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Bristol Bay Area Health Corporation is a tribal organization representing 28 villages in Southwest Alaska:

- Aleknagik
- Chignik Bay
- Chignik Lagoon
- Chignik Lake
- Clark's Point
- Dillingham
- Egegik
- Ekuk
- Ekwok
- Goodnews Bay
- Ivanof Bay
- Kanatak
- King Salmon
- Knugank
- Koliganek
- Levelock
- Manokotak
- Naknek
- New Stuyahok
- Perryville
- Pilot Point
- Platinum
- Port Heiden
- Portage Creek
- South Naknek
- Togiak
- Twin Hills
- Ugashik

Our Mission: We to provide quality health care with competence, compassion, and sensitivity.

March 15, 2021

Courtney O'Byrne King
 Medicaid State Plan Coordinator
 Alaska Department of Health & Social Services
 3601 C Street, Suite 902
 Anchorage, AK 99503
 Via Email: Courtney.King@alaska.gov

RE: Proposed Medicaid State Plan Amendment on Adult Dental Services and Denture Services

Dear Ms. King,

The Bristol Bay Area Health Corporation (BBAHC) is writing to provide comment on the proposed Medicaid State Plan Amendment (SPA) which seeks to change language for Adult Dental Services and Denture Services in the Alaska Medicaid State Plan (AK MSP). Below we offer feedback and recommendations to reduce the adverse impacts to Alaska Native and American Indian (AN/AI) Medicaid beneficiaries who access dental services.

BBAHC is a consortium of 28 Alaska Native Tribes in Southwestern Alaska. The corporation oversees 21 village-based clinics and operates the Kanakanak Hospital, a Critical Access Hospital accredited by the Joint Commission.

Firstly, we would like to thank the Department for the removal of prior authorization requirements for adult enhanced and emergency dental services that fall underneath the financial cap for these services, and for clarifying that the limit may be exceeded with prior authorization of the Department. We believe that this will help better deliver care in a timely fashion for patients while reducing provider burdens.

1. **Reference to Services in Applicable Fee Schedules** – Our greatest concern is that the proposed SPA would utilize referenced Fee Schedules not only to specify payment rates for covered services, but also to identify what dental services are covered and excluded from coverage. As we understand it, the intention is to make it easier for the Department to make future changes to the Medicaid dental program. By referencing external fee schedules, rather than including this information in the State Plan itself, the Department hopes to be able to make future changes to the Dental program simply by amending the fee schedules, without having to also amend the State Plan. That is, the Department hopes that

such future changes could be made without undergoing CMS review or engaging in Tribal consultation.

We strenuously object. We acknowledge and appreciate the strong and collaborative relationship we have recently enjoyed with the Department. But we also recognize, and must carefully protect, the foundation on which that relationship has been built: the State's legal obligation to engage in meaningful consultation with the Alaska Tribal Health System. We must oppose the proposed use of fee schedules here, and any other device that has the potential to insulate important proposed changes from Tribal Consultation and CMS scrutiny.

The State's Tribal Consultation Policy, which is part of the State Plan itself and binding on the Department, declares that the Department will "solicit advice, review, and seek clarification" through Tribal Consultation to ensure that Tribal providers "are included in the decision making prior to changes in programs that are likely to have a direct effect on Alaska Natives or American Indians (AI/ANs), the tribal health programs, or IHS," and clarifies that this includes changes that would "reduce payment rates ... or covered services."¹ Utilizing fee schedules to implement such changes outside the State Plan and without Tribal Consultation would violate that policy and improperly evade the commands of CMS's Tribal Consultation Policy, Section 5006(e) of the American Recovery and Reinvestment Act (ARRA), Section 1902(a)(73) of the Social Security Act, as well as 42 CFR 430.12, which requires State Plans to provide that they will be "amended whenever necessary to reflect ... Material changes in State ... policy, or in the State's operation of the Medicaid program."

Recommendation: We strongly recommend removing the proposed (a)² under the excluded services.

- 2. Behavioral Management for Adults** – The exclusion of behavioral management for adults in dental services will have an adverse impact on our developmentally disabled adult patients seen in the Alaska Tribal Health System. This coverage is critical for delivery of appropriate dental services to disabled adult patients. Without the ability to provide this service and be reimbursed, we believe it will become incredibly difficult to provide the necessary dental care to this small but vulnerable

¹ Alaska Medicaid State Plan, Sec 1.4, pg 9.
(http://dhss.alaska.gov/Commissioner/Documents/medicaidstateplan/PDF_SP/MSP/Sec_1-4.pdf)

² Proposed Language: "(a) dental services not identified in the following dental fee schedules: Emergent, Enhanced, and Prosthodontic;"

population. Excluding the services would effectively make other covered services inaccessible to disabled adults and may thus violate the State's obligations under the federal Americans with Disabilities Act (P.L. 101-336) and the Rehabilitation Act (P.L. 93-112).

Recommendation: We recommend that the Department remove behavioral health management from the list of excluded services at proposed (b), and to continue providing this service.

- 3. Pulp capping** – Pulp capping is vital pulp therapy and has a high success rate in immature permanent teeth. This is a technique used for adults in attempt to avoid root canal therapy. Pulp capping is a conservative step that allows dentists the time to develop comprehensive plans or initiate a referral to an endodontist and avoid an extraction if there is a delay in treatment due to rural location of a patient. This coverage is particularly useful in developing treatment plans for young patients. The loss of this service will be particularly felt in rural Alaska where dental providers are often only quarterly or biannual visiting providers, and time between visits can be as long as several months to perform needed dental work.

Recommendation: We recommend the Department remove proposed (c) from the list of excluded services, and to continue allowing for the appropriate use of pulp capping.

- 4. Immediate, interim, and temporary dentures** – In rural Alaska, the use of interim and/or temporary dentures is a high priority for adults that suffer traumatic loss of anterior teeth. In addition to aesthetics, failure to maintain space when a tooth has been lost or had to be extracted (due to decay for example) can make future restorable plans challenging or impossible. For those adults that live in rural locations, the fabrication of interim prosthetics while a person waits for a more permanent solution to be planned and created, ultimately represents a cost-avoidance.

Recommendation: We recommend the Department remove proposed (m) from the list of excluded services, and to continue allowing for the appropriate use of immediate, interim, and temporary dentures.

- 5. Space maintainers** – In rural Alaska, the use of space maintainers is a high priority for saving the adult teeth coming into dentition. If we do not save that space because a tooth has been lost or had to be extracted, we run the risk of malformation or any malocclusion that may occur due to misalignment of the remaining teeth. Space maintainers allow dentists to retain the gap while more permanent solutions are planned and

created, this ultimately represents a cost-avoidance because additional orthodontic care can be avoided when this treatment modality is used.

Recommendation: We recommend the Department remove proposed (p) from the list of excluded services, and to continue allowing for the appropriate use of space maintainers.

Finally, while we understand that this proposed SPA is limited to Adult Enhanced and Emergent Dental Services and Denture Services, we must offer that the proposed changes to Children's Dental Services not included in this SPA process due to the coverage of Children's Dental Services as part of the Early Periodic Screening, Diagnosis and Treatment (EPSDT) requirements of Medicaid (AK MSP, Attached Sheets to Attachment 3.1-A, No. 4(b)(5), pg. 1a) will impact Adult Dental Services. The regulatory proposals to add prior authorizations for certain services including for crowns, extractions, and removal of impacted teeth along with the proposed exclusion of space maintainers and pulp capping for children will make the delivery of critical dental care to children in rural and remote Alaska almost prohibitively difficult. This will create additional administrative burdens that ultimately create barriers for children to receive care.

Our dental providers often only visit rural locations on a quarterly or biannual basis, often seeing children in school settings. Being able to deliver the dental care children need when they are seen without the additional burden of receiving prior authorization and scheduling multiple visits and travel will reduce access to care for our children. In most cases, this will increase the need and incidence of required medical travel for patients and parents, it will also increase the amount of time children may suffer with decayed teeth before getting appropriate care. Finally, and most importantly, we know that the number one predictor for caries in the adult dentition is caries in the primary dentition. Thus, increasing barriers to effectively treating the primary dentition will mean more young adults presenting with malformations and decayed teeth which ultimately will drive up the costs of adult dental care and other related health care costs associated with poor oral health.³ We also believe that Tribal Consultation is required before the Department decides upon these changes to Children's Dental Services. As with the Department's proposed use of fee schedules, the Department may not rely on the mandates of EPSDT coverage to avoid Tribal Consultation or CMS scrutiny of proposed material changes to mandatory services for children.

³ Mayo Clinic. "Oral Health: A window to your overall health."
(<https://www.mayoclinic.org/healthy-lifestyle/adult-health/in-depth/dental/art-20047475>)

Recommendation: We urge the Department to promptly engage with us in Tribal Consultation on the proposed changes to children's services, and to withdraw the proposed regulations until that process is underway.

We appreciate the opportunity to provide these recommendations on the proposed SPA, and should you have any comments or questions regarding our recommendations, please contact, Robert J. Clark – 907-842-5201 or email at rclark@bbahc.org.

Sincerely,

BRISTOL BAY AREA HEALTH CORPORATION

A handwritten signature in blue ink, appearing to read "Robert J. Clark".

Robert J. Clark
President/Chief Executive Officer