

**ALASKA STATE LEGISLATURE  
HOUSE LABOR AND COMMERCE STANDING COMMITTEE**

March 7, 2016

3:16 p.m.

**MEMBERS PRESENT**

Representative Kurt Olson, Chair  
Representative Shelley Hughes, Vice Chair  
Representative Jim Colver  
Representative Gabrielle LeDoux  
Representative Cathy Tilton  
Representative Andy Josephson  
Representative Sam Kito

**MEMBERS ABSENT**

Representative Mike Chenault (alternate)

**COMMITTEE CALENDAR**

PRESENTATION: DIVISION OF INSURANCE~ DEPARTMENT OF COMMERCE~  
COMMUNITY & ECONOMIC DEVELOPMENT

- HEARD

HOUSE BILL NO. 248

"An Act requiring the electronic submission of a tax return or report with the Department of Revenue; relating to the excise tax on alcoholic beverages; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

HOUSE BILL NO. 304

"An Act requiring the electronic submission of a tax return or report with the Department of Revenue; relating to the taxes on cigarettes and tobacco products; taxing electronic smoking products; adding a definition of 'electronic smoking product'; and providing for an effective date."

- SCHEDULED BUT NOT HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

## WITNESS REGISTER

LORI WING-HEIER, Director

Division of Insurance

Department of Commerce, Community & Economic Development

Anchorage, Alaska

**POSITION STATEMENT:** Provided a presentation and update on health care insurance.

## ACTION NARRATIVE

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**CHAIR KURT OLSON** called the House Labor and Commerce Standing Committee meeting to order at 3:16 p.m. Representatives Olson, Kito, Colver, Hughes, Tilton, [Josephson], and LeDoux were present at the call to order.

**PRESENTATION: DIVISION OF INSURANCE, DEPARTMENT OF COMMERCE,  
COMMUNITY & ECONOMIC DEVELOPMENT**

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CHAIR OLSON announced that the only order of business would be a presentation and update from the Division of Insurance, Department of Commerce, Community & Economic Development, provided by Lori Wing-Heier, Director.

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LORI WING-HEIER, Director, Anchorage Office, Division of Insurance, Department of Commerce, Community & Economic Development, informed the committee that her division has lifted the order of impairment from Moda Health Plan, Inc. (Moda) insurance company so that the company is once again doing business in Alaska. She said it was difficult to deny consumers access to an insurance company because of the division's concern over Moda's financial circumstances. Moda has voluntarily entered into a financial plan with the state and the State of Oregon, and is disposing of \$180 million of assets in order to return funds to the insurance company to ensure its solvency and thereby continue to serve its consumers in Alaska and Oregon. Furthermore, Moda agreed to deposit \$15 million in a bank account under the state's control as a "security blanket" so the state could pay claims if necessary. Ms. Wing-Heier explained that Moda is domiciled in Oregon, thus Oregon has greater access to its assets. The division is hopeful that Moda will remain in

the health insurance market in Alaska through 2017; however, the division cannot force Moda to stay in the individual or the group insurance market.

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CHAIR OLSON asked how many are currently impacted.

MS. WING-HEIER said enrollment is currently at over 22,000; however, she anticipated that the number will level off at 21,000 in the individual market.

REPRESENTATIVE LEDOUX expressed her understanding that state employees are only covered by the Moda dental plan.

MS. WING-HEIER said the state is self-insured and Moda acts as an administrator of dental plan claims, thus the state dental plan is not affected. The 22,000 Alaskans that were referred to earlier are not state employees, but participate in the [Patient Protection and Affordable Care Act (PPACA)] individual health care insurance market.

REPRESENTATIVE LEDOUX asked whether all insurance is "under the [PPACA]."

MS. WING-HEIER said Moda is only insuring PPACA plans, and its share of the 22,000 individuals insured is a little over 50 percent of the individual market in Alaska. Premera insurance company and Moda were in competition for this market.

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REPRESENTATIVE HUGHES asked if the federal government had not reneged on its obligation to pay Moda risk corridor payments in the amount of \$150 million over two years, whether the situation with Moda would have been averted.

MS. WING-HEIER advised the reduced funding would have made a difference, but not "totally." In 2014, Moda received 12.6 percent of the expected funding, and is expected to receive more during the three-year term of the program. The reduced funding caused some insurance cooperatives to fail and although Moda is not a cooperative, it is a regional insurer, and the reduced funding was very much a contributing factor to Moda's situation. In response to Chair Olson, she said Moda operates in Oregon in the same manner as it does in Alaska. She was unsure as to the status of a cooperative in Oregon, and the status of

cooperatives that have failed elsewhere is being discussed in Washington D.C.

CHAIR OLSON lauded Alaska's decision not to utilize cooperatives.

REPRESENTATIVE HUGHES expressed her concern that the federal government could fail to fund Medicaid. She then asked about the status of the Alaska Comprehensive Health Insurance Association (ACHIA) program which provides "high-risk insurance" in Alaska.

MS. WING-HEIER referred to draft legislation proposed by Premera and Moda that would use ACHIA as a reinsurance mechanism. The insured market would be assessed in the same manner as ACHIA and all would contribute "a little" to offset high-dollar claims in the individual market.

REPRESENTATIVE LEDOUX questioned the need for ACHIA now that PPACA prevents discrimination for preexisting conditions.

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MS. WING-HEIER answered that the division considered using ACHIA as a mechanism for the individual and small group market in Alaska if it became necessary. Also, there are 211 people currently participating, most of whom participate in the Medicare Supplemental Insurance (MEDSUPP) drug coverage, who do not have another market from which to choose in Alaska. In further response to Representative LeDoux, she explained that after Medicare becomes one's insurance, one buys a Medicare Supplemental Insurance plan to supplement the coverage for pharmaceuticals, which can be very expensive.

REPRESENTATIVE LEDOUX asked whether AARP supplemental is available in Alaska.

MS. WING-HEIER said not for MEDSUPP, thus the division is keeping ACHIA open for those who cannot get coverage elsewhere. In further response to Representative LeDoux, she said there are 211 participants in ACHIA and about 50 percent participate in MEDSUPP for high-priced drugs.

REPRESENTATIVE LEDOUX asked about coverage for others in the state.

MS. WING-HEIER was unsure. In further response to Representative LeDoux, she explained that for PPACA, people have to "buy the entire package, but even within the [PPACA] there's limits to what one, what the plan will pay." So, it may be better for someone to have Medicare and buy MEDSUPP, rather than to have to buy an entire individual market policy from PPACA, which can have quite high co-pays.

REPRESENTATIVE COLVER observed that for a state retiree who is eligible for Medicare, MEDSUPP is carried by the state, and asked whether there is a cap to what the Division of Retirement and Benefits, Department of Administration, pays.

MS. WING-HEIER was unsure of the workings of the state benefit plan. She added that she was unaware of any state employees or state retirees in the ACHIA program.

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MS. WING-HEIER continued to explain that at the time Moda was taken off of the exchange, there were four days left of open enrollment, which meant some who had enrolled but not paid, and others who were waiting to the last minute, only had one choice: Premera. In response to Chair Olson, she said the four-day gap affected about 3,200 people, who were concerned and anxious. The division worked with all parties, and all known to the division were reinstated with Moda.

CHAIR OLSON asked whether the division was sufficiently staffed.

MS. WING-HEIER said the division retained its same level of staffing in Fiscal Year 2017 (FY 17). At the height of the activity related to Moda, the National Association of Insurance Commissioners (NAIC) opened a call center to assist with phone calls and to provide callers with the latest information; however, some did purchase a Premera plan to comply with the deadline in January, then Moda was returned to the exchange, and they are stuck with higher premiums for one year. The division considered holding another enrollment period, but those with the intent to purchase coverage were accommodated. Ms. Wing-Heier noted that more information will come to the forefront on the proposed ACHIA bill; in fact, federal funds are available for the reinsurance program. Further, the division will continue to seek relief from the Alaska Congressional delegation. Alaska's individual market is small and sick, but the division cannot force members of a younger and healthier population to enroll, join the insurance pool, and spread the risk.

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CHAIR OLSON asked whether health insurers need a filing to add medical tourism to their policies.

MS. WING-HEIER said no. She said medical tourism is growing, and the division has contacted individual members of the medical community about its desire to protect providers from medical tourism, because certain procedures are cheaper in Seattle than in Anchorage. Studies have shown that other states, for example, Rhode Island, have the same problem, and the state needs to find an alternative to "fee for services [that] is becoming somewhat of an antiquated way to pay for medical services."

REPRESENTATIVE LEDOUX said she believes in supporting local businesses; however, when local businesses are not competitive, the state should let people go out-of-state or out of the country if treatment is less expensive.

MS. WING-HEIER observed that the other side of the story is that if one goes outside it is difficult to keep providers in Alaska, and also that doctors in Alaska are reluctant to provide follow-up care.

REPRESENTATIVE LEDOUX suggested that it is possible to let an insured person return outside for follow-up care.

MS. WING-HEIER cautioned that some cannot make multiple trips outside due to their health situation. In further response to Representative LeDoux, she said a choice is often approved when the cost of the procedure is less expensive; however, residents also want care available in Anchorage, Fairbanks, or Southeast Alaska, and she urged for a "happy medium."

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REPRESENTATIVE LEDOUX surmised that if people are routinely allowed to travel with a companion for medical care, the cost of medical care would come down because there is a natural market. She provided an example.

CHAIR OLSON added that a provider or hospital that is a member of the Aetna network anywhere in the country can be preauthorized to provide the same benefit as an Alaska network provider.

MS. WING-HEIER pointed out that part of the solution is to educate insured about the proper utilization of their plans. Alaska residents go to the emergency room for primary care, which drives rates up. Also, insured need to use the network and a preferred provider, although there are many reasons people do not. She informed the committee that networks are getting broader, and insurance companies are negotiating for lower costs. However, she acknowledged that "there may be some things because of ... the geographic distances we cover that we're never going to be able to overcome."

REPRESENTATIVE HUGHES was told by a family member working in the medical community in Anchorage that approximately 70 percent of those utilizing emergency room services should be utilizing primary care services. She suggested that hospital emergency rooms should divert patients to primary care providers at the time of admission. Representative Hughes then asked for the mission of the Division of Insurance.

MS. WING-HEIER said the division's mission is to protect consumers. In that endeavor, the division must address insurance rates, solvency, networks, and issues of access to care as directed by PPACA, and under the insurance plans regulated by the division.

REPRESENTATIVE HUGHES recalled last year there were several large associations in Alaska that received insurance termination notices, and she inquired as to whether this could have been prevented by the division.

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MS. WING-HEIER explained that the intent of PPACA is to increase the number of those in the individual and small or large group market, and thus the Act does not allow for insurance issued by associations. The division resolved the issue with the Alaska Bar Association and the Alaska Federation of Natives by a return to federal law and verification that the associations are a bona fide employer. With this information, the division can approve the filings. Due to conflicting state and federal regulations, the division worked with the insurance brokers and the associations to find a solution.

REPRESENTATIVE HUGHES asked whether Ms. Wing-Heier was aware of a provision in PPACA which gives the state the ability to relax the aforementioned prohibition.

MS. WING-HEIER stated that the division reviewed a court case in Washington and studied the effect on associations in Alaska. The federal regulation under [the Employee Retirement Income Securities Act of 1974 (ERISA)] required proof that the association was an employer. Without a ruling from the Department of Labor & Workforce Development, the division is accepting a letter in this regard.

REPRESENTATIVE HUGHES requested confirmation on whether or not there was an opportunity to alleviate this matter.

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REPRESENTATIVE LEDOUX questioned whether the division's core mission includes concern about the negative effect of medical tourism on the medical community.

MS. WING-HEIER stated her concern is that insurance matters do not become the reason physicians don't practice in Alaska. Other states with similar demographics have been able to get providers, insurers, users, and regulators to control the cost of insurance, and the division has a role in finding a solution. In further response to Representative LeDoux, she said her role is to make insurance available and affordable, although "affordable" varies with consumers' circumstances. She said, "Somehow if we could get those physicians and all the providers, or get to the reason of why is the cost of the services so high ..." premiums could be lowered.

REPRESENTATIVE LEDOUX asked if the division decides whether an insurance company can offer medical tourism.

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MS. WING-HEIER explained that the state controls insurance plans for 20 percent of the market, excluding plans for the state and federal government, military, veterans, Medicaid, Medicare, and the Indian Health Service. The cost of medical services is paramount to all and the division needs to be involved in negotiations.

CHAIR OLSON added that the medical insurance component is a small portion of the responsibilities of the Division of Insurance, which also includes regulation of homeowners, auto, commercial, aviation, marine, and life insurance.

MS. WING-HEIER observed that [PPACA] is a new law and is continually changing, and as problems arise they are being dealt with, such as the difficulties related to Moda.

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REPRESENTATIVE HUGHES referred to the rate increases that have been requested by insurance companies, and asked whether the division has the tools to investigate why medical providers are charging more than in the Lower 48.

MS. WING-HEIER informed the committee that the division has been seeking the statutory authority to glean information, as other states have, to determine the source of the providers' cost increases.

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#### **ADJOURNMENT**

There being no further business before the committee, the House Labor and Commerce Standing Committee meeting was adjourned at 4:08 p.m.