

Policy Implications of Legislating AlaskaCare Benefits

White Paper | Department of Administration

A number of different bills introduced in the 2018 legislative session seek to mandate certain private industry health insurance provisions under Title 21 and apply them to State of Alaska's Health Plans. The State's self-funded employee and retiree health benefit plans, called AlaskaCare, are not health insurance plans regulated under Title 21. Instead, they are statutorily authorized under AS 39.30.090 and AS 39.30.091 managed by the Commissioner of Administration (through the Division of Retirement and Benefits) with input from certain advisory committees, and subject to federal regulations.

Why aren't the AlaskaCare plans under Title 21?

Title 21 regulates insurance. It does not apply to the state's AlaskaCare plans because the state does not provide insurance.

What is insurance?

Insurance is the transfer of risk. An entity (person or company) pays premiums to an insurance company in exchange for the insurance company accepting the potential risk of having to pay additional money on the entity's behalf later. An insurance plan is the transfer of risk from the entity, the insured, to the insurer in exchange for premium payments.

Why are the state health plans not insurance?

The AlaskaCare plans are not insurance because there is no contractual transfer of risk. The state self-funds the health benefits so it retains the risk entirely. State employees contribute to the cost of health benefits, but they do not enter into an insurance contract.

Why are the AlaskaCare plans managed differently than a typical insurance plan?

The benefits of having the Commissioner of Administration manage the State's AlaskaCare plans, and therefore the plan's "risk", rather than through statutory mandates are outlined below:

- **Flexibility.** The Division can make changes or clarifications to AlaskaCare benefits without needing a legislative vehicle or regulatory provisions. In an environment that changes rapidly on multiple fronts (fiscal, technological, business, etc.), the Division can nimbly manage the plan to address issues as they arise.
- **Stability.** The Division relies on professionals with specialized expertise to inform benefit and administrative changes. All AlaskaCare and/or administrative changes are contemplated comprehensively taking into account timing, existing contracts, fiscal impacts, and long-term goals and objectives.
- **Constitutional diminishment and unfunded liability.** Administration of the AlaskaCare retiree plan is complex, subject to certain constitutional protections

and impacting the funding ratio of the state's retirement system liability. Minor changes, even those which appear administrative in nature, must undergo heavy scrutiny to ensure they do not create unintended consequences.

- **Fiscal impact.** The AlaskaCare plans are funded, in part or in whole, with state general fund dollars, so it is important to thoroughly evaluate and understand the impacts of any benefit or administrative change. These changes include the impact to the rate setting process for both the employer and employee, and the unfunded liability of the retirement systems as a whole.
- **Collective bargaining.** Currently, changes to the AlaskaCare benefit design or plan administration occur in an agreed upon process that involves feedback from the union-represented employee bargaining groups that participate in the State's AlaskaCare plans. A statute mandating changes will disrupt this process.

Other considerations: Certain State employee unions have opted out of the State's Health Plan and instead provide health coverage through union health trusts. These employees would not be affected by any mandated change to the State's Health Plans made through amendments to AS 39.30.090 and AS 39.30.091.

Important considerations when considering including AlaskaCare plans in statutory requirements:

In reviewing proposed legislation, the Division notes three categories of legislation:

- 1) Bills that would legislate processes or benefit changes that the AlaskaCare plans already provide;
- 2) Bills that would legislate processes or benefits that AlaskasCare does, or can do without the need for legislation; and,
- 3) Bills that would pose an administrative challenge to AlaskaCare plans or which are prohibitively expensive to implement.

General questions specific to AlaskaCare a bill sponsor may want to consider are below:

- 1) Is there actually an identified problem specific to AlaskaCare?
- 2) Are the AlaskaCare plans already compliant with the proposed bill?
- 3) Could AlaskaCare become compliant without legislation by working with the department? If not, why?
- 4) Will this bill create additional costs to the AlaskaCare health plan that must be communicated in a fiscal note?

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