



80TH PERCENTILE REPLACEMENT

Senate Bill 121

A plan to ensure access to needed health
care for Alaskans for years to come!

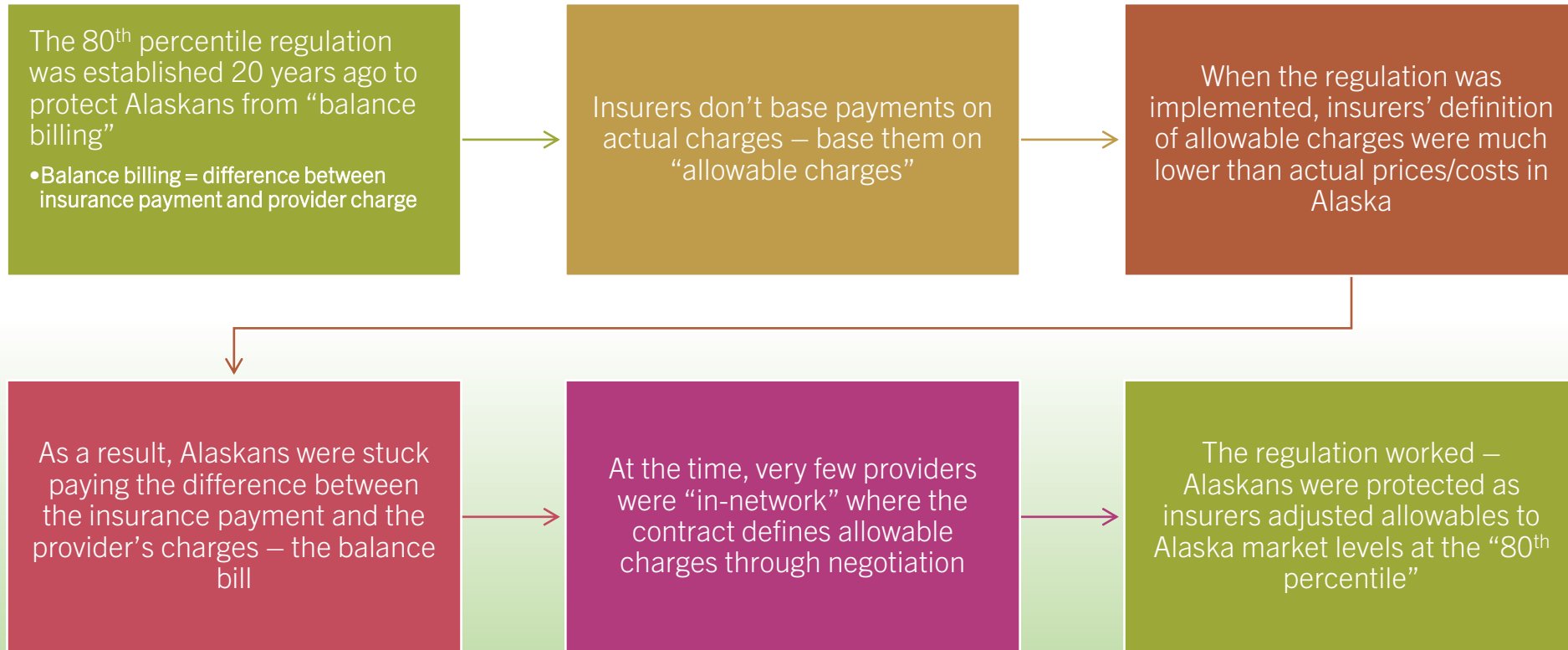
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Jeffrey Davis, Principal

Weston Group Consulting, LLC

On behalf of Alaska State Medical Association

HISTORY



INTENDED AND UNINTENDED CONSEQUENCES OF THE REGULATION

- **Intended consequences:**

- **Positive:** Insurers adjusted “allowables” to reflect AK market rates – the 80th percentile
- **Positive:** Alaskans were protected from balance bills

- **Unintended consequences:**

- **Negative:** If a provider had 21%+ market share in a geographic region their charges became the minimum allowable, potentially driving up costs.
- **Positive:** Stabilized reimbursement at rates reflecting the cost of business in Alaska.
 - Enabled the medical community to grow by a substantial number of new practices to meet Alaskans’ healthcare needs.
- **Positive consequence:** 80th became the “benchmark” or fallback for provider/insurer contract negotiations

MARKET CHANGES SINCE THE RULE'S INCEPTION

Between 2014 and 2017 most providers moved “in-network”, that is, established contracts with insurers which defined allowable charges for services

- By 2023 its estimated only about 400 providers were out of network statewide

When a contract is in place, it supersedes the 80th percentile – it is no longer applicable

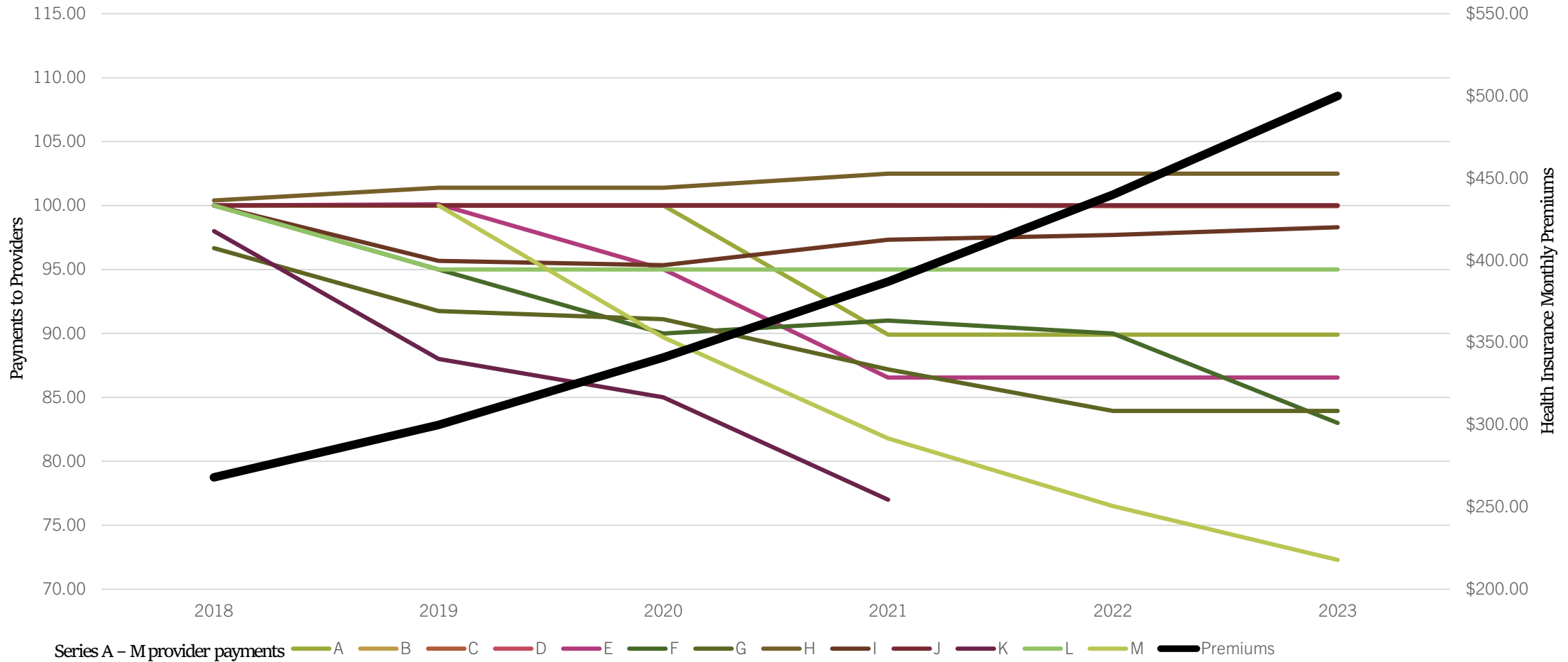
- With the vast majority of providers “in-network” the need for protection from balance bills was largely eliminated for the time being

Providers contracted because negotiations were successful with the 80th as the fallback

- If a provider went out of network, payments would be calculated based on the 80th
- Providers were willing to contract because insurers were willing to offer terms close to the 80th - patients benefitted
- Balance of negotiating power resulted in contracts at terms financially viable for providers

Where is the Money Going?

As Premiums Skyrocket, Provider Payments Decrease



Series A through M are the fees paid by insurance for a unit of healthcare service. 13 different medical, chiropractic, physical therapy, or surgical practices in Alaska, for the first time ever, shared anonymized data on insurance reimbursement. Providers tabulated their historical contracted rates for a representative common procedure, made them proportional to the first year data was available, and shared them here anonymously.

Premiums indicates the monthly insurance premium paid by a local medical practice, an Alaskan small business owner.

REPEAL OF THE 80TH PERCENTILE REGULATION

- **1/1/2024 the 80th percentile regulation was repealed WITHOUT a State defined replacement.**
 - Insurers were allowed to determine their own definition of allowable charges – just like prior to the establishment of the regulation 20 years earlier.
 - One carrier chose to use 185% of the Medicare fee schedule – equivalent on average to about 40% of the 80th percentile or 40% of adequate market rates.
 - This had no immediate effect on balance billing as the majority of providers are still under contract, but it is coming!
- IMPACT: Insurers are using the absence of a state-mandated market-based standard to attempt to drive down contract rates at the bargaining table jeopardizing the ability for providers to remain in business.

BARGAINING DYNAMICS - POWER SHIFTS TO INSURERS

- Prior to the repeal, a provider's alternative to a contract was to go out-of-network and have their charges adjudicated against the 80th percentile of market
- After repeal, going out of network means having charges adjudicated against 185% of Medicare, about 40% of market rates by a large carrier

This change in bargaining power towards the insurers is forcing providers to choose to accept rates slightly better than 185% of Medicare, which are unsustainable, or go out-of-network. It is estimated 450% of Medicare is required for a primary care practice to be viable in Alaska. As a result of this shift in bargaining power and the impact on contracted rates we hear anecdotally that:

- Providers are making plans to leave the state
- Practices are finding it difficult if not impossible to recruit
- Practices are closing or forecasting the need to close
- Providers are considering going out of network and returning to balance billing to remain viable

THE SOLUTION – STATE DEFINED REPLACEMENT

- To avert loss of critical providers, the state can return balance to the bargaining table!
- The state can retake responsibility for defining allowable charges and do so in a way that reflects market realities and costs in Alaska.
- A study conducted for the Alaska Hospital and Healthcare Association estimates salaries for non-provider healthcare workers in Alaska have risen 47% since 2016. At the same time insurance payment rates for most practices have been flat or declining.
- A state-mandated replacement could require insurers to use a statistically credible methodology based on the most recently available 12 months of data to determine allowable charges based on the 75th percentile of charges for a given medical service.
- The entire state could be considered together rather than breaking into smaller geographies, greatly reducing the chance a practice could wield undue market power.
- Updates could be done no more frequently than every three years, but no less than every five.
- Allowable charges should be the same for all provider types.

S U M M A R Y

- The repeal of the regulation did not slow the rate of insurance premium increases, the primary state goal. Rates in the individual market continue to rise by double digits.
- Repeal without replacement has a very real negative impact on the provider community as it shifts negotiating leverage strongly in favor of insurers threatening the financial viability of the medical community and therefore access for Alaskans to medical care.
- State can restore balance to the market by defining allowable charges based on Alaska market charges/costs and can do so in a way that eliminates potential abuses and inflationary concerns.
- All of Alaska is a federally designated healthcare professional shortage area. Loss of providers and inability to recruit new providers to the state harms Alaskans by reducing access to needed care.

MYTH BUSTING – ALASKA PROVIDERS HIGHEST PAID IN THE COUNTRY – WRONG!

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- It is a widely held belief Alaska medical providers are the highest paid in the country. This is not true.
 - 2024 Medical Group Management Association (MGMA) Provider Compensation Study shows:
 - Alaska Family Practice Physicians are in the bottom five states in take-home-pay.
 - Non- surgical specialists are also in the bottom five states.
 - Surgical specialists are in the middle, neither in the top five or bottom five
 - Source: MGMA “[Provider Compensation and Productivity Data Report](#)” released May 28, 2024, as reported at www.beckersphysicianleadership.com
 - The 2024 report was based on over 211,000 survey responses
 - Federal Government considers the MGMA study a recognized source for Fair Market Value determinations