

Final Settlement Agreement and Reimbursement Procedures

Updated October 22, 2019

FAQs

What was this case about?

On June 28, 2019, the state Department of Health and Social Services implemented an emergency cost containment regulation, intended to become permanent, reducing Medicaid reimbursement rates for many but not all Medicaid providers for fiscal year 2020 (July 1, 2019 through June 30, 2020). An emergency regulation may be implemented without prior notice and comment, but becomes permanent only after notice and comment. An emergency regulation expires after 120 days if not made permanent.

Alaska State Hospital and Nursing Home Association v. State of Alaska, Department of Health and Social Services, Case No. 3AN-19-08244CI, was filed in the Superior Court for the State of Alaska, Third Judicial District at Anchorage by Plaintiff Alaska State Hospital and Nursing Home Association (“ASHNHA”). ASHNHA is an Alaska non-profit corporation whose members are Alaska hospitals and nursing homes. The lawsuit requested that the court strike down both the emergency and permanent regulations as inconsistent with state law, federal law, and the Alaska constitution. ASHNHA also requested a preliminary injunction prohibiting the Department of Health and Social Services from implementing the emergency or permanent regulations while the lawsuit was pending.

Has a settlement been reached?

Yes, the Department of Health and Social Services and ASHNHA have settled the pending litigation related to cost containment regulations. This settlement will allow Medicaid providers who were affected by the emergency regulations to request a settlement payment but will allow the permanent regulation process to go forward.

How will providers be notified?

Providers will be notified via the weekly remittance advice (RA) issued the week of October 7. This RA regarding how to request a settlement.

Will the emergency regulations be made permanent?

Yes, the Department the regulations have been filed with the Lt. Governor’s office which means they are permanent as of October 1, 2019, with the exception of physician mental health clinic providers, will be effective October 31, 2019. Once the regulation are permanent they will be applied to provider rates for the fiscal year.

What are the reimbursement procedures to receive a Settlement Payment?

Only claims submitted to MMIS by December 1, 2019 and paid within the next billing cycle will be used to calculate the settlement payment. Any claims for the relevant time period with errors that have not been resolved by December 1, 2019 will be excluded. Providers must also submit the required Emergency Cost Containment Reimbursement Adjustment Request form indicating you intend to request a Settlement Payment by November 1, 2019.

Where do I find the Emergency Cost Containment Reimbursement Form?

The Emergency Cost Containment Reimbursement Form can be found at:

- On Enterprise home page: www.medicaidalaska.com
- On the DHCS home page: <http://dhcs.alaska.gov/dhcs/pages/default.aspx>

What is the deadline for submitting the Emergency Cost Containment Reimbursement Form?

The deadline for submittal is on or before November 1, 2019. Failure to submit the form by the deadline means the Provider has waived any right to a Settlement Payment.

Where do I send the form?

- a. ASHNHA members must submit their form to the ASHNHA mailbox (info@ashnha.com).
- b. Other Providers must submit their forms to the HIT mailbox (hss.hitinfo@alaska.gov) and use the subject line "Settlement".

What other documentation is required?

Only claims submitted to MMIS by December 1, 2019 and paid within the next billing cycle will be used to calculate the settlement payment. Any claims for the relevant time period with errors that have not been resolved by December 1, 2019 will be excluded.

What was the Settlement Payment based upon?

The Settlement Payment will be based upon a Providers' total impacted paid claims for services during the relevant period and is dependent on a number of factors:

- For all Providers, except mental health physician clinic services, claims will be evaluated to add back in the reduction and inflationary freeze between July 1, 2019 and August 1, 2019 (depending on when the emergency regulation rates went into effect) through September 30, 2019.
- For mental health physician clinic services, claims will be evaluated to add back in the reduction and inflationary freeze July 1, 2019 through October 30, 2019.
- Only claims submitted to MMIS by December 1, 2019 and paid within the next billing cycle will be used to calculate the settlement payment. Any claims for the relevant time period with errors that have not been resolved by December 1, 2019 will be excluded.

Can Inpatient providers submit interim claims?

Yes.

What if I submitted the Emergency Cost Containment Reimbursement Form but did not submit my claims prior to December 1, 2019?

Then you will not receive a settlement payment because the multiplier for your settlement payment will be \$0.

How is the Settlement Payment calculated?

Once all impacted claims have been submitted and paid, the Settlement Payment will be calculated by the department using one of the following formulas:

- $(\text{Total paid claims amount during applicable time period} * 5\%) + (\text{Total paid claims amount during applicable time period} * (\text{applicable inflation rate}))$
- $\text{Total paid claims during applicable time period} * (\text{applicable inflation rate})$

What happens if there are errors in the claims that I bill by December 1?

Claims submitted with billing errors that result in suspended or denied status that have not been resolved by December 1, 2019 will be excluded and are not eligible for reimbursement adjustment.

When will I receive my Settlement Payment?

The department will make Settlement Payments as soon as possible but no later than April 1, 2020.

What if I do not agree with the Settlement Payment amount?

If the Provider believes that the total aggregate Settlement Payment of paid claims was wrong by a factor of more than 20%, the Provider has 10 calendar days from the date of receipt of the Settlement Payment to contact the department at hss.hitinfo@alaska.gov using the subject line "Settlement" and provide evidence that the Settlement Payment by the department was incorrect. If reconsideration is sought, the provider has the burden of demonstrating that the department paid claims amount is incorrect.

I submitted paid claims in the amount of \$1,200, but only received a Settlement Payment for 1,000. Can I seek reconsideration?

No, as the factor was not more than 20% and therefore reconsideration is not available.

I'm a skilled nursing facility, and my reimbursement rates went down by 3%, can I request a settlement payment?

No, the 3% reduction to skilled nursing facilities are based upon the Upper Payment Limit (UPL) and is not part of this litigation and this settlement is unrelated to that reduction.

My reimbursement rates didn't go down over the summer, can I request a settlement payment?

Many provider types were exempted from the emergency regulations, so their reimbursement rates stayed the same or increased. If your rates were not reduced, you are not eligible for settlement payment. The complete list of unaffected providers can be found in chart #5 below.

Some of my reimbursement rates went down over the summer, but others didn't. Can I request a settlement payment?

Depending on your provider type, there are a number of categories of providers who may be eligible for a settlement payment. Some providers received a rate reduction, some had an increase in inflation, and some were not affected by the emergency regulations. Please refer to the charts below on which provider types are eligible and how either rate reductions or inflation affected each service.

I am a provider who submits claims under multiple provider types? Can I request a settlement payment?

Some providers or facilities bill claims under multiple providers types. These providers are eligible for a settlement payment only on claims billed under provider types impacted by the emergency regulation. If you request a settlement payment, it will be based on your paid claims under an affected provider type, not all your paid claims.

I'm a Home and Community Based Waiver service provider, and my reimbursement rates didn't go down this summer, but they're going down this fall. Can I request a settlement payment?

No, this settlement is unrelated to that rate reduction. Please refer to the charts below on which provider types are eligible and how either rate reductions or inflation affected each service. Home and Community Based Waiver services are not listed in the Medicaid State Plan, and instead receive their federal approval through the waiver process and additional regulation packages related to rate cuts for Home and Community Based Waivers will be released concurrently with an amendment to the governing 1915 waiver.

I am a Long Term Services Supports Targeted Case Management or Personal Care services provider. Can I request a settlement payment?

Yes, Long Term Services Supports Targeted Case Management and Personal Care services are state plan services and did receive the rate reduction and inflation freeze as part of this regulation. Please refer to the charts below on which provider types are eligible and how either rate reductions or inflation affected each service.

Normally I have one year after providing a service in which to make a claim. But the reimbursement form says I have to submit all claims for July 1-September 30 by December 1. What's correct?

Although your claims will be paid as usual if billed within one year of service, you may only request a settlement payment based on paid claims for July 1 – September 30 that are submitted by December 1. Time limits for filing claims normally are within 365 days of the first date of service in order to be accepted for processing for payment, however, these timely filing rules do not apply to this settlement agreement.

Who can I call regarding questions to the settlement terms or calculations?

Questions regarding the settlement terms or calculations can be directed to:

- ASHNHA members may contact the ASHNHA office.
- Other Providers may contact hss.hitinfo@alaska.gov using the subject line "Settlement".

Are tribal hospitals, clinics, and other tribal health organizations eligible for a settlement adjustment for services whose reimbursement rates were cut?

Yes. For any service paid under a rate that was cut, tribal health organizations are eligible for a settlement adjustment. Many tribal health services are reimbursed at encounter rates that were not cut (inpatient and outpatient hospital services, clinic services, and community health aide services), but not all tribal health services are reimbursed under those rates. For example, tribal outpatient surgeries are reimbursed at Ambulatory Surgical Center Rates, and physician/ practitioner services furnished to tribal hospital inpatients and to Alaska Native Medical Center outpatients are reimbursed under the physician fee schedule.

Are hospitals and other providers eligible for a settlement adjustment on claims assigned to them by physicians and other practitioners whose rates were cut?

Yes, an assignee that uses the current form will be considered to be an "authorized representative with signatory authority to request reimbursement adjustment." In the tribal health system, physicians and other practitioners typically assign their Medicaid reimbursement claim to the tribal health organization that employs or contracts with them, or that operates the health care facility where the service is furnished, and the tribal health organization bills and is paid by Medicaid for those services.

I am a hospital that bills Medicaid for physician services through clinics. Can I submit an Emergency Cost Containment Reimbursement Form under one clinic location ID number or does a form for each physician with the individual Medicaid ID number be required under which they bill for services?

Yes, you can submit one form under the Clinic ID number. This should be the clinic billing ID number.

We are a multispecialty group. Do we need to submit an Emergency Cost Containment Reimbursement Form under our group ID number or must we submit one for each provider?

Yes, you can submit one form under the group ID number. This should be the group billing ID number.

Which providers are eligible for a Settlement Payment?

Essentially, providers whose rates were reduced by the emergency regulation are eligible. These providers will be eligible for a settlement payment that is a multiplier of their paid claims while the emergency regulations were in effect. The following are the categories of provider types who may be eligible for a settlement payment:

1. These provider types will be eligible for a settlement payment of 5% of paid claims between 7/1/19 and 9/30/19 (these services do not receive inflation from Alaska Medicaid):

| Provider Type | Provider Specialty |
|--|--|
| 003 - RPTC | Only in-state, out of state was unaffected |
| 058 - Private Duty Nursing Agency | All |
| 082 - Ground Ambulance Service | All |
| 086 - Wheelchair Van Services | All |
| 087 - Prematernal Home | All |
| 088 - Hotel/Motel with Restaurant | All |
| 089 - Hotel/Motel without Restaurant | All |
| 097 - Free Standing Birthing Center | All |
| 102 - Air Ambulance | All |
| 123 - Board Certified Behavior Analyst | All |
| 125 - Autism Behavior Technician | All |

2. These provider types will be eligible for a settlement payment of inflation on paid claims between 7/1/19 and 10/4/19:

| Provider Type | Provider Specialty |
|--|---|
| 047 - Home Community Based Agency | All |
| 048 - Residential Supported Living Arrangement | All |
| 057 - Targeted Case Management | 073 - Infant Learning Program |
| 061 - Care Coordination Agency | <p>Note - some care coordination codes that are under Long Term Care Services and Supports Targeted Case Management (LTSS), which is a state plan service, were cut 5% and had inflation frozen. Other waiver care coordination services are waiver services that just had inflation froze. It is done based on procedure code, not provider type and/or provider specialty code.</p> |
| 068 - Care Coordinator | <p>Note - some care coordination codes that are under Long Term Care Services and Supports Targeted Case Management (LTSS), which is a state plan service, were cut 5% and had inflation frozen. Other waiver care coordination services are waiver services that just had inflation froze. It is done based on procedure code, not provider type and/or provider specialty code.</p> |

3. These provider types will be eligible for a settlement payment of 5% plus inflation (inflation varies by provider type) of paid claims between 7/1/19 and 9/30/19. (Note: Mental Health Physician Clinic services billed under provider type 107, will be eligible for a settlement payment of 5% plus inflation of paid claims between 7/1/19 and 10/30/19):

| Provider Type | Provider Specialty |
|--------------------------------------|---|
| 001 - General Hospital | 050 - Small Hospital |
| | 051 - Sole Community hospital |
| | 119 - Administrative Wait bed |
| | 143 - Children's Hospital |
| | 144 - General Hospital |
| | 145 - Administrative Wait Specialized |
| | {blank} |
| 002 - Inpatient Psychiatric Hospital | All |
| 061 - Care Coordination Agency | Note - some care coordination codes that are under Long Term Care Services and Supports Targeted Case Management (LTSS), which is a state plan service, were cut 5% and had inflation frozen. Other waiver care coordination services are waiver services that just had inflation froze. It is done based on procedure code, not provider type and/or provider speciality code. |
| 062 - Ambulatory Surgical Center | All |
| 068 - Care Coordinator | Note - some care coordination codes that are under Long Term Care Services and Supports Targeted Case Management (LTSS), which is a state plan service, were cut 5% and had inflation frozen. Other waiver care coordination services are waiver services that just had inflation froze. It is done based on procedure code, not provider type and/or provider speciality code. |
| 094 - Personal Care Assistant | All |
| 095 - Personal Care Agency | All |
| 107 - Behavioral Health | All |

4. These provider types will be eligible for a settlement payment of inflation on paid claims between 7/1/19 and 8/1/19:

| Provider Type | Provider Specialty |
|---------------------------------|---------------------------------|
| 020 - Physician (MD) | 001 - General Practice |
| | 008 - Family Practice |
| | 009 - Gynecology |
| | 016 - Obstetrics and Gynecology |
| | 049 - Pediatrics |
| | 054 - Obstetrics |
| 021 - Health Professional Group | 008 - Family Practice |
| 034 - Advance Practice PRN | 008 - Family Practice |
| | 016 - Obstetrics and Gynecology |
| | 049 - Pediatrics |
| | 125 - Adult Health |
| | 126 - Nurse Midwife |
| | 127 - Women's Health/OB-GYN |
| | 128 - Family Health |
| 129 - Pediatric | |
| 130 - Gerontological | |
| 046 - Direct Entry Midwife | 126 - Nurse Midwife |
| 050 - School Based Services | {blank} |
| | {blank} |

5. These provider types will be eligible for a settlement payment of inflation on paid claims between 7/1/19 and 8/1/19, and 5% plus inflation on paid claims between 8/1/19 and 9/30/19:

| Provider Type | Provider Specialty |
|---|---|
| 020 - Physician (MD) | 002 - General Surgery |
| | 003 - Allergy |
| | 004 - Otolaryngology, Rhinology |
| | 005 - Anesthesiology |
| | 006 - Cardiovascular Disease |
| | 007 - Dermatology |
| | 010 - Gastroenterology |
| | 011 - Internal Medicine |
| | 012 - Manipulative Therapy |
| | 013 - Neurology |
| | 014 - Neurological Surgery |
| | 017 - Otolaryngology, Rhino, Ophthalmology |
| | 018 - Ophthalmology |
| | 020 - Orthopedic Surgery |
| | 021 - Pathologic Anatomy; Clinical Pathology |
| | 022 - Pathology |
| | 023 - Peripheral Vascular Diseases Or Surgery |
| | 024 - Plastic Surgery |
| | 025 - Physical Medicine And Rehabilitation |
| | 026 - Psychiatry - Psychology |
| 027 - Psychiatry - Neurology | |
| 020 - Physician (MD) | 029 - Pulmonary Diseases |
| | 030 - Radiology |
| | 032 - Radiation Therapy |
| | 033 - Thoracic Surgery |
| | 034 - Urology |
| | 036 - Nuclear Medicine |
| | 038 - Neonatology |
| | 039 - Nephrology |
| | 040 - Hand Surgery |
| | 041 - Pediatric Cardiology |
| | 042 - Pediatric Surgery |
| | 043 - Allergy Pediatric |
| | 045 - Hematology |
| | 046 - Oncology |
| | 061 - Oral and Maxillofacial Surgeon |
| | 093 - Emergency Medicine |
| (blank) | |
| 021 - Health Professional Group | 005 - Anesthesiology |
| | 030 - Radiology |
| | 200 - NO SPECIALTY |
| (blank) | |
| 025 - Chiropractor | All |
| 030 - Dentist | All |
| 033 - Physician Assistant | 094 - Medical |
| | 095 - Surgery |
| | 200 - NO SPECIALTY |
| | (blank) |
| 034 - Advance Practice PRN | 026 - Psychiatry - Psychology |
| | 046 - Oncology |
| | 122 - Acute Care/Emergency |
| | 123 - Neonatal |
| | 124 - Family Psychiatric/Mental Health |
| | 131 - Adult Psychiatric/Mental Health |
| (blank) | |
| 035 - Optometrist | All |
| 036 - Podiatrist | All |
| 039 - Physical | All |
| 040 - Speech | All |
| 041 - Occupational | All |
| 042 - Psychologist | All |
| 043 - Audiologist | All |
| 045 - Outpatient Occ, Speech, and PT center | All |
| 063 - Licensed Practical Nurse | All |
| 064 - Registered Nurse | All |
| 075 - Optician | All |
| 081 - Radiology Provider | All |
| 117 - CRNA | All |

6. These provider types will not be eligible for any settlement payment because the emergency regulations did not reduce their rates:

| Provider Type | Provider Specialty |
|---|---|
| 001 - General Hospital | 052 - Critical Access 118 - Swing Bed |
| 005 - Tribal Hospital | All |
| 008 - Tribal Clinic | All |
| 010 - SNF/ICF Facility | Affected by UPL issue, not by regulations |
| 028 - Intermed Care Facility Mentally Retarded | All |
| 044 - Hearing Aid Supplier | All |
| 049 - Environmental Modifications | All |
| 051 - Federally Qualified Health Center | All |
| 052 - Public Health Services | All |
| 053 - Behavioral Health Aide-Practitioner | All |
| 054 - Family Planning Clinic | All |
| 055 - Community Health Aide/Practitioner | All |
| 057 - Targeted Case Management | 072 - Tribal |
| 059 - Hospice | All |
| 060 - Home Health Agency | All |
| 065 - Pub Hlth Nurse | All |
| 066 - EPSDT Screeners | All |
| 070 - Pharmacy | All |
| 071 - Prosthetic & Orthotic Supplier | All |
| 072 - Respiratory Therapist | All |
| 074 - Vision Contractor | All |
| 076 - Medical Supplier | All |
| 078 - Home Infusion Therapy | All |
| 080 - Independent Laboratory | All |
| 083 - Taxi | All |
| 084 - Travel Agency or Business | All |
| 090 - Travel Business/Broker | All |
| 100 - Other Transportation | All |
| 105 - Licensed Clinical Social Worker | All |
| 108 - Behavioral Rehabilitation Services Center | All |
| 110 - Dental Health Aide Therapist | All |
| 112 - ESRD Free Standing or Indep Facility | All |
| 114 - Nutritionist | All |
| 116 - Dietician | All |