider's supplier; legible markings made by an enrolled provider on the original invoice as part of the enrolled provider's normal business practices will not result in the department viewing an invoice as altered if the markings

(A) do not remove, erase, redact, omit, or otherwise modify the invoice in a way that results in any of the information on the original invoice becoming illegible; and

(B) appear on both the original invoice and the copy submitted to the department; or

(2) the invoice shows a price other than the final price paid by the enrolled provider.

(p) The *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by

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reference in 7 AAC 160.900, will be available quarterly in accordance with published CMS Medicare DMEPOS fee schedules.

(q) In this section,

(1) "out-of-state" means that the provider is physically located in a state other than this state;

(2) "in-state" means that the provider is physically located in this state. (Eff.

2/1/2010, Register 193; am 7/7/2010, Register 195; am 6/2/2019, Register 230)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

Editor's note: Quarterly current and historical Centers for Medicare and Medicaid Services (CMS) Medicare DMEPOS Fee Schedules are available on the CMS website at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/DMEPOSFeeSched/DMEPOS-Fee-Schedule.html>.

The department's Alaska Medicaid DMEPOS Interim Fee Schedule and Alaska Medicaid DMEPOS Price Research Form, referenced in 7 AAC 145.420, may be obtained from the Department of Health and Social Services, Division of Health Care Services, 4501 Business Park Boulevard, Building L, Anchorage, Alaska 99503-7167, or at <http://www.medicaidalaska.com/providers/FeeSchedule.asp> and www.medicaidalaska.com/providers/forms.html.

[THE AMERICAN DRUGGIST BLUE BOOK IS A SERVICE SUBSCRIBED TO BY THE DEPARTMENT THAT PROVIDES WEEKLY UPDATED COMPREHENSIVE ELECTRONIC DATA ON AVAILABLE DRUGS, DRUG CLASSIFICATIONS, NATIONAL

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DRUG CODE (NDC) NUMBERS, AND WHOLESALE PRICING. TO SEE HOW THIS INFORMATION IS USED, AN INDIVIDUAL MUST MAKE ARRANGEMENTS FOR AN IN-PERSON VISIT BY CONTACTING THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DIVISION OF HEALTH CARE SERVICES, 4501 BUSINESS PARK BOULEVARD, SUITE 24, ANCHORAGE, ALASKA 99503-7167.]

7 AAC 145 is amended by adding a new section to read:

7 AAC 145.421. Prosthetics and orthotics payment rates. (a) Payment by the department to a provider that is enrolled under 7 AAC 120.300 as a prosthetics and orthotics provider will be made in accordance with 7 AAC 145.020.

(b) A provider enrolled under 7 AAC 120.300 as a prosthetics and orthotics provider providing prosthetics, orthotics, related medical equipment, items, and supplies to eligible recipients may submit claims covered by the *Healthcare Common Procedure Coding System (HCPCS)*, adopted by reference in 7 AAC 160.900, for which a rate has been established by CMS or the department or for covered codes with rate-setting methodologies set out in (c) - (e) of this section, as follows:

(1) payment rates set by the department for items and services provided by providers enrolled under 7 AAC 120.300 to recipients physically located in this state will be based on 100 percent of the current quarter's Medicare DMEPOS Fee Schedule established by CMS for these items and services in this state, except items and services billable only by providers enrolled under 7 AAC 120.300 will be based on 120 percent of the current quarter's Medicare DMEPOS Fee Schedule established by CMS for these items and services in this state;

(2) payment rates set by the department for items and services provided by providers enrolled under 7 AAC 120.300 who provide services to recipients when the recipients are physically located outside of this state will be based on 100 percent of the current quarter's Medicare DMEPOS Fee Schedule established by CMS for these items and services in the state where the item or service was provided; the department will base location on the provider's Medicare accreditation location address;

(3) payment rates set by the department for items and services not established on the current quarter's Medicare DMEPOS Fee Schedule established by CMS will be based on the rate-setting methodology set out in (c) - (f) of this section.

(c) Payment rates for prosthetics, orthotics, or related items and services under 7 AAC 120.300(a)(2) for covered non-miscellaneous codes that are from the *Healthcare Common Procedure Coding System (HCPCS)*, adopted by reference in 7 AAC 160.900, but for which CMS has not issued a rate on the current quarter's Medicare DMEPOS Fee Schedule as described in (b) of this section or for which the department has not established a rate and published the rate on the *Alaska Medicaid DMEPOS Fee Schedules, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900, or *Alaska Medicaid DMEPOS Interim Fee Schedule*, will be based on the submitted unaltered final purchase invoice price plus 35 percent, as follows, for claims submitted on or after {*effective date of regulations*} and before the date the rate is established, until a rate is set by CMS or the department:

(1) if the median unaltered final purchase invoice price of the non-miscellaneous *HCPCS* item for the first 10 claims is less than \$5,000, the final rate will be set at

(A) the median submitted unaltered final purchase invoice price of the

first 10 claims plus 35 percent if the first 10 claims were paid to at least two different enrolled providers; or

(B) the median submitted unaltered final purchase invoice price of the number of claims paid, plus 35 percent after 15 claims are paid but have not been paid to at least two different enrolled providers;

(2) if the median unaltered final purchase invoice price of the non-miscellaneous *HCPCS* item for the first 10 claims is \$5,000 or more, the final rate will be set at

(A) the median submitted unaltered final purchase invoice price plus 30 percent if the first 10 claims were paid to at least two different enrolled providers; or

(B) the median submitted unaltered final purchase invoice price of the number of claims paid, plus 30 percent after 15 claims are paid but have not been paid to at least two different enrolled providers;

(3) when applicable, the rental rates for a covered item non-priced, non-miscellaneous *HCPCS* code for which CMS or the department has not issued a permanent rate will be 10 percent of the rate set out in (1) of this subsection;

(4) all claims paid under this subsection must be submitted with an unaltered final purchase invoice, free of alteration described in (k) of this section; claims submitted without an unaltered final purchase invoice or with anything other than an unaltered final purchase invoice will be denied.

(d) Payment rates for covered items submitted using a miscellaneous *HCPCS* code as defined in 7 AAC 120.399 for which CMS or the department has not issued a rate as described in (b) of this section will be paid, as follows, at the unaltered final purchase invoice price plus 20

percent, except when the covered item is a customized prosthetic or orthotic item manufactured under the oversight of and signed off by a certified professional described in 7 AAC

120.300(a)(2)(C):

(1) the department will not set a generic rate for the miscellaneous *HCPCS* code, but the department may set a rate based on a national product code or other product identifier and may require the unique identifier to be submitted on claims to facilitate payment;

(2) claims submitted for miscellaneous *HCPCS* codes under this section for which a product-specific rate has not been established and published on the *Alaska Medicaid DMEPOS Fee Schedules, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900, or *Alaska Medicaid DMEPOS Interim Fee Schedule* must be submitted with an unaltered final purchase invoice, free of alteration described in (k) of this section; claims submitted without an unaltered final purchase invoice or with anything other than an unaltered final purchase invoice will be denied.

(e) Rates established by the department under this section for a covered code for which CMS has not issued a rate may be published on the department's *Alaska Medicaid DMEPOS Interim Fee Schedule*.

(f) A provider enrolled under 7 AAC 120.300 as a prosthetics and orthotics provider may submit claims for labor and repair parts for damaged prosthetics, orthotics, and related items and services with the following limitations:

(1) the department will not pay more than the corresponding labor rate listed on the *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by reference in 7 AAC 160.900, for which CMS has issued a price for each 15 minutes of labor costs;

(2) the billing for a repair part must reflect a charge that complies with the applicable standards in 7 AAC 145.020 and this section;

(3) labor and repair parts for the item or service must be documented and the documentation must be submitted with each claim; documentation must include

(A) a statement signed by the recipient or the recipient's authorized representative that describes the cause for and nature of the repair;

(B) a description of the item or service being repaired and its serial number, if available;

(C) the beginning and end dates of warranty coverage, if available;

(D) documentation for labor charges that includes the amount of time spent on the repair, rounded up to the nearest quarter hour, and the hourly rate charged for the repair; and

(E) an itemized list of parts used in the repair and associated costs;

(4) a provider may not submit a claim for labor and repair parts if the item is covered under a manufacturer's or supplier's warranty, or if the labor or parts are necessary to repair an item that needs repair because of a manufacturer's defect;

(5) a provider may not submit a claim for labor and repair parts for a rented item; the provider shall ensure that a rented item functions as intended after the provider repairs or replaces the item.

(g) Payment using a miscellaneous *HCPCS* code as defined in 7 AAC 120.399 for custom-fabricated prosthetics, orthotics, and related items and services manufactured under the oversight of and signed off by a certified professional described in 7 AAC 120.300(a)(2)(C) will

be based on the most applicable *HCPCS* code at the lesser of

(1) billed charges; or

(2) a price ceiling based on the following calculation:

(A) for items with more than 10 parts, an itemized list of the cost, with no provider mark-up, of up to 10 parts, with the total cost multiplied by 180 percent; or

(B) an itemized list of the cost, with no provider mark-up, of all parts used to manufacture the custom prosthetic or orthotic, with the total cost multiplied by 160 percent; additionally, charges and costs under this subparagraph include the following:

(i) a labor charge priced at the L7520 payment rate of the *HCPCS* per 15 minutes; and

(ii) additional bundled costs paid up to \$1,064.10; the bundled cost items include the initial evaluation, diagnostic checks, and follow-up.

(h) A provider enrolled under 7 AAC 120.300 as a prosthetics and orthotics provider may request reimbursement for labor and parts costs associated with adjustments to a prosthetic medically necessary to prevent injury to the residual limb due to residual limb measurement changes that do not require a full new customized prosthetic.

(i) Subject to the applicable provisions of 7 AAC 120.300 - 7 AAC 120.399, a provider enrolled under 7 AAC 120.300 as a prosthetics and orthotics provider may request payment for the reasonable direct costs of delivery or shipping as follows:

(1) from the manufacturer to the provider for customized or optimally configured durable medical equipment repair and replacement parts that are specialized or unique to a

recipient's equipment and for which the final unaltered purchase invoice price exceeds \$250; the shipping method used must be the most cost-effective method available; the unaltered final purchase invoice, free of alterations described in (k) of this section, must include the purchase invoice for the replacement items or repair and must include shipping costs; if the unaltered final purchase invoice is free of alterations described in (k) of this section but contains one or more item in addition to the repair or replacement part, the department will pay for the shipping cost attributed to the repair or replacement part, as calculated by dividing the shipping cost on the unaltered final purchase invoice by the number of items purchased and multiplying by the number of repair or replacement parts specific to the recipient's need; expedited, next day, rush, or delivery charges resulting from the use of a shipping method other than the most cost-effective method available will not be covered;

(2) from the dispensing provider to the recipient when the following conditions apply:

(A) the recipient resides outside the municipality where the business of the enrolled dispensing provider is located;

(B) the item or service is unavailable from a provider enrolled under 7 AAC 120.300 in the municipality where the recipient resides;

(C) the submitted claim and supporting documents include the

(i) recipient's name;

(ii) address to where the item was delivered;

(iii) itemized list of the products included in the shipment or delivery, to include each product name, each product identifier, the quantity, and

the serial number, when applicable;

(iv) shipment and delivery date;

(v) recipient's signature with the date of receipt; and

(vi) total shipping and delivery charges minus all discounts,

substantiated by a paid shipping invoice reflecting the actual payment;

(3) from the recipient to the dispensing provider for the repair of recipient-owned equipment when the following conditions apply:

(A) the recipient resides outside the municipality where the business of the enrolled dispensing provider is located;

(B) the item or service is unavailable from a provider enrolled under this section in the municipality where the recipient resides;

(C) the submitted claim and supporting documents include the

(i) address to where the item was delivered;

(ii) itemized list of the products included in the shipment or delivery, to include each product name, each product identifier, the quantity, and the serial number, when applicable;

(iii) shipment and delivery date;

(iv) recipient's signature with the date of receipt; and

(v) total shipping and delivery charges minus all discounts, substantiated by a paid shipping invoice reflecting the actual payment;

(4) shipping costs that qualify for coverage under this section due to the recipient traveling within or outside of this state; those costs are eligible for coverage only if the recipient

is traveling for medical, educational, or vocational reasons; documentation from the prescribing physician supporting the recipient's reason for travel and including the estimated duration of travel must be submitted with the claim; shipping costs related to recreational travel are not covered.

(j) Providers may use the department's price research form to request formal research of a state-based specific price established by the department that has not been established by CMS using the *Alaska Medicaid DMEPOS Price Research Form*.

(k) An unaltered final purchase invoice is considered altered if

(1) information on the original invoice is removed, erased, redacted, omitted, or otherwise modified so that the copy submitted to the department is anything other than an exact copy of the original invoice received by the enrolled provider from the provider's supplier; legible markings made by an enrolled provider on the original invoice as part of the enrolled provider's normal business practices will not result in the department viewing an invoice as altered if the markings

(A) do not remove, erase, redact, omit, or otherwise modify the invoice in a way that results in any of the information on the original invoice becoming illegible; and

(B) appear on both the original invoice and the copy submitted to the department; or

(2) the invoice shows a price other than the final price paid by the enrolled provider.

(l) The *Alaska Medicaid DMEPOS Fee Schedule, Tables I-5 through I-9*, adopted by

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reference in 7 AAC 160.900, will be available quarterly in accordance with published CMS Medicare DMEPOS fee schedules.

(m) In this section,

(1) "out-of-state" means that the provider is physically located in a state other than this state;

(2) "in-state" means that the provider is physically located in this state. (Eff. 6 / 2 / 2019, Register 230)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040

Editor's note: Quarterly current and historical Centers for Medicare and Medicaid Services (CMS) Medicare DMEPOS Fee Schedules are available on the CMS website at <https://www.cms.gov/Medicare/Medicare-Fee-for-Service-Payment/DMEPOSFeeSched/DMEPOS-Fee-Schedule.html>.

The department's *Alaska Medicaid DMEPOS Interim Fee Schedule* and *Alaska Medicaid DMEPOS Price Research Form*, referenced in 7 AAC 145.421, may be obtained from the Department of Health and Social Services, Division of Health Care Services, 4501 Business Park Boulevard, Building L, Anchorage, Alaska 99503-7167, or at <http://www.medicaidalaska.com/providers/FeeSchedule.asp> and www.medicaidalaska.com/providers/forms.html.

7 AAC 160.900(a)(13) is repealed:

(13) repealed 6 / 2 / 2019;

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

(22) 42 C.F.R. 424.57(c) (Special payment rules for items furnished by DMEPOS suppliers and issuance of DMEPOS supplier billing privileges: Application certification standards), revised as of November 24, 2014;

7 AAC 160.900(d)(4) is repealed:

(4) repealed 6 / 2 / 2019;

7 AAC 160.900(e)(6) is repealed:

(6) repealed 6 / 2 / 2019;

7 AAC 160.900(e) is amended by adding new paragraphs to read:

(15) *Alaska Medicaid DMEPOS Fee Schedule, Table I-5*, revised as of March 30, 2018;

(16) *Alaska Medicaid DMEPOS Fee Schedule, Table I-6*, revised as of March 30, 2018;

(17) *Alaska Medicaid DMEPOS Fee Schedule, Table I-7*, revised as of March 30, 2018;

(18) *Alaska Medicaid DMEPOS Fee Schedule, Table I-8*, revised as of March 30, 2018;

(19) *Alaska Medicaid DMEPOS Fee Schedule, Table I-9*, revised as of March 30, 2018.

Register 230, July 2019 HEALTH AND SOCIAL SERVICES

(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 6 / 2 / 2019, Register 230)

Authority: AS 47.05.010 AS 47.07.030 AS 47.07.040
AS 47.05.012

The 11th and 16th editor's notes after 7 AAC 160.900 are deleted, and a new editor's note added at the end to read:

...

[A COPY OF THE UNITED STATES DEPARTMENT OF HEALTH AND HUMAN SERVICES, CENTERS FOR MEDICARE AND MEDICAID SERVICES' (CMS) DMEPOS FEE SCHEDULE, ADOPTED BY REFERENCE IN 7 AAC 160.900, MAY BE OBTAINED

Register 230, July 2019 HEALTH AND SOCIAL SERVICES
FROM THE DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DIVISION OF
HEALTH CARE SERVICES, 4501 BUSINESS PARK BOULEVARD, SUITE 24,
ANCHORAGE, ALASKA 99503-7167.]

• • •

[THE DURABLE MEDICAL EQUIPMENT PRIOR AUTHORIZATION LIST,
ADOPTED BY REFERENCE IN 7 AAC 160.900, MAY BE OBTAINED FROM THE
DEPARTMENT OF HEALTH AND SOCIAL SERVICES, DIVISION OF HEALTH CARE
SERVICES, 4501 BUSINESS PARK BOULEVARD, SUITE 24, ANCHORAGE, ALASKA
99503-7167.]

• • •

**The Alaska Medicaid DMEPOS Fee Schedules, Tables I-5 through I-9, adopted by
reference in 7 AAC 160.900(e), may be reviewed at the Department of Health and Social
Services, Division of Health Care Services, 4501 Business Park Boulevard, Suite 24,
Building L, Anchorage Alaska, 99503-7167.**

MEMORANDUM

State of Alaska Department of Law

To: The Honorable Kevin Meyer
Lieutenant Governor

Date: April 25, 2019

File No.: JU2016200858

Thru: Susan R. Pollard *SRP*
Chief Assistant Attorney General
and Regulations Attorney
Legislation and Regulations Section

Tel. No.: 465-3600

From: Steven C. Weaver *SCW*
Senior Assistant Attorney General
and Assistant Regulations Attorney
Legislation and Regulations Section

Re: Department of Health and Social Services regulations re: Medicaid coverage, durable medical equipment, prosthetics and orthotics, supplies, and Medicaid payment rates and fee schedules (7 AAC 105.200(a)(3)(B); 7 AAC 115.110(e); 7 AAC 110.310(e); 7 AAC 120.200 - 7 AAC 120.399; 7 AAC 127.085(d)(2); 7 AAC 130.305(c)(2); 7 AAC 145.420; 7 AAC 145.421; 7 AAC 160.900)

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 regulations were adopted by the Department of Health and Social Services after the close of the public comment period. The regulations concern Medicaid coverage and payment rates for durable medical equipment, prosthetics and orthotics, and related items and supplies, and include enrollment requirements and other procedures and requirements specific to a prosthetics and orthotics provider, if that provider is to provide a recipient with prosthetics, customized orthotics, or related items, supplies, or services.

The December 22, 2016 public notice, the October 22, 2017 supplemental public notice, and the April 24, 2019 adoption order all state that this action is expected to require increased appropriations. Therefore, a fiscal note under AS 44.62.195 has been prepared. We note that, to provide an accurate and timely description of the increased appropriations, the March 26, 2019 fiscal note, included with the attached regulations, is an updated version of the fiscal note prepared at the time of public notice.

We note that two provisions--7 AAC 145.420(c) (page 46), and 7 AAC 145.421(c) (page

58)--contain placeholders for the effective date of the regulations. Once the regulations are filed and the effective date for these regulations changes known, please substitute the actual effective date for the placeholder. For example, if the regulations are filed May 2, 2019, please substitute for the placeholder the effective date "June 1, 2019."

SCW

cc: Honorable Adam Crum, Commissioner
Department of Health and Social Services

Triptaa Surve, Regulations Contact
Department of Health and Social Services

Erin Narus
Division of Health Care Services
Department of Health and Social Services

Karen Benson
Division of Health Care Services
Department of Health and Social Services

Paul R. Peterson, Assistant Attorney General
Human Services Section

Kelly E. Henriksen, Senior Assistant Attorney General
Human Services Section

Stacie L. Kraly, Chief Assistant Attorney General
Human Services Section

SUPPLEMENTAL NOTICE OF PROPOSED CHANGES ON DURABLE MEDICAL EQUIPMENT PROSTHETICS & ORTHOTICS & SUPPLIES (DMEPOS) FEE SCHEDULES – MEDICAID COVERAGE & PAYMENT IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

BRIEF DESCRIPTION

The Department of Health & Social Services proposes to change regulations to update the Alaska Medicaid Fee Schedules for Durable Medical Equipment and Prosthetics and Orthotics and Supplies (DMEPOS) providers.

The Department of Health & Social Services proposes to adopt regulation changes in Title 7 of the Alaska Administrative Code, dealing with Durable Medical Equipment Prosthetics and Orthotics and Supplies (DMEPOS), Medicaid coverage and payment, including the following:

- Update the Alaska Medicaid Program Rules and Fee Schedules for Durable Medical Equipment and Prosthetics and Orthotics and Supplies (DMEPOS) providers and those providers dispensing such items.

This is a SUPPLEMENTAL NOTICE adding to the NOTICE OF PROPOSED CHANGES that was issued on December 19, 2016, concerning these proposed regulation revisions contained in the Department of Law file number JU2016200858. This SUPPLEMENTAL NOTICE is being issued because the Department of Health & Social Services made changes to the last publicly noticed draft of the proposed regulations. The Department of Health & Social Services made the changes in response to the public comments that it received about the draft.

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 Tracy Stephens, Department of Health & Social Services, Division of Health Care Services, at 4501 Business Park Blvd., Building L, Attention: Tracy Stephens, Anchorage, AK 99503-7167. Additionally, the Department of Health & Social Services will accept comments by facsimile at (907) 561-1684 and by electronic mail at tracy.stephens@alaska.gov. The comments must be received not later than 5:00 p.m. on December 4, 2017.

You may submit written questions relevant to the proposed action to Tracy Stephens at tracy.stephens@alaska.gov or at 4501 Business Park Blvd., Building L, Anchorage, AK 99503-7167. 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 response available on the Alaska Online Public Notice System at <https://aws.state.ak.us/OnlinePublicNotices/> and the agency website at <http://dhss.alaska.gov/dhcs/Pages/default.aspx>.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Tracy Stephens at tracy.stephens@alaska.gov or at (907) 334-2436 not later than November 27, 2017, to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Tracy Stephens at tracy.stephens@alaska.gov or at (907) 334-2436.

A copy of material proposed for adoption by reference may be viewed at the agency's office at 4601 Business Park

Blvd., Building K Anchorage, AK 99503.

After the public comment period ends, the Department of Health & Social Services 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 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 47.05.015; AS 47.07.030; AS 47.07.040.

Statutes Being Implemented, Interpreted, or Made Specific: AS 47.05.010; AS 47.05.012; AS 47.05.015; AS 47.07.030; AS 47.07.040.

Fiscal Information: It is estimated that the proposed regulation changes will require increased appropriations as follows: FY18, \$200,000; FY19, \$400,000; FY20, \$400,000.

DATE: 10-17-17



Jon Sherwood
Deputy Commissioner
Department of Health & Social Services

**SUPPLEMENTAL NOTICE OF PROPOSED CHANGES ON DURABLE MEDICAL EQUIPMENT PROSTHETICS &
ORTHOTICS & SUPPLIES (DMEPOS) FEE SCHEDULES – MEDICAID COVERAGE & PAYMENT IN THE
REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES**

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Statutory Authority: AS 47.05.010; AS 47.05.012; AS 47.05.015; AS 47.07.030; AS 47.07.040.

Statutes Being Implemented, Interpreted, or Made Specific: AS 47.05.010; AS 47.05.012; AS 47.05.015; AS 47.07.030; AS 47.07.040.

Fiscal Information: It is estimated that the proposed regulation changes will require increased appropriations as follows: FY18, \$200,000; FY19, \$400,000; FY20, \$400,000.

DATE: 10-17-17



Jon Sherwood
Deputy Commissioner
Department of Health & Social Services

NOTICE OF PROPOSED CHANGES ON DURABLE MEDICAL EQUIPMENT PROSTHETICS & ORTHOTICS & SUPPLIES (DMEPOS) FEE SCHEDULES – MEDICAID COVERAGE & PAYMENT IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

BRIEF DESCRIPTION

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- Update the Alaska Medicaid Fee Schedules for Durable Medical Equipment and Prosthetics and Orthotics and Supplies (DMEPOS) providers.

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 Erin Narus, Department of Health & Social Services, Division of Health Care Services, at 4501 Business Park Blvd., Building L, Attn. Erin Narus, Anchorage, AK 99503-7167. The comments must be received not later than 5:00 p.m. on February 7, 2017.

You may submit written questions relevant to the proposed action to Erin Narus at erin.narus@alaska.gov or at 4501 Business Park Blvd., Building L, Anchorage, AK 99503-7167. 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 response available on the Alaska Online Public Notice System at <https://aws.state.ak.us/OnlinePublicNotices/> and the agency website at <http://dhss.alaska.gov/dhcs/Pages/default.aspx>.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Erin Narus at erin.narus@alaska.gov or at (907) 334-2425 not later than January 23, 2017, to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Erin Narus at erin.narus@alaska.gov or at (907) 334-2425.

A copy of material proposed for adoption by reference is available on the Alaska Online Public Notice System. A copy of material proposed for adoption by reference may be viewed at the agency's office at 4501 Business Park Blvd., Building L, Anchorage, AK 99503-7167.

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Statutory Authority: AS 47.05.010; AS 47.05.012; AS 47.05.015; AS 47.07.030; AS 47.07.040.

Statutes Being Implemented, Interpreted, or Made Specific: AS 47.05.010; AS 47.05.012; AS 47.05.015; AS 47.07.030; AS 47.07.040.

Fiscal Information: It is estimated that the proposed regulation changes will require increased appropriations as follows: FY17, \$300,000; FY18, \$400,000; FY19, \$400,000.

DATE: 12-19-16



Jon Sherwood
Deputy Commissioner
Department of Health & Social Services

NOTICE OF PROPOSED CHANGES ON DURABLE MEDICAL EQUIPMENT PROSTHETICS & ORTHOTICS & SUPPLIES (DMEPOS) FEE SCHEDULES – MEDICAID COVERAGE & PAYMENT 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 Durable Medical Equipment Prosthetics and Orthotics and Supplies (DMEPOS), Medicaid coverage and payment, including the following:

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If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Erin Narus at erin.narus@alaska.gov or at (907) 334-2425 not later than January 23, 2017, to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Erin Narus at erin.narus@alaska.gov or at (907) 334-2425.

A copy of material proposed for adoption by reference is available on the Alaska Online Public Notice System. A copy of material proposed for adoption by reference may be viewed at the agency's office at 4501 Business Park Blvd., Building L, Anchorage, AK 99503-7167.


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Statutes Being Implemented, Interpreted, or Made Specific: AS 47.05.010; AS 47.05.012; AS 47.05.015; AS 47.07.030; AS 47.07.040.

Fiscal Information: It is estimated that the proposed regulation changes will require increased appropriations as follows: FY17, \$300,000; FY18, \$400,000; FY19, \$400,000.

DATE: 12-19-16



Jon Sherwood
Deputy Commissioner
Department of Health & Social Services

ADDITIONAL REGULATION NOTICE INFORMATION
(AS 44.62.190(d))¹

1. Adopting agency: Department of Health and Social Services
2. General subject of regulation: Durable Medical Equipment, Prosthetics & Orthotics, and Supplies – Medicaid Coverage & Payment; includes PT & OT
3. Citation of regulation (may be grouped): 7 AAC 115.110; 7 AAC 115.310; 7 AAC 120.200-299; 7 AAC 120.300-399 (new); 7 AAC 145.420; 7 AAC 145.421 (new); 7 AAC 160.900
4. Department of Law file number, if any: JU2016200858

5. Reason for the proposed action:

- Compliance with federal law or action (identify): 42 USC 1396b(i)(27)
- Compliance with new or changed state statute
- Compliance with federal or state court decision (identify): _____
- Development of program standards
- Other (identify): _____

6. Appropriation/Allocation: Medicaid Services/Health Care 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):

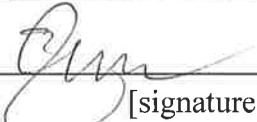
	Initial Year FY <u>18</u>	Subsequent Years
Operating Cost	\$ <u>200</u>	\$ <u>400</u>
Capital Cost	\$ _____	\$ _____
1002 Federal receipts	\$ <u>100</u>	\$ <u>200</u>
1003 General fund match	\$ <u>100</u>	\$ <u>200</u>
1004 General fund	\$ _____	\$ _____
1005 General fund/ program	\$ _____	\$ _____
Other (identify)	\$ _____	\$ _____

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

Name: Tracy Stephens
Title: Medical Assistance Administrator II, DMEPOS Program Mgr
Address: 4601 Business Park Blvd, Bldg K
Telephone: 907.334.2436
E-mail address: tracy.stephens@alaska.gov

10. The origin of the proposed action:

Staff of state agency
 Federal government
 General public
 Petition for regulation change
 Other (identify): Enrolled Medicaid providers

11. Date: 10.13.17 Prepared by: 
[signature]
Name (printed): Erin Narus
Title (printed): Lead Pharmacist, Pharm&Ancil.SvcsMgr
Telephone: 907.334.2425

ADDITIONAL REGULATIONS NOTICE INFORMATION
(AS 44.62.190(d))

1. Adopting agency: Department of Health and Social Services
2. General subject of regulation: Durable Medical Equipment Prosthetics & Orthotics & Supplies (DMEPOS) SFY2017 Fee Schedule- Medicaid coverage & payment (Medicaid Coverage; Prescription Drugs & Medical Supplies; Durable Medical Equipment; Transportation Services; Medicaid Payment Rates; Medicaid Program).
3. Citation of regulation (may be grouped): 7 AAC 120, 145, 160; 7 AAC 160.900
4. Department of Law file number, if any: JU2016200858
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) _____
 - (X) Development of program standards
 - () Other (identify): _____
6. Appropriation/Allocation: Medicaid Services/Health Care Medicaid Services
7. Estimated annual costs in the aggregate to comply with the proposed action to:
 - Private Persons: \$0
 - Other State Agencies: \$0
 - Municipalities: \$0
8. Cost of implementation to the state agency and available funding (in thousands of dollars):

	Initial Year FY 2017	Subsequent Years
Operating Cost	\$ <u>300</u>	\$ <u>400</u>
Capital Cost	\$ _____	\$ _____
1002 Federal receipts	\$ <u>150</u>	\$ <u>200</u>
1003 General fund match	\$ <u>150</u>	\$ <u>200</u>
1004 General fund	\$ _____	\$ _____
1005 General fund/prgm	\$ _____	\$ _____
1037 General fund/ mental health	\$ _____	\$ _____
Other	\$ _____	\$ _____

9. The name of the contact person for the regulations:
 - Name: Erin Narus
 - Title: Lead Pharmacist, Pharmacy & Ancillary Service Manager
 - Address: 4501 Business Park Blvd., Bldg. L, Anchorage, AK 99503-7167


Telephone: (907) 334-2425

E-mail address erin.narus@alaska.gov

10. The origin of the proposed action:

- Staff of state agency
- Federal government
- General public
- Petition for regulation change
- Other (Identify) Enrolled Medicaid providers

11. Date: 12.16.16

Prepared by: 

Name: Erin Narus

Title: Pharmacy & Ancillary Services Manager, Lead Pharmacist

Telephone: (907) 334-2425

AFFIDAVIT OF NOTICE OF PROPOSED REGULATION
AND FURNISHING OF ADDITIONAL INFORMATION

I, Triptaa Surve, Project Coordinator, of the Department of Health & Social Services, being sworn, state the following:

As required by AS 44.62.190, notice of the proposed adoption of changes to the *Durable Medical Equipment, Prosthetics & Orthotics, & Supplies, Medicaid Coverage & Payment* regulations (DMEPOS; 7 AAC 115, 120, 145, 160), 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 regulation;
- (5) furnished electronically to incumbent State of Alaska legislators;
- (6) furnished to the Legislative Affairs Agency, Division of 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 regulation, to the Legislative Affairs Agency, the chair of the Health & Social Services and Finance Committees of the Alaska Senate and House of Representatives, the Administrative Regulation Review Committee, and the legislative council.

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 (5) and (6) of the list above. The additional regulation notice information also has been posted on the Alaska Online Public Notice System.

Date: July 3, 2018 4


Triptaa Surve, Project Coordinator

Subscribed and sworn to before me at Anchorage, AK 99503 on July 3, 2018
(date)


Notary Public in and for the State of Alaska



AFFIDAVIT OF AGENCY RECORD OF PUBLIC COMMENT

I, Tracy Stephens, Medical Assistance Administrator II, for the Department of Health & Social Services, being duly sworn, 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 as public comment and that was relevant to the accuracy, coverage, or other aspect of the Department of Health & Social Services regulation on the Durable Medical Equipment, Prosthetics & Orthotics, & Supplies, Medicaid Coverage & Payment regulations.

Date: April 25, 2018

Tracy Stephens
Tracy Stephens, Medical Assistance Administrator II

Subscribed and sworn to before me at Anchorage, AK

on April 25, 2018
(date)

Paola Smith
Notary Public in and for the State of Alaska



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0001412030
\$383.48

AFFIDAVIT OF PUBLICATION

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Lisa Hartlieb
being first duly sworn on oath deposes and says that he/she is a representative of the Alaska Dispatch 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

October 22, 2017

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 Lisa Hartlieb

Subscribed and sworn to before me
this 23rd day of October, 2017
Britney Thompson

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

2/23/2019
Notary Public
BRITNEY L. THOMPSON
State of Alaska
My Commission Expires Feb 23, 2019

SUPPLEMENTAL NOTICE OF PROPOSED CHANGES ON DURABLE MEDICAL EQUIPMENT PROSTHETICS & ORTHOTICS & SUPPLIES (DMEPOS) FEE SCHEDULES – MEDICAID COVERAGE & PAYMENT IN THE REGULATIONS OF THE DEPARTMENT OF HEALTH & SOCIAL SERVICES

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- o Update the Alaska Medicaid Program Rules and Fee Schedules for Durable Medical Equipment and Prosthetics and Orthotics and Supplies (DMEPOS) providers and those providers dispensing such items.

This is a SUPPLEMENTAL NOTICE adding to the NOTICE OF PROPOSED CHANGES that was issued on December 19, 2016, concerning these proposed regulation revisions contained in the Department of Law file number JU2016200858. This SUPPLEMENTAL NOTICE is being issued because the Department of Health & Social Services made changes to the last publicly noticed draft of the proposed regulations. The Department of Health & Social Services made the changes in response to the public comments that it received about the draft.

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 Tracy Stephens, Department of Health & Social Services, Division of Health Care Services, at 4501 Business Park Blvd., Building L, Attention: Tracy Stephens, Anchorage, AK 99503-7167. Additionally, the Department of Health & Social Services will accept comments by facsimile at (907) 561-1684 and by electronic mail at tracy.stephens@alaska.gov. The comments must be received not later than 5:00 p.m. on December 4, 2017.

You may submit written questions relevant to the proposed action to Tracy Stephens at tracy.stephens@alaska.gov or at 4501 Business Park Blvd., Building L, Anchorage, AK 99503-7167. 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 response available on the Alaska Online Public Notice System at <https://aws.state.ak.us/OnlinePublicNotices/> and the agency website at <http://dhss.alaska.gov/dhcs/Pages/default.aspx>.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Tracy Stephens at tracy.stephens@alaska.gov or at (907) 334-2436 not later than November 27, 2017, to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Tracy Stephens at tracy.stephens@alaska.gov or at (907) 334-2436.

A copy of material proposed for adoption by reference may be viewed at the agency's office at 4601 Business Park Blvd., Building K Anchorage, AK 99503.

After the public comment period ends, the Department of Health & Social Services 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 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 47.05.015; AS 47.07.030; AS 47.07.040.

Statutes Being Implemented, Interpreted, or Made Specific: AS 47.05.010; AS 47.05.012; AS 47.05.015; AS 47.07.030; AS 47.07.040.

Fiscal Information: It is estimated that the proposed regulation changes will require increased appropriations as follows: FY18, \$200,000; FY19, \$400,000; FY20, \$400,000.

DATE: 10/17/2017
/s/Jon Sherwood
Deputy Commissioner
Department of Health & Social Services

Published: October 22, 2017

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AFFIDAVIT OF PUBLICATION

STATE OF ALASKA
THIRD JUDICIAL DISTRICT

Lisa Hartlieb
being first duly sworn on oath deposes and says that he/she is a representative of the Alaska Dispatch 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

December 22, 2016

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 *Lisa Hartlieb*

Subscribed and sworn to before me this 22nd day of December, 2016

Britney Thompson

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

2/23/2019

NOTICE OF PROPOSED CHANGES ON DURABLE MEDICAL EQUIPMENT PROSTHETICS & ORTHOTICS & SUPPLIES (DMEPOS) FEE SCHEDULES - MEDICAID COVERAGE & PAYMENT 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 Durable Medical Equipment Prosthetics and Orthotics and Supplies (DMEPOS), Medicaid coverage and payment, including the following:

- Update the Alaska Medicaid Fee Schedules for Durable Medical Equipment and Prosthetics and Orthotics and Supplies (DMEPOS) providers.

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 Erin Narus, Department of Health & Social Services, Division of Health Care Services, at 4501 Business Park Blvd., Building L, Attn. Erin Narus, Anchorage, AK 99503-7167. The comments must be received not later than 5:00 p.m. on February 7, 2017.

You may submit written questions relevant to the proposed action to Erin Narus at erin.narus@alaska.gov or at 4501 Business Park Blvd., Building L, Anchorage, AK 99503-7167. 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 response available on the Alaska Online Public Notice System at <https://aws.state.ak.us/OnlinePublicNotices/> and the agency website at <http://dhss.alaska.gov/dhcs/Pages/default.aspx>.

If you are a person with a disability who needs a special accommodation in order to participate in this process, please contact Erin Narus at erin.narus@alaska.gov or at (907) 334-2425 not later than January 23, 2017, to ensure that any necessary accommodations can be provided.

A copy of the proposed regulation changes is available on the Alaska Online Public Notice System and by contacting Erin Narus at erin.narus@alaska.gov or at (907) 334-2425.

A copy of material proposed for adoption by reference is available on the Alaska Online Public Notice System.

A copy of material proposed for adoption by reference may be viewed at the agency's office at 4501 Business Park Blvd., Building L, Anchorage, AK 99503-7167.

After the public comment period ends, the Department of Health & Social Services 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 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 47.05.015; AS 47.07.030; AS 47.07.040.

Statutes Being Implemented, Interpreted, or Made Specific: AS 47.05.010; AS 47.05.012; AS 47.05.015; AS 47.07.030; AS 47.07.040.

Fiscal Information: It is estimated that the proposed regulation changes will require increased appropriations as follows: FY17, \$300,000; FY18, \$400,000; FY19, \$400,000.

DATE: December 20, 2016
/s/Jon Sherwood
Deputy Commissioner
Department of Health & Social Services

Published: December 22, 2016



FISCAL NOTE¹

Agency: Department of Health and Social Services

Appropriation/Allocation: Medicaid Services/Health Care Medicaid Services

General subject of regulation: Durable Medical Equipment, Prosthetics & Orthotics, & Supplies (DMEPOS) – Medicaid Coverage and Payment.

Citation of regulation: 7 AAC 115, 120, 145, 160.

Estimated appropriations required (in thousands of dollars) \$400 annually

Expenditures/Revenues


	FY 20 Appropriation Requested	(Thousands of Dollars)		
		FY 20	FY 21	FY 22
OPERATING EXPENDITURES				
Personal Services				
Travel				
Services				
Commodities				
Capital Outlay				
Grants & Benefits	\$400	\$400		\$400
Miscellaneous				
TOTAL OPERATING	\$400	\$400		\$400

FUNDING SOURCE		(Thousands of Dollars)		
1002	Federal Receipts	\$200	\$200	\$200
1003	General Fund Match	\$200	\$200	\$200
1004	General Fund			
1005	General Fund/Program			

POSITIONS			
Full-time			
Part-time			
Temporary			

CHANGE IN REVENUES			

Date: 3.26.19

Prepared by: 
Erin Narus, Lead Pharm, Pharm & Ancil. Service Mgr
DHCS/DHSS
 Telephone No.: (907) 334-2425