



**ALASKA DEPARTMENT OF LABOR
& WORKFORCE DEVELOPMENT**

Workers' Compensation Medical Services Review Committee

Medical Services Review Committee Members

Charles Collins, Chair
Jeff Moore, MD
Mason McCloskey, DC
Mary Ann Foland, MD
Jeff Gilbert
Misty Steed
Pam Scott
Valerie Mittelstead
Susan Kosinski



THE STATE
of **ALASKA**
GOVERNOR MIKE DUNLEAVY

**Department of Labor and
Workforce Development**

Division of Workers' Compensation

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August 11, 2022

Alaska Workers' Compensation Board
P.O. Box 115512
Juneau, AK 99811-5512

Dear Alaska Workers' Compensation Board,

Thank you for your continued service to the great State of Alaska, the commitment of Board member volunteers such as yourselves is an inspiration to the citizens of this State.

The report recommendations will maintain employee access to medical care provided through workers' compensation insurance, while improving workers' compensation medical cost stability and predictability to employers operating in Alaska. Thank you for taking up this important matter at your August 26, 2022, joint Board meeting with the MSRC.

As required by AS 23.30.097(r), I formally approve the conversion factor adjustment recommendations contained in the Medical Services Review Committee (MSRC) Report dated August 11, 2022.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tamika L. Ledbetter".

Dr. Tamika L. Ledbetter
Commissioner

cc: Director Charles Collins

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Objectives

In accordance with Alaska Statute 23.30.097(a):

Fees for medical treatment and services.

(a) All fees and other charges for medical treatment or service are subject to regulation by the board consistent with this section. A fee or other charge for medical treatment or service

(1) rendered in the state may not exceed the lowest of

(A) the usual, customary, and reasonable fees for the treatment or service in the community in which it is rendered, for treatment or service provided on or after December 31, 2010, not to exceed the fees or other charges as specified in the fee schedules established by the medical services review committee and adopted by the board in regulation; the fee schedules must include

(i) a physician fee schedule based on the federal Centers for Medicare and Medicaid Services' resource-based relative value scale;

(ii) an outpatient and ambulatory surgical center fee schedule based on the federal Centers for Medicare and Medicaid Services' ambulatory payment classification; and

(iii) an inpatient hospital fee schedule based on the federal Centers for Medicare and Medicaid Services' Medicare severity diagnosis related group;

(B) the fee or charge for the treatment or service when provided to the general public; or

(C) the fee or charge for the treatment or service negotiated by the provider and the employer under (c) of this section;

(2) rendered in another state may not exceed the fee or charge for a treatment or service set by the workers' compensation statutes of the state where the services are rendered.

Background

The MSRC is composed of

- one member who is a member of the Alaska State Medical Association;
- one member who is a member of the Alaska Chiropractic Society;
- one member who is a member of the Alaska State Hospital and Nursing Home Association;
- one member who is a health care provider, as defined in AS 09.55.560;
- four public members who are not within the definition of "health care provider" in AS 09.55.560; and
- one member who is the designee of the commissioner and who shall serve as chair.

The members are appointed by the Commissioner of Labor and Workforce Development. No terms for the members are set out in statute or regulation - they serve at the will of the Commissioner.

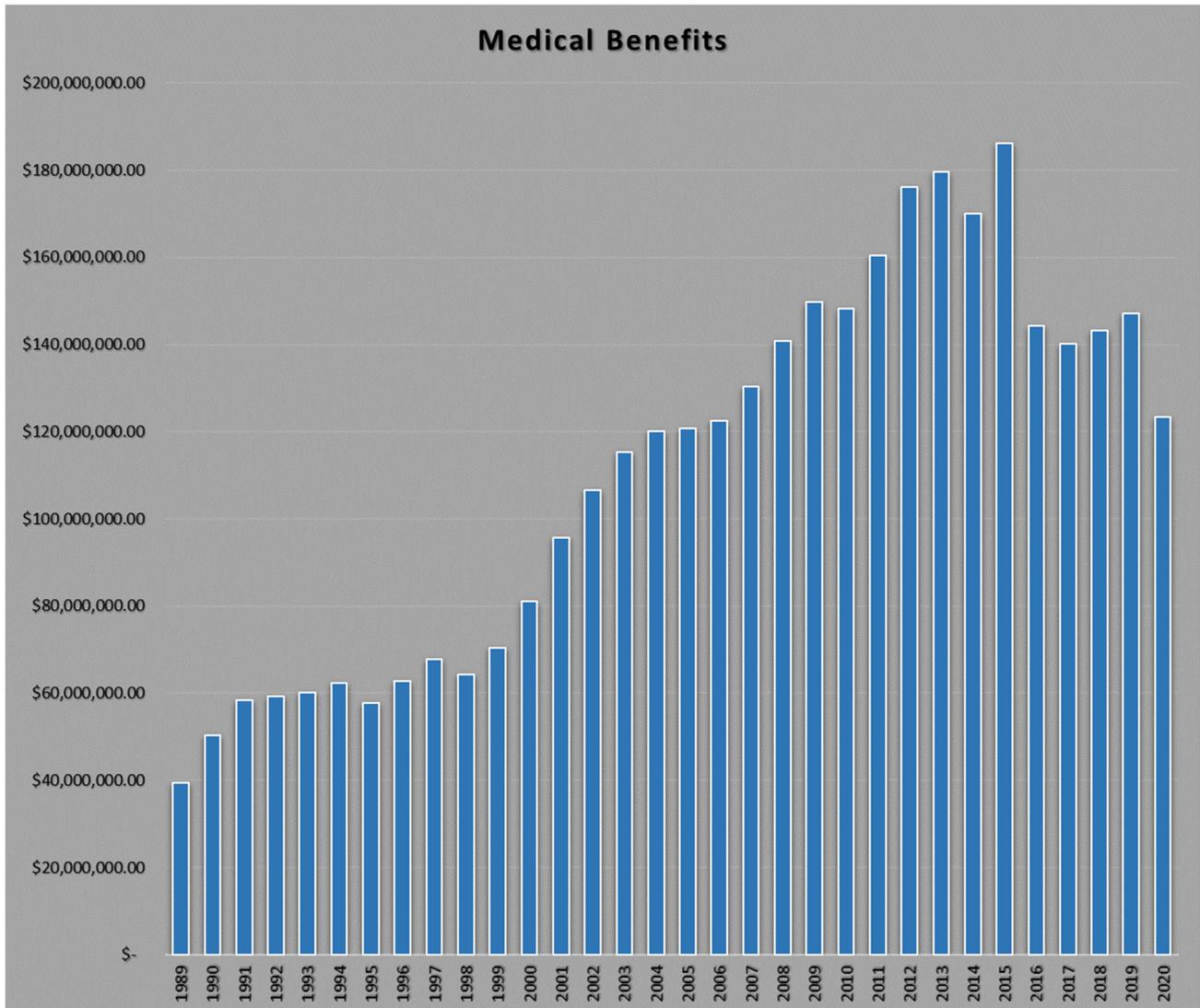
Chairperson	Charles Collins	Director, Division of Workers' Compensation
Alaska State Medical Association	Jeff Moore, MD	Orthopedic Physicians Anchorage, Inc.
Alaska Chiropractic Society	Mason McCloskey, DC	Kanady Chiropractic Center
Alaska State Hospital & Nursing Home Association	Jeff Gilbert	Providence – St. Elias Specialty Hospital
Medical Care Provider	Mary Ann Foland, MD	Primary Care Associates
Lay Member – Industry	Misty Steed	PACBLU
Lay Member – Industry	Pam Scott	Northern Adjusters, Inc.
Lay Member – Labor	Valerie Mittelstead	IBEW

Lay Member –
Industry

Susan Kosinski

ARECA Insurance Exchange

Trend Line for Medical Benefits



Medical spend in Alaska has moderated with the implementation of the RBRVU fee schedule effective in 2016. The calendar year 2020 reflects the effect of a diminished workforce and I expect a return to the trend line moving forward.

The effects forecasted by National Council of Compensation Insurance, (NCCI), the state's actuary was recently shared with the Division.

The impacts from the fee schedule changes in Alaska, effective February 24, 2022, are summarized below.

Type of Service	(A) Impact on Type of Service	(B) Share of Medical Costs	(C) = (A) x (B) Impact on Medical Costs
Physician	-1.8%	44.3%	-0.8%
Hospital Inpatient	+0.5%	10.3%	+0.1%
Hospital Outpatient	+0.4%	14.2%	+0.1%
ASC	+0.4%	11.9%	Negligible ³ Increase
DMEPOS	+1.1%	5.8%	+0.1%
Combined Impact on Medical Costs (D) = Total of (C)			-0.5%
Medical Costs as a Share of Overall Costs (E)			69%
Combined Impact on Overall Costs (F) = (D) x (E)			-0.3%

Refer to the appendix for the weighted-average changes in MARs by physician practice category, the share of costs subject to the fee schedule by type of service, and the weighted-average change in MAR by type of service.

Possible Items to Research for 2023

NCCI doing research in utilization of medical procedures and trends that may have developed. This research will look at utilization of billing codes for the years 2015 through 2020 and compare the data for the committee to use.

Research guidelines for utilization of medical practices of recurring nature, (Physical Therapy, Chiropractic care, etc.). Recent changes at USDOL and CMS have been in response to this issue.

Should the schedule include a section on addiction preventive practice or counseling?

Optum team is working on certain CPT code billing practices for possible adjustment under the fee schedule. This includes investigation into how other jurisdictions are limiting and even placing caps on certain procedure codes. Known CMS changes upcoming and possible adjustments to service pricing and the effect that will have on our Fee Schedule.

Changes in the E & M section at CMS with possible wording changes through the summer of 2022.

Recommendation for 2023 Fee Schedule

1) After researching the medical providers and listening to public comment, the MSRC unanimously voted to leave all conversion factors at the same level for 2023. This reflects a change in recent committee work due to the unknown surrounding supply chain issues, labor shortages and inflationary pressures. The MSRC did decide on a goal for the 2024 fee Schedule of looking closely at the differences in reimbursement in Ambulatory Serve Centers and Hospital outpatient reimbursement.

2) Discussion of medical treatments of continuing and multiple nature were ongoing. The committee had several valid arguments for tightening the language in the fee schedule and made this a priority. Language was added to the medical chapter in the Physical Medicine sub-heading to further guide providers on proper treatment schedules. This language for the 2023 Fee Schedule was limited to the reminder that statutes and regulations must be followed. A paragraph was inserted on page 32 for guidance on this practice. A concern was voiced by committee members that this practice is occasionally circumvented by a treatment plan change that allows the process to start over. A continued monitoring of the practice will be ongoing for the MSRC.

Alaska Statute 23.30.095 Medical treatments, services, and examinations. Paragraph (c):

c) A claim for medical or surgical treatment, or treatment requiring continuing and multiple treatments of a similar nature, is not valid and enforceable against the employer unless, within 14 days following treatment, the physician or health care provider giving the treatment or the employee receiving it furnishes to the employer and the board notice of the injury and treatment, preferably on a form prescribed by the board. The board shall, however, excuse the failure to furnish notice within 14 days when it finds it to be in the interest of justice to do so, and it may, upon application by a party in interest, make an award for the reasonable value of the medical or surgical treatment so obtained by the employee. When a claim is made for a course of treatment requiring continuing and multiple treatments of a similar nature, in addition to the notice, the physician or health care provider shall furnish a written treatment plan if the course of treatment will require more frequent outpatient visits than the standard treatment frequency for the nature and degree of the injury and the type of treatments. The treatment plan shall be furnished to the employee and the employer within 14 days after treatment begins. The treatment plan must include objectives, modalities, frequency of treatments, and reasons for the frequency of treatments. If the treatment plan is not furnished as required under this subsection, neither the employer nor the employee may be required to pay for treatments that exceed the frequency standard. The board shall adopt regulations establishing standards for frequency of treatment.

Alaska Workers' Compensation Laws and Regulations Annotated, Rel. EB21-22E Sec. 23.30.095

Workers' Compensation regulations address the frequency of treatments.

8 AAC 45.086(a)(14):

(14) a treatment plan, including the expected length and nature of treatment, the objectives, modalities, and frequency of treatment, and the justification for the frequency of treatments if the number of treatments

- (A) during the first month exceeds three treatments per week;
- (B) during the second and third months exceeds two treatments per week;
- (C) during the fourth and fifth months exceeds one treatment per week; or
- (D) during the sixth through twelfth months exceeds one treatment per month;

Alaska Workers' Compensation Laws and Regulations Annotated, Rel. EB21-22E 8 AAC 45.086

These "guidelines" for frequency of treatment in both statute and regulation have withstood the judicial test and continue to be the prevailing law. In 1995 the law was challenged by a group of medical providers and the Alaska Supreme Court ruled in favor of Workers' Compensation.

Chiropractors for Justice v State of Alaska and Alaska Workers' Compensation Board S-5648

Stating in part:

Worker's Compensation Act's frequency of treatment statute and corresponding regulation bore a fair and substantial relationship to state's objective of ensuring quick, efficient, fair, and predictable delivery of indemnity and medical benefits to injured workers at a reasonable cost to employers and, therefore, did not violate equal protection. [Const. Art. 1, § 1](#); [AS 23.30.095\(c\)](#); [Alaska Admin.Code title 8, § 45.082\(f, g\)](#).

Ruling by Summary Judgement:

For these reasons, we conclude that the superior court correctly denied summary judgment to CFJ and correctly granted summary judgment to the State upholding [AS 23.30.095\(c\)](#) and [8 AAC 45.082\(f\)](#) and (g). We therefore AFFIRM the judgment of the superior court.

3) Issues with the Inpatient Hospital section were also discussed; upon research it was discovered that the CMS Web Pricer updates occasionally throughout the calendar year. This allows for the estimates Medicare reimbursement amounts to change over the course of the year. As our fee schedule and regulation directs that the "version" in place on January 1 of a given year is the authorized version for the entire period, usually a calendar year, this could pose a conflict. After exhaustive research by our legal team the Division offers this analysis:

Alaska Statute 23.30.097 Fees for medical treatment and services. Paragraph (j)

j) The board shall annually renew and adjust fees on the fee schedules established by the medical services review committee under (a)(1)(A) of this section by a conversion factor established by the medical services review committee and adopted by the board in regulation.

Alaska Workers' Compensation Laws and Regulations Annotated, Rel. EB21-22E Sec. 23.30.097

Workers' Compensation regulation 8 AAC 45.083 Fees for medical treatment and services.

a) A fee or other charge for medical treatment or service may not exceed the maximums in AS 23.30.097. The fee or other charge for medical treatment or service

Alaska Workers' Compensation Laws and Regulations Annotated, Rel. EB21-22E 8 AAC 45.083

The annual fee schedule is adopted by reference in a subparagraph under (a) of this regulation normally adopted by the AWCB in the October annual meeting.

Research of legislative and past AWCB intent pointed to a consistent and easily defined parameter for billing of medical services. Several Alaska Supreme Court decisions have outlined this in case law. Notably:

AIG and VECO v Carriere and Gilmore v AWCB

Both decisions point to a legal "bright line" meeting the directive of 23.30.001 of "quick, efficient, fair, and predictable" provisions in the Act. The notes from Justice Matthews in the "Gilmore" case state this succinctly. Decision S-4765

This simplistic construction may result in a bright line for applying the statutory limitation, and a benefits system with quick, efficient, and predictable results that will not be "a fertile ground for litigation."

Inserted into the Fee Schedule was a recommendation to back date all procedure estimates to January 1, 2023, for an accurate estimate on reimbursement.

4) Telehealth in Alaska, HB 265 was signed into law on July 13, 2022, this bill allows for telehealth practices by licensed medical practitioners in the state of Alaska. This will include medical practice covered under workers compensation as allowed under the new law. Currently the Department of Law and the Workers' Compensation Division are researching to ensure our statutes under the Act and regulations of those statutes do not conflict with this new law.

Sec. 08.01.085. Telehealth. (a) A health care provider licensed in this state may provide health care services within the health care provider's authorized scope of practice to a patient in this state through telehealth without first conducting an in person visit.

An explanation of telehealth as allowed by law will be added to the fee schedule to the definitions area in the introduction. Those codes that allow for telehealth are already addressed in the fee schedule and noted in the CMS guidelines. Certain medical services identified in the Fee Schedule are primarily found in the Evaluation and Management section and are designated by a star ★ icon for audiovisual and with a speaker ► icon for audio only.

Goals for 2024 Alaska Medical Fee Schedule

Continue the work with an overall goal of staying in the 10th to 12th range on the Oregon biannual workers' compensation rating list. The MSRC believes this range when compared to other jurisdictions nationwide is an appropriate goal for the committee.

A more detailed look at the costs and reimbursement in the Ambulatory Surgery Center fees as compared to Hospital Outpatient. Medical services provided at both are very important and the MSRC is committed to understanding the proper reimbursement level. Currently some difference in the costs of like procedures have given rise to concern for employers and their insurance adjusters.

The MSRC will also carefully consider both treatment guidelines and drug formularies at next year's meetings. As the continued concern over "continuing and multiple treatments of a similar nature" a consensus among the committee on the benefits an evidence-based guideline was discussed. The MSRC has asked to be updated on the status of other jurisdictions who have moved to this process. Further work on the subject is proposed for the summer of 2023.

Evidence Based Treatment Guidelines

For reference a screen shot of the ODG platform was sourced as a measure on utilization of procedures requiring a treatment plan.

Back Sprain
Treatment Analyzer on Outcomes (TAO)
Formerly the UR Advisor

Add Claim ID and contact info (for printing/documentation)?

Show 10 entries Search: 97110

Procedure Code	Procedure Name	Procedure Group	Frequency	Median Visits	Avg Visits	Cost Mean	Auth Visit	Payment Flag	TAO Index
97110	Therapeutic pr...	physical medicine and rehabilitation	36.46%	7	14.80	\$805.33	6	👍	25.83

Procedure Code: 97110
Procedure Name: "Therapeutic procedure, 1 or more areas, each 15 minutes; therapeutic exercises to develop strength and endurance, range of motion and flexibility"
Frequency: 36.46%
Visit 50%: 7
Average Visits: 14.80
Authorized Visits: 6
Cost Per Visit: \$54.42

Procedure Type: physical medicine and rehabilitation
Visit 25%: 3
Visit 75%: 17
Cost Mean: \$805.33
Payment Flag: 👍 Evidence-based approval
TAO Index: 25.83

ODG - Treatment

Physical Therapy (PT) for Low Back Conditions

Body system: Low Back
Treatment type: Physical Medicine
Related Topics: See also [Exercise for Low Back Conditions](#).

CPT Codes
97001 (Retired)
97002 (Retired)
97003 (Retired)
97004 (Retired)
97039
97110
97112
97150
97161
97162
97163
97164
97530
97760
97763

CR Conditionally Recommended

Recommended as indicated below. There is strong evidence that physical methods, including exercise and return to normal activities, have the best long-term outcome in employees with low back pain.

ODG Criteria

ODG Physical Therapy Guidelines -
Allow for fading of treatment frequency (from up to 3 or more visits per week to 1 or less), plus active self-directed home PT.

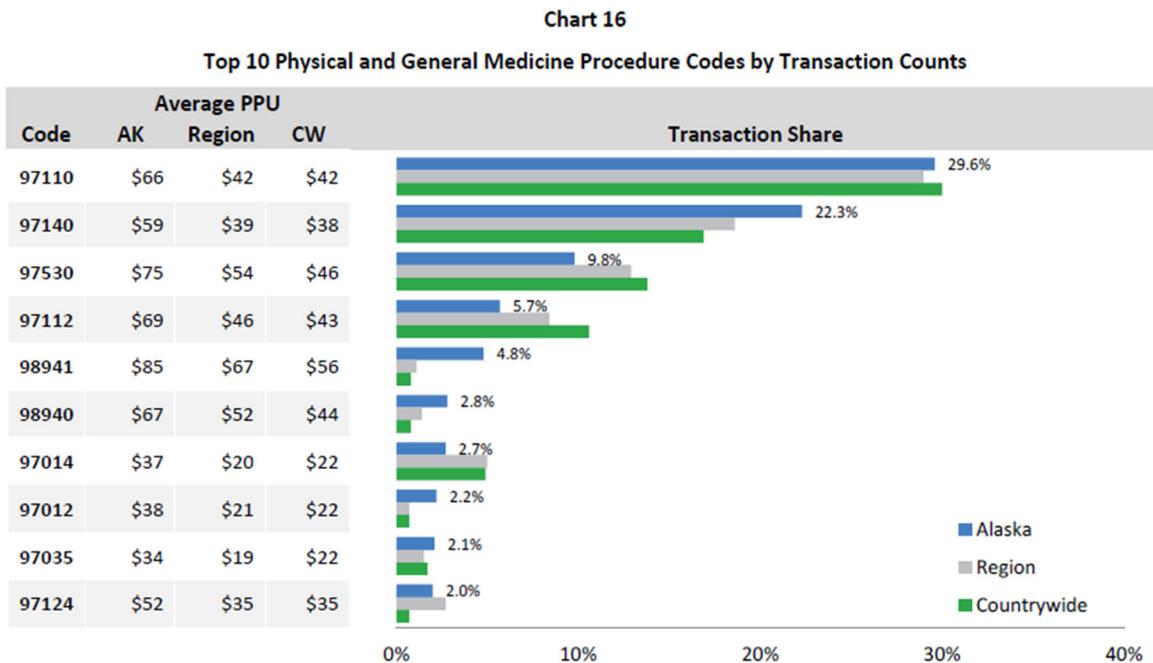
- Lumbar contusion:**
6 visits over 3 weeks
- Lumbar sprains and strains:**
10 visits over 8 weeks
- Sprains and strains of unspecified parts of back:**
10 visits over 5 weeks
- Sprains and strains of sacroiliac region:**
Medical treatment: 10 visits over 8 weeks
- Abnormality of gait:**
8-48 visits over 8-16 weeks (based on specific condition)
- Lumbago; Backache, unspecified:**
9 visits over 8 weeks
- Intervertebral disc disorders without myelopathy:**
Medical treatment: 10 visits over 8 weeks
Post-injection treatment: 1-2 visits over 1 week

ODG provides excellent coverage of PT, OT, and Chiro modalities, and they are among the most heavily referenced guidelines given their prominence in workers' comp. Generally, they are supported by evidence for properly selected patients for a well-defined course of therapy (i.e. number or range of visits as identified by ODG). Unlike the healthcare market where utilization of these services is somewhat self-limiting by co-pays and coinsurance (out of pocket expenses), good, clear, evidence-based guidelines for PT are especially critical in workers' comp. In ODG, they are addressed in both the TAO auto-authorization tool, as well as the treatment guidelines.

Currently twenty-five states have treatment guidelines, these fall into two categories, state specific, which use some information from known evidence-based treatments and some state specific guides and the second is a mix of commercially offered guidelines. The MSRC recommends considering evidence-based treatment guidelines in Alaska for improving outcomes for all claimant parties.

Alaska Utilization Performance

The following chart shows the top codes for utilization from the annual Medical Data Report.



Code	Description
97110	Therapeutic procedure, 1 or more areas, each 15 minutes; therapeutic exercises to develop strength and endurance, range of motion, and flexibility
97140	Manual therapy techniques (e.g., mobilization/manipulation, manual lymphatic drainage, manual traction), 1 or more regions, each 15 minutes
97530	Therapeutic activities, direct (one-on-one) patient contact by the provider (use of dynamic activities to improve functional performance), each 15 minutes
97112	Therapeutic procedure, 1 or more areas, each 15 minutes; neuromuscular reeducation of movement, balance, coordination, kinesthetic sense, posture, and/or proprioception for sitting and/or standing activities
98941	Chiropractic manipulative treatment (CMT); spinal, 3-4 regions
98940	Chiropractic manipulative treatment (CMT); spinal, 1-2 regions
97014	Application of a modality to 1 or more areas; electrical stimulation (unattended)
97012	Application of a modality to 1 or more areas; traction, mechanical
97035	Application of a modality to 1 or more areas; ultrasound, each 15 minutes
97124	Therapeutic procedure, 1 or more areas, each 15 minutes; massage, including effleurage, petrissage and/or tapotement (stroking, compression, percussion)

These codes are distributed among providers, and I was able to extrapolate by type of provider.

97110	\$2,575,324.06	20,849
Acupuncturist	\$172.02	6
Ambulance	\$193.48	1
Anesthesiology	\$163.78	1
Chiropractor	\$83,917.73	830
Clinic/Center	\$256,144.80	2,452
Clinical Exercise Physiologist	\$2,431.23	22
Clinical Nurse Specialist	\$11,435.24	154
Durable Medical Equipment & Medical Supplies	\$1,336.74	10
Emergency Medicine	\$272.49	2
Family Medicine	\$8,718.97	76
General Practice	\$104,363.14	839
Home Health	\$114.39	2
Internal Medicine	\$81.78	2
Massage Therapist	\$5,441.53	78
Multi-Specialty	\$8,246.27	89
Naturopath	\$565.22	4
Neurological Surgery	\$440.53	2
Neuromusculoskeletal Medicine, Sports Medicine	\$118.34	1
Occupational Therapist	\$94,444.18	991
Occupational Therapy Assistant	\$4,166.26	43
Optometrist	\$6,111.01	94
Orthopaedic Surgery	\$331,707.30	2,632
Pain Medicine	\$113.09	1
Pharmacist	\$231.62	1
Physical Medicine & Rehabilitation	\$20,160.90	109
Physical Therapist	\$1,591,648.36	12,097
Physical Therapy Assistant	\$2,615.18	18
Podiatrist	\$402.46	4
Preventive Medicine	\$121.54	1
Psychiatry & Neurology	\$1,180.77	33
Rehabilitation Practitioner	\$7,249.72	56
Single Specialty	\$27,592.96	155
Specialist	\$2,724.15	37
(blank)	\$696.88	6

E & M Codes in Alaska

Top Evaluation and Management Codes 2020			
CPT	Transactions	Gross Total	Location of Performance
99213	6,682	\$ 1,209,864.51	Established patient office or other outpatient visit, 20-29 minutes
99214	3,002	\$ 769,932.82	Established patient office or other outpatient visit, 30-39 minutes
99456	364	\$ 614,821.33	Work related medical disability examination by other than treating physician, complex evaluation
99203	1,609	\$ 448,113.08	New patient office or other outpatient visit, 30-44 minutes
99204	545	\$ 240,610.06	New patient office or other outpatient visit, 45-59 minutes
99284	711	\$ 556,381.95	Emergency room visit of moderate complexity with injury of high severity
99283	1,605	\$ 750,142.03	Emergency room visit of moderate complexity
99212	1,296	\$ 153,144.07	Established patient office or other outpatient visit, 10-19 minutes
99202	526	\$ 105,331.27	New patient office or other outpatient visit, 15-29 minutes
99285	238	\$ 237,274.23	Emergency room visit of moderate complexity with injury of high severity and significant threat to life
99232	258	\$ 46,590.39	Subsequent hospital care, per day, for evaluation and management of patient