

# State of Alaska Responses to Comments Received During Tribal Consultation – Proposed State Plan Amendment – Dental Services

## Key to Source Acronyms in Chart:

ANHB                      Alaska Native Health Board  
 BBAHC                     Bristol Bay Area Health Corporation

## Chart of Tribal Comments and State of Alaska Responses

#	Source(s)	Tribal Comment	State Response
1	ANHB BBAHC	<p><b>Topic(s):</b> Reference to Services in Applicable Fee Schedules</p> <p><b>Recommendation(s)/Comment(s):</b></p> <ul style="list-style-type: none"> <li>&gt; We strongly recommend removing the proposed (a)3 under the excluded services.</li> <li>&gt; We strenuously object to the utilization of 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.</li> <li>&gt; 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.</li> <li>&gt; That is, the Department hopes that such future changes could be made without undergoing CMS review or engaging in Tribal consultation.</li> <li>&gt; 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.</li> </ul> <p><b>Rationale(s):</b></p> <ul style="list-style-type: none"> <li>&gt; 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</li> </ul>	<p>The department appreciates tribal comments on this issue and wishes to clearly articulate that its intention with the inclusion of the “applicable fee schedules” language was <u>not</u> to avoid engaging in tribal consultation or undergoing CMS scrutiny. Instead, the state intended to be transparent by including language regarding the long-standing practice that codes not included in the fee schedules would not receive reimbursement through Medicaid.</p> <p>However, as the inclusion of this language does not conform with similar content in other sections of the state plan, this language will be removed from the proposed amendment.</p> <p>The department will, as has been its practice, continue to comply with the letter and spirit of section 5006(e) of the American Recovery and Reinvestment Act (ARRA), section 1902(a)(73) of the Social Security Act, and 42 CFR 430.12.</p>

## State of Alaska Responses to Comments Received During Tribal Consultation – Proposed State Plan Amendment – Dental Services

		<p>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.”</p> <p>&gt; 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.”</p>	
2	ANHB BBAHC	<p><b>Topic(s):</b> Behavior Management for Adults</p> <p><b>Recommendation(s)/Comment(s):</b></p> <p>&gt; We recommend that the Department remove behavioral health management from the list of excluded services at proposed (b), and to continue providing this service.</p> <p><b>Rationale(s):</b></p> <p>&gt; 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.</p> <p>&gt; 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 population.</p> <p>&gt; 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).</p>	<p>The department appreciates tribal comments on this issue and believes it important to note that behavior management for adults has not been reimbursed in the Medicaid program since 2011. However, the state reimburses for other services – such as sedation – to address behavior management issues for adults requiring additional care.</p> <p>Additionally, in response to the next few tribal comments regarding excluded services, the department believes that because tribal health organizations are reimbursed for dental services using the all-inclusive federal encounter rate, the exclusion of behavioral management for adults would not impact the rate of reimbursement. However, the department invites additional clarification from our tribal partners if they do not concur.</p>
3	ANHB BBAHC	<p><b>Topic(s):</b> Pulp Capping</p> <p><b>Recommendation(s)/Comment(s):</b></p>	<p>The department appreciates tribal comments on this issue as they helped to point out an error in the proposed amendment. The proposed amendment failed to delineate between indirect and direct</p>

## State of Alaska Responses to Comments Received During Tribal Consultation – Proposed State Plan Amendment – Dental Services

		<ul style="list-style-type: none"> <li>&gt; We recommend the Department remove proposed (c) from the list of excluded services, and to continue allowing for the appropriate use of pulp capping.</li> </ul> <p><b>Rationale(s):</b></p> <ul style="list-style-type: none"> <li>&gt; 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.</li> <li>&gt; 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.</li> <li>&gt; This coverage is particularly useful in developing treatment plans for young patients.</li> <li>&gt; 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.</li> </ul>	<p>pulp capping. The Alaska Medicaid program has excluded reimbursement for the use of indirect pulp capping since 2017. However, the department considers direct pulp capping as a recognized, necessary, and allowable service in Alaska Medicaid. The state plan amendment will be revised to indicate that only indirect pulp capping is excluded from reimbursement.</p>
4	ANHB BBAHC	<p><b>Topic:</b> Immediate, Interim, and Temporary Dentures</p> <p><b>Recommendation(s)/Comment(s):</b></p> <ul style="list-style-type: none"> <li>&gt; 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.</li> </ul> <p><b>Rationale(s):</b></p> <ul style="list-style-type: none"> <li>&gt; In rural Alaska, the use of interim and/or temporary dentures is a high priority for adults that suffer traumatic loss of anterior teeth.</li> <li>&gt; 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.</li> <li>&gt; For those adults that live in rural locations, the fabrication of interim prosthetics while a person waits for a more permanent</li> </ul>	<p>The department appreciates tribal comments on this issue but believes it important to note that Alaska Medicaid has not reimbursed for this service since 2016. The exclusion of these dentures resulted from recommendations by state dental consultants. Clarification and justification of this decision was published 10/19/2016 through <a href="#">remittance advice messaging</a>.</p>

## State of Alaska Responses to Comments Received During Tribal Consultation – Proposed State Plan Amendment – Dental Services

		<p>solution to be planned and created, ultimately represents a cost avoidance.</p>	
5	ANHB BBAHC	<p><b>Topic:</b> Space Maintainers</p> <p><b>Recommendation(s)/Comment(s):</b></p> <ul style="list-style-type: none"> <li>&gt; We recommend the Department remove proposed (p) from the list of excluded services, and to continue allowing for the appropriate use of space maintainers.</li> </ul> <p><b>Rationale(s):</b></p> <ul style="list-style-type: none"> <li>&gt; 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.</li> <li>&gt; 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.</li> </ul>	<p>The department appreciates tribal comments on this issue but believes it important to note that this service has not been reimbursed by Alaska Medicaid since 2013.</p> <p>The exclusion from Alaska Medicaid of space maintainers for adults 21 years of age and older was in response to recommendations by the American Academy Pediatric Dentistry. Space maintainers are designed for long-term use when a primary tooth is lost prematurely due to trauma or disease. The device preserves space between two teeth until the permanent tooth is fully erupted, which should occur prior to age 21.</p>
6	ANHB BBAHC	<p><b>Topic(s):</b> Children’s Dental Services</p> <p><b>Recommendation(s)/Comment(s):</b></p> <ul style="list-style-type: none"> <li>&gt; 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.</li> </ul> <p><b>Rationale(s):</b></p> <ul style="list-style-type: none"> <li>&gt; 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, Sec. 4(b)(5), pg. 1a) will impact Adult Dental Services.</li> </ul>	<p>The department appreciates tribal comments on this issue and wishes to clearly articulate that its intention with the contents of this SPA was <u>not</u> to avoid engaging in tribal consultation or undergoing CMS scrutiny. The department will, as has been its practice, continue to comply with the letter and spirit of section 5006(e) of the American Recovery and Reinvestment Act (ARRA), section 1902(a)(73) of the Social Security Act, and 42 CFR 430.12.</p> <p>The proposed state plan amendment does not modify children’s dental services. As the tribal commenters are aware, tribal consultation is limited to proposed revisions to the Medicaid state plan and excludes state regulatory issues. However, the department would like to remind tribal commenters of information provided during the in-person (Zoom) meeting. Specifically, that many of the proposed changes are a result of findings from the as yet unpublished 2020 single state audit and recommendations from the Medical Care Advisory Committee – dental subcommittee.</p>

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	<ul style="list-style-type: none"> <li>&gt; 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.</li> <li>&gt; 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.</li> <li>&gt; 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.</li> <li>&gt; 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.</li> </ul>	<p>While regulations are outside the scope of tribal consultation, the department can say that it received feedback during the regulatory public comment period and is reviewing those comments, audit findings, and professional advisory board recommendations to determine whether changes to the proposed regulations are necessary and appropriate as they relate to the functioning of the dental program.</p>
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