

**ALASKA STATE LEGISLATURE**  
**SENATE HEALTH AND SOCIAL SERVICES STANDING COMMITTEE**

January 30, 2024

3:30 p.m.

**MEMBERS PRESENT**

Senator David Wilson, Chair  
Senator James Kaufman, Vice Chair  
Senator Löki Tobin  
Senator Forrest Dunbar  
Senator Cathy Giessel

**MEMBERS ABSENT**

All members present

**COMMITTEE CALENDAR**

ALASKA'S 80TH PERCENTILE REGULATION BY THE DIVISION OF INSURANCE

- HEARD

**PREVIOUS COMMITTEE ACTION**

No previous action to record

**WITNESS REGISTER**

LORI WING-HEIER, Director  
Division of Insurance  
Department of Commerce, Community, and  
Economic Development (DCCED)  
Anchorage, Alaska

**POSITION STATEMENT:** Offered a presentation on Alaska's 80th Percentile Regulation.

**ACTION NARRATIVE**

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**CHAIR DAVID WILSON** called the Senate Health and Social Services Standing Committee meeting to order at 3:30 p.m. Present at the call to order were Senators Kaufman, Dunbar, Tobin, Giessel, and Chair Wilson.

**PRESENTATION:**

**ALASKA'S 80TH PERCENTILE REGULATION**  
**BY THE DIVISION OF INSURANCE**

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CHAIR WILSON announced the consideration of the presentation Alaska's 80th percentile regulation by the Division of Insurance.

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LORI WING-HEIER, Director, Division of Insurance, Department of Commerce, Community and Economic Development (DCCED), Anchorage, Alaska, moved to slide 2 and stated the following:

[Original punctuation provided.]

**Notice of Pending Litigation**

As of late 2023, the Department of Commerce, Community, and Economic Development and the Division of Insurance are in active litigation concerning the repeal of the 80th percentile regulation.

Due to the pending litigation, the Assistant Attorneys General assigned to the lawsuit will be attending this presentation before Senate Health and Social Services. If the Director is asked a question that counsel feels could impact the litigation, they will advise the chair and ask that the question not be answered.

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MS. WING-HEIER moved to slide 3 and began discussing the who, what, and where of the 80th percentile regulation. She stated that the discussion would focus on the underlined portion of the regulation.

[Original punctuation provided.]

**What was the 80th Percentile Regulation?**

3AAC 26.110(a)

"a person that provides coverage in this state for health care services or supplies on an expense incurred basis for which benefits are based on an amount that is less than the actual amount billed for the health care services or supplies shall...determine the final payment for a covered service or supply based on an amount that ...is equal to or greater than the 80th percentile of charges [based on a

statistically credible profile for each geographical area] for the health care services or supplies."

MS. WING-HEIER explained that the 80th percentile regulation is used in Alaska to pay out-of-network claims. She clarified that in-network healthcare involves a contract between the provider and the insurer or payer, such as a union trust or Alaska Care, with agreed-upon rates and fees. For out-of-network care, these agreed-upon rates do not exist, so plans regulated by the Division of Insurance are paid under the 80th percentile, a regulation in place since 2004 to address concerns about low reimbursements. This set a minimum for health care reimbursements to out-of-network providers. However, the landscape has changed, with many providers now entering network agreements, making it rare to find a provider without such an agreement. The 80th percentile was not intended to eliminate balanced billing, meaning consumers still face out-of-pocket costs for out-of-network claims. Over time, the 80th percentile has impacted the cost of healthcare, and consequently, the cost of health insurance in Alaska, which concerns the Division.

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MS. WING-HEIER explained how the 80th percentile is determined. Insurers can use their own data if they have a large enough sample to create a statistically credible profile. Most insurers, however, use an independent nonprofit organization based in New York called Fair Health. This organization, which cannot be owned by an insurance company, holds the largest collection of private healthcare data, maintaining over forty billion commercial insurance claims for more than 10,000 Current Procedural Terminology (CPT) codes and adding two billion claims annually. Fair Health's data is considered statistically significant in all 50 states and the District of Columbia. It is certified by the Centers for Medicare and Medicaid Services under the Department of Health and Human Services as a nationally qualified entity, ensuring its statistical credibility.

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SENATOR GIESSEL asked how many Alaskans are insured in-network and out-of-network.

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MS. WING-HEIER moved to slide 6 and noted that percentage of Alaskans insured in state regulated plans is about 15 percent, approximately 100 to 120 thousand people. The state has never exceeded 20 percent. As of 2022, 15 percent

of Alaskans were in an insured plan, which includes the individual market, or a small or large group regulated by the Division. The chart for the 2022 policy year shows Alaska had \$456 million in claims submitted in the individual and small group markets. Of that, \$409 million were in-network and \$47 million were out-of-network, meaning just over 10 percent of the claims paid in those two markets were out-of-network. She noted that the out-of-network providers are both in-state and out-of-state. She reiterated that while she does not have the exact number of Alaskans in each network, out-of-network claims were just over 10 percent in 2022.

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MS. WING-HEIER moved to slide 4 and discussed the following points regarding why the Division repealed the regulation:

[Original punctuation provided.]

Why did the division repeal the regulation?

- The regulation has been criticized for increasing the cost of health care in the state.
- Consumers have new protection under the NO Surprise Act (NSA) passed by the US Congress in 2020.
- 80th Percentile Regulation Repealed effective January 1, 2024.
- 

MS. WING-HEIER stated that several studies have shown Alaska consistently ranks among the highest in terms of healthcare and health insurance costs. The Division of Insurance (DOI) has reviewed data from independent studies and academic groups, understanding that rising healthcare costs are a significant factor in increasing insurance rates. The DOI has taken this seriously, implementing measures like the Reinsurance Program. However, healthcare costs remain high in Alaska compared to other states.

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MS. WING-HEIER reported hearing from various groups—individual market participants, small groups (50-100 employees), and large groups (100+ employees)—that the high cost of insurance hinders their ability to expand, hire, or give raises. These groups are

required to provide healthcare under the Affordable Care Act (ACA). Providers acknowledge the rising healthcare costs, attributing them to factors such as inflation and staff shortages, which affect all jurisdictions, not just Alaska.

MS. WING-HEIER highlighted that the No Surprises Act, passed in 2020 under the Trump administration, aimed to increase transparency without eliminating balanced billing. It requires providers to give upfront estimates of charges and insurance payments, applicable to both in-network and out-of-network services. The Act also mandates that insurers cover emergency services at in-network rates because patients cannot choose providers during emergencies. It recognizes situations where patients might unknowingly receive care from out-of-network providers at in-network facilities, providing consumer protections but not eliminating balanced billing.

MS. WING-HEIER emphasized that addressing healthcare costs in Alaska will involve some difficulties for consumers, who will need to make informed decisions based on the No Surprises Act and their network plans. This might mean choosing between continuing with an out-of-network provider or switching to an in-network provider to manage costs. While this can be challenging, especially for those with long-term provider relationships, it is necessary to balance the needs of a few with the broader goal of making healthcare affordable for all.

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SENATOR KAUFMAN asked if there is evidence showing the extent to which regulation is the driver for increasing the cost of health care in Alaska,

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MS. WING-HEIER replied that although she has not drilled down the data to present it, the DOI has reviewed the overall cost of healthcare in Alaska, including out-of-network claims and cost increases. She referenced a chart titled "Annual Per Capita Physician & Clinical Services Costs by State and by Year" on slide 4, developed by Risk and Regulatory Consulting in 2023 using CMS data to trend healthcare costs in Alaska. The graph indicates that in 2004, when the 80th percentile regulation took effect, Alaska's costs began to rise above the national average, which coincided with an increase in overall healthcare and insurance costs.

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SENATOR KAUFMAN noted the significance of 2004 as an inflection point and expressed interest in understanding the drivers behind Alaska's high healthcare costs to help reduce them. He asked if repealing the 80th percentile regulation would lower costs or merely cause them to plateau above the national average. Additionally, he inquired about the specific areas where cost reductions would occur if the regulation were repealed.

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MS. WING-HEIER replied that the primary intent of repealing the 80th percentile regulation was to lower healthcare costs and align them more closely with national averages, making health insurance more affordable for consumers and employers. The DOI observed about a 2 percent impact on 2024 rate filings due to this change and expects this trend to continue for several years. While costs may eventually plateau, this is not anticipated in the near future.

MS. WING-HEIER mentioned that Senator Giessel had convened a committee to examine healthcare costs, challenging the DOI to investigate this issue. Close to 100 Current Procedural Terminology (CPT) codes were analyzed, and an independent consultant compared these costs to those in Seattle, North Dakota, Idaho, and another state. The consultants provided a comparison as a percentage of Medicare costs, revealing significant disparities. For instance, the cost of seeing an ear, nose, and throat specialist might be 1500 percent of Medicare in Alaska, compared to 300 percent in Montana. This data, available on the DOI's website for years, could be updated for relevancy.

MS. WING-HEIER expressed hope that within 10 years, Alaska's healthcare costs would be closer to those of other states. She said the selected states for comparison share similarities with Alaska, such as being rural and having oil and gas industries, and comparable demographics. Despite some differences, the cost disparities should not have been as high as they were.

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SENATOR GIESSEL thanked Ms. Wing-Heier for reviewing the previous work. She noted that the Kenai Peninsula Borough School District sends people to Seattle for healthcare because it is cheaper. She mentioned that the Alaska Health Care Commission, which operated for over 10 years, consistently identified the 80th percentile as a factor increasing healthcare costs in Alaska. She asked if the DOI

has observed any change in the number of in-network providers since the repeal was implemented on January 1.

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MS. WING-HEIER replied that the DOI is aware that certain clinics and air ambulance services have reached out to insurers to become in-network. She said she could not specify the number but mentioned that some have inquired about forming contracts. Although the DOI does not oversee network agreements, staff can facilitate introductions. She also stated that she is not aware of any insurer dropping a provider due to the repeal of the 80th percentile regulation.

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SENATOR GIESSEL acknowledged the difficulty in establishing causality but mentioned she has a list of providers whose contracts have been canceled by insurance companies. She said she would try to give names to DOI, even though it has no control over and does not monitor such contracts.

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SENATOR TOBIN noted the 10 year window cited by Ms. Wing-Heier is a very long time and asked if DOI had made any attempts to reform, rather than repeal, the regulation to make it more inclusive for seniors and veterans who use Medicaid and Medicare.

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MS. WING-HEIER stated that the DOI has discussed the issue extensively with the Department of Health (DOH) and found no easy solution. She noted that the impact is small because most providers are in-network and the reason they are in-network is not due to the repeal of the 80th percentile regulation but because of the overall cost of health care. Over the past 4-5 years, more providers have joined networks. She opined that the small portion of providers who remain out-of-network are often higher priced due to their specialties, which somewhat drives the increase in costs.

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SENATOR TOBIN stated that from the chart on slide 4, and considering reform, it is clear the No Surprises Act is intended to provide some of the protections that the 80th percentile regulation covered. She asked if the Act provides all the protections that the regulation covered.

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MS. WING-HEIER replied that the No Surprises Act was intended to reduce balance billing, not eliminate it. The Act places some of the onus back on providers and consumers, enabling consumers to make more informed decisions regarding the cost of care. Under the 80th percentile regulation, the consumer received care, billing went to the insurer, which paid the 80th percentile, and the consumer received a balance bill without knowing the cost in advance. Therefore, the consumer could not make an informed decision about whether they could afford care from an out-of-network provider. Consumers need to be assisted in getting the best value from their healthcare dollars. They are examining protections under the No Surprises Act as well as network versus out-of-network providers.

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SENATOR DUNBAR said that when he looks at slide 4, he sees an inflection starting in 1996 with significant deviation in 2001-2002 that puts Alaska on a trajectory noticed in 2004. He asked what changed between 2000-2003 that caused a jump before the 80th percentile regulation went into effect.

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MS. WING-HEIER replied that she does not know but is willing to research what occurred. She opined that, from her knowledge of living in Alaska during that time, the medical community expanded, which may be a partial reason.

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SENATOR DUNBAR opined that the person who was hired to create the chart should do the research and provide the answer. He clarified that it is not Ms. Wing-Heier's responsibility, but if her team can provide that information, it would be helpful. He further opined that whoever provided the graph misidentified the inflection point or perhaps accurately identified that Alaska was on a trajectory that the 80th percentile rule did not seem to change as intended, which is the most he can take away from the chart. He also asked, now that more people are in-network, what's to prevent large insurers, like Premera with 70 percent of market share, from dictating rates to providers since a mechanism is no longer in place for providers to access people because costs would be so much higher. He asked if the market power had shifted from providers to insurers and, if so, what mechanism ensures that insurers pass savings onto consumers if they secure lower rates.

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MS. WING-HEIER replied that some statutes within Title 21, which is the DOI, mandate that reimbursements to providers must be fair. She stated that while she does not control network agreements, if a provider calls and claims unfair reimbursement, such as five cents on the dollar, DOI would investigate to ensure fairness. The intent of the repeal is not to impact access to healthcare in Alaska. Title 21 provides protections for both consumers and providers, but they must inform DOI of the issue for it to be addressed. She said DOI is willing to discuss insurance payments with both providers and consumers to ensure payments are made correctly and to correct any errors. However, the 80th percentile floor is no longer in place.

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SENATOR DUNBAR said that what she described is addressing unfair billing after the fact, but contract agreements are made beforehand, potentially shifting power dramatically to Premera and other insurers. He asked, regarding Senator Kaufman's question, what mechanism ensures that insurers pass any savings onto consumers if there is essentially a monopoly or oligopoly in this market segment.

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MS. WING-HEIER replied that to answer his question, she would first discuss the Affordable Care Act (ACA). The ACA mandates that in the small group and individual markets, insurance companies must spend 80 percent of premiums on healthcare or return it to the payer or consumer. For large groups, this percentage is 85 percent. This is federal law. Regarding healthcare rates for 2025, which start coming in late spring or early summer, filings will include a line for "contingency," meaning profit for the insurance company. In her tenure as director, she has never approved more than a 3 - 5 percent profit margin or contingency for a health care insurer. She stated that in the matter of negotiating power, insurers claim that with the 80th percentile rule, they could either accept it or stay out of network, so there wasn't much to push rates down. Providers argue that insurers do not negotiate fairly. While discussions have been held with both insurers and providers, she noted that she has no statutory authority to enforce fair negotiations, though she can remind insurers that reimbursements must be fair. She emphasized that her role is limited to having conversations without the power to enforce actions.

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CHAIR WILSON referred to the chart on slide 4 and noted that Alaska is one of four states where Medicaid rates are higher than Medicare rates. He wondered if the increase in Medicaid rates started with the state pay option and if the divergence began when the state started changing Medicaid rates.

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MS. WING-HEIER said the graph on slide 4 is from a report, which she can review to see if Medicaid expansion was a cost driver. She chose the graph because it shows healthcare prices increasing more significantly than in other states, which was her point.

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MS. WING-HEIER moved to slide 5 and stated that the 80th percentile is often misunderstood. It does not mean 80 percent of charges. Instead, it represents a data point where 20 percent of charges are above it and 80 percent are below. This is how the 80th percentile is computed, based on the statistical distribution of submitted charges.

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MS. WING-HEIER moved to slide 6 and reiterated that the 80th percentile regulation does not apply to self-insurance, AlaskaCare, union trusts, Medicaid, Medicare, Indian Health Service, TRICARE, or the VA. It affects only 15 percent of the population, specifically those in the individual, small group, and large group markets regulated by the Division of Insurance.

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MS. WING-HEIER moved to slide 7 and provided data on health care rates in Alaska and DOI's decision to repeal. She noted that when the ACA was passed in 2014, four insurers—Premera, Moda, Aetna, and Keltic—offered plans in the individual market. Alaska's average rate increase was close to 32 percent the first year, nearly 40 percent the second year, and by 2017, only Premera remained. DOI sought \$55 million from the legislature and the authority for a Reinsurance Program, becoming the first state to secure federal funding for this purpose. The goal was to stabilize the market, not to repeal or deny access to healthcare. The Reinsurance Program initially used state funding and helped stabilize rates, preventing the loss of the last insurer. She clarified that the Reinsurance Program does not apply to the small or large group markets. She said two years ago, DOI considered merging small and individual groups, but it did not suit Alaska. She emphasized that DOI continues to explore ways to reduce health care costs and remains proud of

the Reinsurance Program's impact on the individual market. She stated DOI started to notice an uptick in the market in 2022 and Moda rejoined Alaska's health care market.

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MS. WING-HEIER moved to slide 8 and stated that when DOI came to the legislature for the \$55 million, it was all state funding. She described the work needed for Alaska to obtain the Reinsurance Program. Oliver Wyman conducted the required studies and predicted the amount of money Alaska would need each year from 2017 to 2024 to keep its market stable. She noted that starting in 2019, Alaska had not used any state funding and had been overfunded by the federal government compared to what the state expected to receive. She said the federal government allows the state to apply the overfunding to following years, except for the amount required by the waiver for holding in the current year.

The chart shows that Oliver Wyman estimated that in 2021 Alaska would need \$74 million and Alaska allocated \$80 million; in 2022, Alaska would need \$79 million and allocated \$100 million; in 2023, Alaska would need \$87 million and allocated \$120 million; and in 2024, Alaska allocated almost \$50 million additional dollars and has taken a 16 percent increase. She stated that DOI has no money to put into the Reinsurance Program to stabilize the market, so they are trying to find other solutions.

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MS. WING-HEIER stated that she does not know how expensive Alaska's insurance would be without the Reinsurance Program, but the fact remains that DOI will not have an additional \$50 million to put in the fund to bring it to \$190-\$200 million. All the federal funding received in prior years has been used to keep rates as low as possible for consumers.

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SENATOR GIESSEL asked whether the repeal of the 80th percentile would have an impact on the market's stability.

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MS. WING-HEIER replied that DOI hopes the repeal will bring down the cost of claims, which was the intent. However, it will not have a direct impact on the Reinsurance Program.

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MS. WING-HEIER moved to slide 9 and called it her, "Where does it hurt slide," which shows insurance rates. She said in health care everyone in a family has their own charge. She provided two examples of what consumers are paying for health insurance costs:

**Example 1**

Plan: Moda Silver

Family of 4  
2 parents age 40  
2 children under age 14

Monthly Premium - \$2758  
Deductible - \$4500  
Out-of-Pocket Maximum - \$7750 per family member  
Copay for Primary Care - \$30  
Copay for Specialists - \$60  
Additional Coinsurance  
Balance Bill

**Example 2**

Plan: Moda Bronze

Family of 5  
2 parents age 40  
2 children under age 14  
1 child age 20

Monthly Premium - \$2611  
Deductible - \$6350  
Out-of-Pocket Maximum - \$8700 per family member  
Copay for Primary Care - \$50  
Copay for Specialists - \$100  
Coinsurance - 40 percent in-network 60 percent out-of-network

She opined that people are going uninsured because they cannot afford health care premiums. She stated that DOI must come up with a plan to drive down the cost of health insurance.

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SENATOR TOBIN said she would be remiss if she didn't point out that she is very fortunate to have government health insurance. She asked how the repeal of the 80th percentile regulation will affect Alaska's aging population. She stated that she hopes DOI

has a solution that will be beneficial but expressed deep concerns.

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MS. WING-HEIER said she would address the question later in the presentation.

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MS. WING-HEIER moved to slide 10:

[Original punctuation provided.]

### **Health Care is Complex**

- Health care is complex, and it is fractured - federal programs, state programs, and commercial market are all funded differently and subject to different statutes and regulations.
- The cost of health care is a burden throughout our economy, including federal and state budgets as well as employers both small and large.
- Health care insurance rates, regulated by the Division of Insurance, are an indicator of issues throughout the health care system.
- The health care industry, the insurance industry, governmental entities, and stakeholder groups have been working on health care reform for years.
- Once you identify a problem or reform, it likely takes multiple divisions/departments and the private sector to address.
- As policymakers, where should our focus be:
  - Building a strong primary care system?
  - Leverage new technologies and expand access to care?
  - Working with consumers to understand their health care insurance options?
- How are we addressing health care needs before acute care or hospitalization? How do we support people when they step down from hospitalization?
- The Division of Insurance director has broad authority to protect consumers but sometimes the regulatory authority to face some of these challenges is not within the DOI.

MS. WING-HEIER said healthcare is complex and fixing it will be very challenging. She noted that the system is fragmented, with federal programs, state programs, commercial markets, VA,

TRICARE, and workers' compensation all operating differently. It often feels like playing whack-a-mole, addressing one issue only to have another arise. Her responsibility as the director of insurance is to regulate the market she oversees, but she does not control Medicare, Medicaid, or VA programs. Solving these issues will require collaboration from all parties involved.

MS. WING-HEIER said that since her tenure began, she has worked with various organizations, including Commonwealth North, the Chamber of Commerce, the National Association of Benefits and Insurance Professionals, the Alaska Health Care Transformation Project, the Alaska Health Care Commission, the Alaska Policy Forum, Alaskans Together for Medicaid, Alaskans for Sustainable Health Care, tribal healthcare partners, healthcare insurers, and providers. Everyone has been discussing how to address these challenges. There is no simple solution, and what works for one group may not work for another. However, collaboration is essential.

MS. WING-HEIER said Alaska currently lacks some elements that could help, such as managed care and a greater emphasis on primary care. While we can't solve everything in one day, there are steps we can take over time to increase access to healthcare and lower overall costs.

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MS. WING-HEIER moved to slide 11 and stated the following quote speaks to the crux of the problem in repealing the 80th percentile regulation:

[Original punctuation provided.]

### **Cost Shifting**

"...the repeal could affect the entire health care landscape in Alaska, and particularly those who rely on Medicare and Medicaid, by making it harder for providers to subsidize care for Medicare and Medicaid recipients through their reimbursements from privately insured patients."

*-Dr. Steve Compton as quoted from January 18, 2024, ADN Article*

MS. WING-HEIER stated that she does not have a complete solution to the problem but for a fact knows that privately insured patients can no longer afford to subsidize Medicare and Medicaid. Cost shifting is a real concern. She noted that as

part of the repeal, DOI is working with DOH and has contributed \$5 million to begin examining Medicaid reimbursement rates. While Medicare is part of the solution, it needs to be addressed separately. The 80th percentile regulation allowed cost shifting, and insured market employers can no longer afford to subsidize Medicare and Medicaid. She expressed hope that the repeal does not have a negative impact but acknowledged that even with the 80th percentile regulation, some providers did not accept Medicare and Medicaid.

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MS. WING-HEIER moved to slide 12 and discussed other agencies that DOI will work with to deal with the high costs of health care and health insurance:

[Original punctuation provided.]

### **Going Forward**

What else are we doing?

The Division has committed \$5 million in FY 2024 to the Department of Health to examine Medicaid provider reimbursement methodologies.

The Division requested voluntary agreement from major insurance carriers in Alaska to leave in-network contracts at current reimbursement rates until the calendar year 2025 to protect providers.

The Division required insurance companies to provide their out-of-network payment calculation methodology to be submitted with their proposed premium rates for 2024.

The Division continues to meet with providers and insurers to discuss alternative minimum reimbursement options. Continuing the work on our Health Payment & Utilization Database.

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MS. WING-HEIER moved to slide 13 and said that in November, the Department of Commerce and Economic Development put out a request for information. Many groups have worked on healthcare throughout Alaska. The department is asking for proposals to be submitted by March 1. The intent is to review the proposals and have independent consultants

determine if there is merit in taking the proposals further.

[Original punctuation provided.]

### **Request for Information**

#### Request for Input on the Future of Health Care Costs and Reimbursement in Alaska:

- DCCED put out a request on November 8, 2023, for comments.
- Comments will be accepted through March 1, 2024.
- We encourage providers, consumers, employers, etc. to provide input.
- Comments can be submitted via email to [insurance@alaska.gov](mailto:insurance@alaska.gov) or through the Online Public Notice System. Scan the QR code below to see the Public Notice and leave a comment or use the link provided.

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SENATOR GIESSEL asked if DOI was going to implement an all-payers claims database.

MS. WING-HEIER replied no. DOI received funding, as did DOH, to create a health payment utilization database, which is volunteer. AlaskaCare and Medicaid will contribute, and DOI has asked Premera and Moda to participate. However, because it is volunteer, the database will not be as robust as an all-payers claims database.

SENATOR GIESSEL restated that the volunteer database is similar to but not as robust as an all-payers claims database. She asked if DOI could also use data from Fair Health.

MS. WING-HEIER replied that Fair Health does have data, but it is expensive, and retrieving data would be limited to a specific number of tries. Previously, when Fair Health was used for CPT codes, it was on a contract basis for a specific purpose.

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SENATOR DUNBAR recollected that Premera and Moda had agreed to participate in the database. He asked if they had participated.

MS. WING-HEIER replied that Premera has committed to participating, but Moda has not confirmed participation.

SENATOR DUNBAR said a similar conversation took place last year, with Premera agreeing to provide data. He asked why it is taking so long for them to provide the data.

MS. WING-HEIER replied that it has taken time to build the database and ensure it can accept their data. She stated that Premera has not dragged its heels in providing the data.

CHAIR WILSON said he knows the request for proposal went out in October to build the database and find a vendor. He asked where the department is in terms of building the database and having a platform.

MS. WING-HEIER replied that DOI contracted with Onpoint Health Data to build the database, which is almost complete. The data entered needs a standardized format. DOI is working with the volunteers to establish that format, so the data is relevant once it enters the database.

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SENATOR DUNBAR asked if the new database and incoming data might change DOI's current course of action. He questioned how unexpected data from Alaska could impact the recent process, noting that reinstating the 80th percentile regulation seems unlikely. He inquired if any other reforms could result from analyzing the new data.

MS. WING-HEIER replied that as DOI has worked with the healthcare transformation project, the Health Care Commission, and others over the years, reference-based pricing often comes up as a solution. This approach involves reimbursing providers at a set percentage of Medicare rates, such as 240 percent for primary care. She emphasized that moving beyond the 80th percentile regulation will require a statewide program, involving both the privately insured market and government-funded programs like Medicaid and Medicare. All parties will need to agree on sustainable payment rates to ensure no one party bears a disproportionate share of the costs.

SENATOR GIESSEL commented that in the repeal bill for the 80th percentile regulation that she offered in 2017 - 2018, she had reference-based billing set at 300 percent of Medicare for primary care. She asked if the database would provide verification on the appropriate amount to set healthcare costs.

MS. WING-HEIER replied that it is the intent of DOI to identify reasonable reimbursement or payment for services based on the

charges, which DOI expects to vary, depending on the type of care. She said that analyzing Alaska's own data will help those working to lower health care costs.

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MS. WING-HEIER moved to slide 15 and stated the primary role of DOI is protecting consumers. She stated DOI took the action of repealing the 80th percentile regulation to protect consumers so they can afford health insurance and have access to health care. She stated the following information is posted on DOI's website:

[Original punctuation provided.]

#### Frequently Asked Questions

How do rates or premiums get set?

- The division is required by Alaska's statutes to review all rate filings submitted by health care insurers. In this process, the division, utilizing independent actuaries, looks to paid claims, health care trends, anticipated number of enrollees, and the various financial documents of the insurer that establish financial solvency. The division must approve the filing provided that the rates are adequate, not excessive, and not unfairly discriminatory.

How does the Affordable Care Act apply?

- The Affordable Care Act requires insurance companies to spend at least 85 percent of their revenues on insurance claims. If they spend less than that, they are required to reimburse the difference to their policy holders.

Which health plans did the 80th percentile rule apply to?

- The 80th percentile rule only applied to out-of-network charges in private insurance plans. Private insurance plans make up roughly 15 percent of the insurance market in Alaska. The 80th percentile rule did not apply to Medicare, Medicaid, Indian Health Services, VA, TriCare, or self-funded health plans.

MS. WING-HEIER said DOI is required by statute to look at rates and ensure they are adequate and not unfairly

discriminatory. When reviewing filings, DOI also considers healthcare trends, past payments, and future expectations using inflationary figures. She emphasized that the most important thing the division does is ensure insurance companies are solvent. DOI must always be respectful of insurance companies' financials when looking at rate increases or decreases, ensuring they can justify their book of business based on the rates they have filed. MS. WING-HEIER stated that she would never want to be in a position where claims could not be paid because DOI approved too low of a rate filing, causing the company to go into liquidation. She mentioned that DOI has not been able to hire an actuary for a couple of years, so they have contracted actuaries on staff to review all filings.

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CHAIR WILSON said the state will pay for a person to take actuarial exams. The state has a great plan for anyone who would like to become an actuary.

MS. WING-HEIER added that the classification of an actuary for the department is now above that of the governor. Other measures have also been tried to make the position more competitive with the commercial market.

4:28:58

CHAIR WILSON said he wanted to go back to a statement made earlier about the health utilization database. He noted that there is no statute to compel health entities to submit claims. However, the more claims entered into the database, the more useful the data becomes. He asked if the department might, in later years, consider pursuing statutes to help incentivize healthcare providers to input the data.

[4:29:26 PM](#)

MS. WING-HEIER replied that this is a door that is wide open. There have been several attempts at passing an All-Payer Claims Database (APCD) bill, but none have crossed the finish line.

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SENATOR GIESSEL replied that cost has been an issue. She wondered if the repeal of the 80th percentile regulation will help address the situation where healthcare companies located in the lower 48 were charging based on the 80th percentile because

the patient was in Alaska. She noted that this practice was quite a scam and should be addressed by the repeal.

MS. WING-HEIER agreed.

SENATOR DUNBAR said the data missing from the presentation was any projections on how this repeal will bend the cost curve. He noted that there must have been some projections made to justify the repeal and asked for an estimate. He inquired if there was an expected reduction or slowdown in the increase of premiums, asking if the division had a projected percentage of impact. He emphasized that everyone agrees the premiums are too high and sought specific projections from the division.

[4:31:12 PM](#)

MS. WING-HEIER replied that she needs to go back and look at that question, clarifying that she is not trying to avoid it. She explained that while DOI firmly believes the cost will come down due to the repeal of the 80th percentile regulation, inflation could counteract those savings. It is challenging to separate the impacts of various factors, such as the repeal, technology, and other influences on healthcare costs and rates. She stated that DOI will review the data and provide a better explanation.

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SENATOR DUNBAR stated that Alaska is dealing with a workforce shortage. He asked if there is any concern that the repeal will lead to healthcare workers leaving the state or an increase in patients going out of state for care.

MS. WING-HEIER replied that she hoped not. She noted that 10 percent of the market consisted of out-of-network providers, who are impacted by this repeal. While acknowledging that they cannot compel anyone to stay in the state, she expressed hope that the impact would not be significant. Given the number of providers already in-network, she does not expect the repeal to dramatically impact access to healthcare.

MS. WING-HEIER thanked the committee for the opportunity to discuss the repeal of the 80th percentile regulation.

SENATOR GIESSEL expressed appreciation for Ms. Wing-Heier's work.

[4:33:02 PM](#)

CHAIR WILSON said Alaska is lucky to have Ms. Wing-Heier with the Division of Insurance. He noted that with the Reinsurance Program she made national news.

4:33:40 PM

There being no further business to come before the committee, Chair Tobin adjourned the Senate Health and Social Services Standing Committee meeting at 4:33 p.m.