



For Immediate Release

ASHNHA and State reach settlement over cost containment regulations

October 2, 2019 (Anchorage, AK) – The Department of Health and Social Services (DHSS) and Alaska State Hospital and Nursing Home Association (ASHNHA) have settled the pending litigation related to cost containment regulations. The regulations sought to reduce Medicaid reimbursement rates for certain providers for fiscal year 2020.

The regulations were originally filed as emergency regulations that DHSS intended to make permanent. Emergency regulations can be adopted and implemented prior to any public notice and comment process, but can only become permanent if the process is followed. ASHNHA filed a lawsuit challenging both the emergency and permanent regulations. A preliminary order from the court indicated the judge was inclined to agree with ASHNHA on its challenge to the emergency regulations but not on the permanent regulations. In light of where the court seemed to be headed and to avoid unnecessary litigation, the parties met and were able to reach agreement.

“I think this is a fair result for both parties,” said Commissioner Adam Crum, Department of Health and Social Services. “Instead of spending more time in a court room, both sides sat down to see if there was a path forward. This settlement provides the process ASHNHA feels providers need, while also recognizing the current finances of the State.”

“We appreciate the state’s good faith efforts to resolve this lawsuit,” said ASHNHA CEO Becky Hultberg. “Because of the complexity of health care, it is important to ensure adequate public process when the state makes difficult decisions about health care coverage, access or reimbursement. This settlement recognizes the importance of that public process, while ultimately enacting the rate cut planned by the state.”

This settlement will allow Medicaid providers who were affected by the emergency regulations to request a settlement payment. Providers will be notified via the weekly remittance advice regarding how to request a settlement. This remittance advice will go out within five days of the court signing off on the settlement agreement.

This settlement relates only to the emergency regulations. DHSS will continue the process of making the regulations permanent as of Oct. 1, 2019, with an exception of Oct. 31 for physicians mental health clinic providers, at which point these cost containment measures will be effective for the remainder for the fiscal year.

The parties’ settlement is in the spirit of compromise and the mutual desire to avoid future litigation, and neither party has made any admissions or concessions regarding their respective legal positions taken in the case. The settlement does not impact administrative rights to

challenge permanent regulations. The settlement is a final resolution of the litigation and the court's order approving the settlement will not be subject to appeal.

CONTACT:

For the state: Assistant Attorneys General Stacie Kraly or Lael Harrison at (907) 465-3600

For ASHNHA: Scott Kendall at (907) 274-0666

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Department Media Contact: Senior Assistant Attorney General Cori Mills at (907) 465-2132 or cori.mills@alaska.gov.