



**Anchorage**

3601 C Street, Suite 902  
Anchorage, Alaska 99503-5923  
Main: 907.269.7800  
Fax: 907.269.0060

**Juneau**

350 Main Street, Suite 404  
Juneau, Alaska 99801  
Main: 907.465.3030  
Fax: 907.465.3068

This consultation letter is withdrawn to allow the state to evaluate alternative compliance mechanisms for impacted services.

A new letter will be distributed once this process is complete.

December 27, 2021

Dear Tribal Health Leaders

On behalf of the Department of Health and Social Services (the department) and in keeping with the responsibility to conduct tribal consultation, I am writing to inform you of a proposed Medicaid state plan amendment (SPA) with a requested effective date of April 1, 2022.

**Purpose and content of the proposed amendment:**

The department proposes to submit a SPA revising section 4.22-B – *Requirements for Third-Party Liability, Payment of Claims* – to comply with requirements in the Bipartisan Budget Act (BBA) of 2018 and the Medicaid Services Investment and Accountability Act (MSIAA) of 2019 as required by the federal government.

To align with the BBA of 2018, the proposed SPA revises the existing state plan language to reflect the use of standard coordination of benefits cost avoidance, instead of “pay and chase,” when processing claims for all benefits except pediatric preventive services. The BBA of 2018 requires that states make payments for pediatric preventive services without regard to potential third-party liability (TPL) unless a state makes a determination related to cost-effectiveness and access to care that warrants cost avoidance for 90 days. The mandatory revisions stemming from the BBA of 2018 change how providers experience the TPL process for optical services, transportation and accommodation services, home and community-based services, personal care services, and pregnancy-related services (including prenatal, labor and delivery, and postpartum care) by removing the ability of a state to “pay and chase” these claims. An organization providing services to a Medicaid beneficiary with third-party insurance coverage or liability must submit a claim for reimbursement to that third party before proceeding with any claim to the Medicaid agency or its designee.

Additionally, to align with the MSIAA of 2019, the proposed SPA revises the existing state plan language to reflect the ability to make payments without regard to potential TPL for up to 100-days for claims related to child support enforcement beneficiaries.

**Anticipated impact on Medicaid-eligible Alaska Native/American Indian beneficiaries:**

The department does not anticipate the proposed SPA directly impacting Alaska Native/American Indian Medicaid beneficiaries.

**Anticipated impact on tribal health programs and the Indian Health Service:**

The department anticipates that the proposed SPA will impact tribal health programs. As previously stated, the mandatory revisions in the proposed SPA impact how a provider experiences the TPL process for multiple benefit categories. Functionally, this means that, as of April 1, 2022, a tribal health organization providing services to a Medicaid beneficiary with third-party insurance coverage or liability must submit a claim for reimbursement to that third party before proceeding with any claim (including documentation of third party payment or denial of payment)

to the Medicaid agency or its designee, for all services except pediatric preventive services.

Additionally, all Medicaid providers are required to bill liable third parties when providing services to an individual on whose behalf the Title IV-D agency carries out medical support enforcement unless the provider certifies that before billing Medicaid, the provider (1) billed the third-party, (2) waited 100 days from the date of the service provision, and (3) has not received payment from the third-party.

**Mechanism and timeline for comment:**

Written comments or questions regarding the proposed amendment are due no later than January 26, 2022, by 5:00 PM. If seeking an in-person meeting to discuss the proposed changes, please provide a written request within 15-days of the date of this letter. Please direct all written correspondence to Courtney O’Byrne King, Alaska Department of Health and Social Services, 3601 C Street, Suite 902, Anchorage, AK 99503, or [courtney.king@alaska.gov](mailto:courtney.king@alaska.gov).

Sincerely,

/s/

Courtney O’Byrne King, MS  
Medicaid State Plan Coordinator