

80<sup>th</sup> Percentile Hearing  
2/24/2023 1:00 pm – 5:30 pm  
Atwood Building, Anchorage, Alaska  
Computer generated transcript - lightly edited.

00:00:01

I am Lori Wing-Heier, and I'm the director of the division of Insurance for the State of Alaska. I'm in the Atwood building in Anchorage, AK, and it is 1:03 PM on February 24th, a Friday 2023. We are at the public hearing to talk about the possible repeal of Alaska's 80th percentile rule. I've got a few slides to talk to you about just to us person, General Housekeeping.

For those that are on teams, please raise your hand when you wish to testify. We'll go back and forth between who's in the room and the Atwood and who's on teams with the raised hand to testify. For those that have dialed in, please use STAR 5 to indicate that you wish to speak. And when I or Sarah call upon you, please use STAR 6 to unmute your line.

This meeting is being recorded and will be available on the division's website probably sometime early next week if you wish, if you have to leave early or arrived late and wish to review it.

The 80 percentile as we all know it provides a floor of when a payment needs to be made and we often get asked what is the 80th percentile, and I do my best to explain it. You have 101 providers, the same service, and there's ten different fees, so you're going to take the top two of those, the 80th, if you number 1234, you're going to take the top two, eight of them are going to fall below. Two of them are going to be on top of that line. That line is the basement or the baseline of where the providers have to pay for out of network charges in the state of Alaska.

This was put into effect.

The rule only applies to insured plans that the division has regulatory authority authority for it. Those are individual, small group and large group markets. It does not apply to self funded plans, those with large deductibles that an employer such as a native corporation or the state of Alaska has provided to their employees in order to does it apply to the Union trust. It doesn't mean it won't have an impact on them, is what we are told when they go to negotiate prices.

But it does not. There is no regulatory authority that the division has to force the 80 percentile on most plans.

In 2004, there was concern that the insurance companies, the payers in this conversation were not reimbursing the providers at appropriate rates. Consumers in Alaska were received, were receiving huge, but we call excessive bills or surprise bills.

And I for years was a big defender of keeping the 80 percentile in place because it stopped Alaskans from being surprised billed.

But in 2020, Congress passed a No Surprise Act in an omnibus bill.

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So I have now kind of our division has reevaluated our position. Is this still necessary because my fear of Alaskans having large surprise billings has kind of been taken out of the picture by this federal act.

The no surprise act, and again this is a federal act, covers undercovered under group and individual plans for most surprise medical bills. There are a few exceptions where the no surprise act has a couple caveats. Again, this is if you're out of network and I think it's on the next slide.

The federal protections are against when you are not told by your provider basically that you're out of network. OK, so when does that happen if you go to the ER your child's hurt your spouse, family member you're not going to stop and see and we know this in most cases is it an in network provider you're also not going to have the time to talk to your in network hospital if by chance that's who you chose if you're provider happens to be out of network and we know this happens, that you'll go to Providence to find out that your Providence is your in network provider, but your anesthesiologist that they called in is not. You get a surprise Bill. It's also applicable for the out of network area ambulance bills.

So what happened is the NSA or the no surprise act put the onus back on the providers and the facilities that they have to disclose to you, the consumer, certain provisions of the balance billing or the No Surprise Act they have to provide you a good faith estimate of the expected charges in advance of the scheduled services. Again, the the caveat being in the emergency room, there is some leeway and these tools are intended to allow consumers of healthcare make informed decisions if they're utilizing in and out of network providers. And yet we recognize that many of us make our decisions based on who our provider is because we've developed a relationship and sometimes it doesn't matter to us if they're in network or out of network.

The division is doing three hearings on this in an attempt to have Alaskans from, if you will, both sides, providers, payers, consumers of healthcare have the opportunity to testify. We're to taking written comments until March 6th. Sarah's address is up on the slide in front of you. You can send your written comments into Sarah. This is our second hearing. Our next hearing will be March 1st, next Wednesday in the State Office building in Juneau. And with that, we will begin testimony.

Uh, as I said, I'm going to go back and forth between between who is in the Atwood building and who is attending virtually and has raised their hand. The first person we're going to ask to testify, Linda, is going to be you. You were first here. So Linda Carroll.

You can come and sit the on camera or you can testify however you want ma'am.

00:06:06

So I am here representing two different organizations. First, I'm going to speak on behalf of our practice Aurora maternal fetal medicine and I will say she, you know, our physician is the specialist. So we definitely have feelings about this and some of the things that are coming about the biggest thing really, from what we understand from what has been said and what is driving this latest review of 80th percentile is that an insurance carrier has basically said that it is the fault of providers that the providers, what providers are charging is what is driving the high cost

of healthcare and that's partly because we have quote unquote some protection under 80th percentile. But I really want our representatives to understand what I want the Community, the public to understand. That actually is not the case. I I will just speak to the one insurance company just because as an in network contracted provider, we we've received letters and so I I know I can speak from information that I've actually received. The last time that Premera Blue Cross reviewed their standard contracted fee schedule was in 2021 those rates came out and they were actually a little bit less so providers that were in network so you know a paint a picture essentially is what happened and I can tell you year over year for the same CPT code providers, medical care providers, we are not getting paid more every year for the same CPT code. It stayed the same. It's like been stagnant essentially we've gotten if you were to the best example I could say like an employee they haven't gotten a raise in many years and we're at the same pay rate. Yet this insurance company, their premiums because also we are consumers of their product, their rates have increased quite a bit year over year. Part of it of course is so many more people actually became eligible for marketplace coverage but during the last couple of years because of the public health emergency and what has happened you know just around the world, but the so the prices that are the amount, the dollar amounts that providers have been getting paid per CPT code, that has not gone up. So that has not changed. So it's not providers driving up the cost of healthcare. We we've been getting paid the same amount. What's happened is this insurance company of course now covers 90% of the market share in the state of Alaska, that's huge. And a lot of other businesses are industries, but almost say that's like having a monopoly in the market. And so this company that has a monopoly almost is the one driving the review of getting rid of 80th percentile. So I want to make that very clear. I want people to understand that and it's not just because you know I'm coming from medical side. This is true facts that you can look up these numbers and see this. So yes, now the Blue Cross probably has paid out more money over the last few years. That's because they have more lives covered. When you cover more people, naturally you pay out more dollars. This insurance company is nonprofit, which requires 75% of their dollars in to be paid out to medical claims. That 75% of those dollars have to be for medical claims. If they do not pay out 75%, what happens is like, and I'm just using easy numbers for math, if they get \$100 in, 75% of that would be \$75 out. If they only put \$60.00 out, that \$15 has to be returned to the policyholders. Previously, Blue Cross has been able to provide essentially refunds back to policyholders. I believe 2022 is the first time in many, many years that this insurance company has not been able to do that, which means essentially only that they have paid out more than 75% of their dollars in towards medical claims, but again when you cover 90% of the market, you have to certainly expect that more than 75% perhaps of your claims are going to be paid out, especially given just the nature of what healthcare has been like, the the needs of the population as far as healthcare, what that has been like over the last couple of years. I mean for people who needed care, there's been a higher acuity of care that's been needed because of the public health emergency and the things that go along with that. And that is just something, you know, unfortunately that nobody had ever really planned for or expected so. The other thing that's really important that. The 80<sup>th</sup> Percentile. You know, I certainly understand it is as Lori has pointed out, you know, that was put in place for yes, mainly for Patient Protection and that was so that, you know, patients didn't get these large surprise bills by out of network providers. That also did somewhat help providers in a sense that. I know that everyone's saying, well OK, every like 10 different physician practices for the same CPT code, which is basically just the level of code that's provided to on a claim. So like for an office visit, which is called an evaluation and management 99213 10, different offices could have 10 different fees of what

they're charging for that. But also every single insurance company out there also has a different amount that they allow for their standard contract insurance company A could say well for 99213 hour allowable is \$100. Insurance Company B will say, well our allowable is 125. So it's not just the physicians where we don't know who's charging what. We don't know which insurance companies, what they're allowing. And I will tell you I've been in medical in this community for over 20 years. I've had the privilege of you know working at surgical practice working at managing a surgery facility. We've been in network with some insurance companies. We've been out of network with some insurance companies. I will tell you when we try to check out of network benefits quote we are always given from any insurance company is that well Alice as an out of network provider we cannot tell you what the allowed amount is going to be here is the patients out of network benefit we allow. And again, this is a true example. I'm not making these numbers up. We allow 60% of what we determine is the allowable amount for this particular charge, OK. Well here is the CPT code. We're going to build 12345 and we're going to charge \$1000 out of that what will you allow for the patients out of network benefit?

Since you're out of network, we don't have to tell you that is what an insurance company will repeatedly tell out of network providers. So the providers office we're trying to help patients by quick estimates to get putting estimates together, but we are not being given the information by the insurance company. If you're out of network, they will say we have no requirements to tell you and we're not going to tell you ahead of time, but the patient can call us and get that information.

It's difficult for a patient to be able to make those phone calls. So the average person doesn't know what to ask. You know, I've been fortunate that the teams that I have worked with, we've been able to give the patient everything and say what we call here's the script, here's the numbers. This is what you asked them for. We have, we've done that in hopes of helping patients, but not everybody has the capacity or the staffing to do that. So again, I want it made clear that.

You know, an insurance company is trying to say that the 80th percentile is allowing providers to drive up the cost of healthcare. It is not. That is not the case at all. What's happening again is that the insurance company is just having to pay out more dollars because they're covering more lives. That's what's driving up the price because we are not getting paid anymore. We are not getting a year over year increase in the dollars, we are getting paid for the same level of CPT code. I think almost any provider's office out there will tell you that is the case. We just, I haven't seen that so it doesn't seem justifiable for insurance company to say, well, you know, every year we've raised the premium rate almost 10% because your provider is charging more. It doesn't matter what they charge, they're only going to allow and pay what they allow and we're not getting any more dollars. That's what's happening.

And that is, that's my testimony on behalf of Aurora maternal fetal medicine. I can let others speak back and speak on behalf of Alaska and GMA, which is the state chapter of the National Medical Group Managers Association.

Thank you, Linda. Next, I don't see anybody online raising their hands. So next in the rooms and Ann Fisher. Oh I'm sorry and Flister, not sure which wherever you want to set that. I think they

enjoy seeing with the close talking. So any question in the camera be good. Thank you and thank you for having you. Thanks for this opportunity.

00:16:18

My name is Ann Flister. I assure you my comments will be more brief, but I do have notes because I don't do this very often. I am the human resource manager for PND engineers incorporated. I'm here today on behalf of my employer to express our support for repealing the 80th percentile rule. PND engineers was found in Alaska more than 43 years ago. It is one of Alaska's premier civil structural engineering firms and has a long and storied history and bringing about critical civil infrastructure in our state. We have found it increasingly difficult in recent years to compete, work and maintain profit margins with our lower 48 competitors because of the skyrocketing, at least in large part to skyrocketing costs for Alaska healthcare for our employees. It drives our labor burden higher and comparison to lower 48 firms who competing for the same work.

I'm talking about a cost of nearly \$2 million last year alone to cover a group of fewer than 100 employees and their families. We are aware of the two 2018 University of Alaska study. That found a significant correlation between the healthcare cost trajectory and this regulation, which by the way, I understand is found in no other state in the US. This is unique to Alaska and it also seems to have an effect on the outsized inflationary factor of Alaska's healthcare costs compared to other inflation in the general economy.

We feel the regulation is not only unnecessary, but detrimental to Alaska healthcare consumers, and we fully support its repeal. Thank you.

00:18:17

Thank you, ma'am.

Again, I don't see anyone in teams that is asking to testify. So next would be Brooke.

Not quite ready yet.

Oh, you're not? Then we're going to go on mute until we have someone to testify, and we will check in if someone doesn't come up. But again, we're going on mute. We're still here. Anyone on teams or on the phone? Please raise your hand if you wish to testify.

19:52

We're back live in the Atwood building. It's about 122, and Susan Nodine is here to testify. Susan the floor is yours.

Hi, everyone. I'm representing Alaska oncology and hematology here in Anchorage. We've been in practice for over 20 years. And repealing the 80th percentile rule would both adversely affect the providers and their patients. It would diminish the practice. Sorry, it would diminish our practice being able to keep life-saving chemotherapy on hand. Instead we might have to move to a case by case basis.

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Milliman conducted a study and concluded oncologists not having the ability to stay in business with reimbursement is below what cancer medication costs in the community. That is a concern because if we're not here, then that's going to affect the patient. They will have to go out of state or have the limited ability to have chemotherapy. We have worked with Premera for many years. And we did work with them to alleviate the huge out of pocket cost for members by bringing down allowable charges when we contracted with them. So we do have great respect for them, but we feel that repealing this law would actually. But. Not only affect us, but affect the patient at that point. You know, depending on who their insurance carrier is, they may end up owing more money. Which is detrimental to them as well as to the practice itself. We really don't want to see the number of specialty physicians and primary care physicians in our community dwindle. Because ultimately they could just providers could decide it's really not worth it to move up here to do practice. And that would hurt all of us. So we really request that you not repeal the 80th percentile and reconsider. Thank you for your time.

00:22:14

Thank you one for Susan.

It is now about 1:25. We're going to go back on mute until someone either raises their hands, hand on teams to indicate they want to testify, or someone enters the room in the Atwood. Thank you. We're here. Just waiting.

00:23:24

Hi, this is Lori Wing-Heier, it's about 1:26 PM and we have Dawn Holcomb on teams. Dawn, you've indicated you want to testify that you now have 4.

00:23:45 Dawn Holcombe

Alright, thank you very much. Um, I appreciate the chance to to speak. I am actually speaking on behalf of the same Alaska Oncology group that was just presented, but I I presenting from the perspective of someone who sees contracting done across the country and looking at have been working for a long time at what's happening in Alaska.

The percentage, the real risk to repealing the 80% eightieth percentile is the impact on the physicians that are providing care in the area. I know that the payers will say that they need the ability to contract and they need the ability to set different prices. But the cost of care that is so concerning the employers actually is driven more by the middle men that are coming into healthcare, many of whom are owned by the insurance companies like pharmacy benefit managers who are taking their piece out of the pie and charging for every drug they're they're processing through etcetera.

So the problem that we have is you have a very low density of specialists like oncologist up in Alaska. We've already been taking a look at what happens when these the payers are able to change how they contract when they're contracting and if they start to apply universal non area prices and revenue rates to the higher cost of care and the challenges that the practices face in finding qualified staff to serve the patients as well as to be able to fund the inventory is to have the drugs on hand in order to treat when a patient walks in the door. Those inventories can cost more than \$1,000,000 per doctor just to have the treatment there and for when the patient needs

it, there's no charge that's ever given until the patient actually has received the right treatment. They've shown that they're medically ready to receive that treatment and then they receive the treatment and are moving along in their process. So my fear is that when the, if the 80th percentile is repealed and some of the restrictions that are now on the ability of payers to really ratchet down on the contracting, they will ratchet it down so low that you're going to see a mass exodus, a particularly of specialist and maybe their primary care as well out of the geography. And then you're we're already in a very low density population particularly for oncology care it's going to get even worse, and I'll hang up because my dog is telling me there's somebody outside now.

00:26:41

Hi, I'm Brooke Shasky. I'm with the Alaska hospitalist group and also with Alaska's.

Can everybody hear Brooke? Kelly, can you hear Brooke? I just wanna make sure people here please proceed. Brooke, I'm sorry to interrupt.

No worries. So I know I believe Ms. Flister stepped out, but I did want to thank her for sharing her concerns around premiums. We as a provider group also see this increase in premiums that we are having to absorb the cost of as well for our employees. However, we don't see how the 80th percentile is going to change that. There hasn't been anything that has come out with the removal of the 80th percentile that insurance companies guarantee that they're going to reduce these premiums and cost and pass that down to it's patients and consumers. So I don't think that this statute is going to do what is being presented to impact do. I wanted to kind of tag on to our last speaker really quick and speak to the effect of what happens when we have, we no longer have in network providers.

I have a friend who recently tried to get allergy, to see an allergist with specialist. Here in the state and for this payer, there are no network specialists. She did what she thought was correct. She called her insurance company. She asked for instructions of what to do so she could get her claims paid for to get her children tested. And they have severe allergies and needed to get medication. So she went through all of that, followed instructions to turn around and rebuild the full amount by the provider. So.

She had to then absorb that cost. The the payer did not process this. It's what we would see as the 80th percentile, unfortunately. So there's some concerns around getting that there and that's allowed, not paid. We understand that they can still allow, the payer can allow that 80th percentile doesn't mean that they're going to pay anything on it. So that that needs to be recognized as well. When payers say that this 80th percentile is costing them, they still have policies in place that say that we're only going to pay 20 or 30% of the network or of that out of network benefit so. That's to be said. So. So this, this friend has these costs and there's no network providers. So what are we going to do when we have two major players in the state for payers who drop contracts with providers or providers just for forced to not contract with them anymore with that they cannot? We cannot allow a contracted rate, they can keep our doors open so. Pause there. And Linda, please keep me on track. I'm sorry, I get pretty nervous speaking and and good groups. And I think the concern is, is that there's a good new

Introduce yourself.

00:29:54

Sorry, this is Linda Carroll again and I'm speaking with Brooke on behalf of Alaska MGMA Alaska Medical Group Managers Association but if you know, we lose any is Dawn had also mentioned if we lose any of the specialists that we currently have, which we don't have very many, what are patients going to be left to do for their care in Alaska. You know many, many years ago in Alaska there was an issue of not having enough physicians in the state and patients constantly had to travel out of state for care when you're not feeling well or if you're having some sort of perhaps ortho procedure where.

Having surgery in your bones are being cut. That change in elevation when you fly on a plane is not comfortable, but also it can cause some additional damage, like when you're flying immediately after having a procedure done. You know there are health risks to that. If you've had general anesthesia, you risk the health of, you know, potentially having something happened to you, you know, respiratory when you're flying. So there's a lot of things to consider when we think about potentially either a not having enough specialists in the state or if providers then say, well as we've had mentioned, we can't afford to be in network with you. So we're going to be out of network. So while we're still here, that just means that unfortunately patients then are left in the middle and they are ultimately the ones who are going to be paying like literally, financially, they will be paying the brunt of that because, yeah, an insurance company, you know, they're not, as Brooke said, just because they say right now this 80th percentile rule holds them to be accountable for saying we allow I also want our representatives and the community at large to know what an insurance company says is an allowed dollar amount does not equate to the actual dollars that they will pay out. Again, if you're an out of network provider, and they won't, the insurance company will not tell us what is allowed. We can tell the patient our charge for this is \$1000 and it might even be below the 80th percentile. But if that insurance company determines, well, we say that only \$500 is what we determined to be usual and customary for this area and we will only pay 60% of that \$500.00, we're only going to pay \$300. You know, so that patient then is left essentially with the balance of \$700.00 and it's because really their insurance company, they're not paying. You know, a lot of people think the 80th percentile means the insurance company is going to pay at the 80th percent. That is not also. That is. That is not what it means.

So I would like to also speak to what's happening across the nation that we're seeing from states who don't have an 80th percentile rule or protection for their patients, we are seeing since then no surprises act payers. By having their panels full that meaning they're not accepting any new providers for that state or area under their their contracts. So under the No surprises act if you're seeing emergently or in acute hospital setting a physician, certain physicians cannot balance bill if they're out of network. Well those physicians in good faith are trying to contract with these payers and they cannot. So they're they are now required to see these patients and basically provide that service for little to nothing. Most of the times we're seeing on less than Medicare rates. They're struggling. Payers have found a way to use the no surprises act to to not contract with providers and then have them accept these low allowed amounts. There is arbitration. There's that option for providers to fight this. However, the government has had to pause that due to how many claims are coming in and lawsuits from other states saying that this is not.

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Just questioning the law. So right now they've also for providers to the public should know for us to go to arbitration if we don't have that 80th percentile protection and our insurance Commissioner to help us with that, we could use the No Surprises Act to say you know, to try and get this to pay at a reasonable and customary amount that's acceptable to both of us parties. We now have to, we would have to pay an exorbitant fee to just to arbitrate that with no guarantee it's gonna come back in our favor at all. Most, most of the time it the fee is more than what the provider would have have asked for in the first place.

So again to repeat lower 48, we are not seeing their premiums go down either. I would love to see insurance providers show how much lower their premiums are for for areas that are as expensive to live in as Alaska. So we're comparing Alaska to other expensive places to live and show that you know we've reduced our, our, our premiums. I don't think that's going to happen here. I do not believe that the. I just want to keep hitting on that, that what is being told to our public is going to happen and my fear is when this goes away that as a provider group our contracts will come up from insurance companies. They will drop them and force us to take a very low allowed contract or not contract at all and then our patients are going to not have network providers across the state again and be forced to be balanced billed.

Again like we've got to, we've got to look at this, this protection is going to go away from patients and providers who in the past I speak from our group and and probably a lot of groups out there. We we typically do not balance bill patients and we try to contract with every pair to avoid that. We're going to be forced to do that if if we see patients if we can accept them at all.

00:36:47

Thank you for your testimony. I appreciate it. I think we all do.

I don't see anyone in the in the Teams or in the room that is wishing to chat. So at 139 we're going to go back on mute until someone arrives at either venue to testify. Thank you. We'll be back.

Do you want to check the chat too?

00:39:36

I just want a quick reminder. I hope you can see the ones on Teams, but those on the phone that have called in, there are quite a few of you. If you wish to testify, please hit star five that will tell us that you want to testify. We will unmute you. At the same time, you will need to hit STAR 6 then to unmute yourself and you will be allowed into the room to testify. Again. This is for those on the phone, star five, that will give us basically a hand raise that you wish to testify.

00:46:36

Hi, Jason. We were kind of on a break because there was no one to testify, but I see you just joined and if you want to testify. We'll give you the floor. You've got, we've got unmute you here. OK. If if you can make sure you're unmuted on your end, you've got the floor, Jason.

Hello, my name is Jason Hipzter and I'm a business owner in Alaska and my family moved there in 1977. We are in favor of the abolishment of the 80th percentile regulation.

As a business owner, all of my pricing for the goods and services I provide in Alaska are determined through competition in a free market system, this is how we do business here and it protects the consumers of my goods and services from unfair and extremely high pricing. The 80th percentile regulation is a price floor, and time and time again it has been proven that price floors are detrimental to a healthy economy. This price floor is especially dangerous to our economy because it can be influenced by the producers of the goods and services it is applied to. I can't think of a worse scenario for our local economy and it is the reason our healthcare costs are so high.

I have worked and received medical care in other developed countries. In Western Europe. I had an international insurance policy that refused to pay for service specifically in Alaska because healthcare costs are a minimum of three times more expensive than in any other developed country.

Because of this healthcare regulation, our healthcare costs are extremely high and the healthcare costs are one of the largest expenses for a family.

Recently at an ADC luncheon, it was stated that wages in Alaska are no longer what they used to be. People are no longer earning 50% more money than the rest of the country. But one of our biggest, biggest expenses, healthcare, is 2, 3 and sometimes six times higher than the rest of our country. This is why I can't find employees. This is why our young people aren't staying here. This is why our state population is decreasing. And I'm asking the state of Alaska to do something about this, help us out and fix this problem. Thanks. Thanks for your time.

00:49:07

Thank you, Jason. We appreciate your testimony.

Dawn, you still have your hand up, can you?

If you don't take it down in a minute, I I'm gonna let you back in. I just. I don't know if it.

Is from your first testimony.

00:49:30

No, that this was an additional hand, I apologize.

OK, you've got the floor.

Well, when when we were quiet, I started thinking and one of the challenges is that healthcare is not just a number and I will say that the when there are not enough specialists to go around, the burden on the patient and the employer becomes far greater than anyone has considered. If patients are not receiving the treatment, then they're going to end up being hospitalized more. The medical benefit costs are going to go up substantially for the cost of the untreated care, the untreated disease, the untreated diagnosis. We saw this in New Hampshire, where physicians were not allowed to deliver a certain service. It was an oral medicine. It was one that they

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needed. The patients needed to come in every week to receive it, and many patients were successful for years on that treatment.

All of a sudden the physicians were not allowed to deliver it. Those patients were forced to travel 2 hours in the winter. And you can imagine what the the traveling is like even in New Hampshire just to go to a specific, the one hospital center that was able to still provide that that service. This is what I fear we're going to see and I will say that I will echo the the comments of an earlier presenter that the this is being presented as a chance for the insurance companies to make sure that the pricing is accurate and lower in the state, it's they're claiming that this puts them into a competitive market situation. But I would submit that the cost that you're looking at are not the charges that are coming from individual physician groups and specialists. They are very competitive. I've looked at contracting around. But I will also say that I've seen contracts proposed that are tied to 2020 Medicare rates in 2023.

It is completely impossible for a medical practice to buy a drug and have it available for administration if they are only receiving reimbursement. That is 6070% of what it costs them to buy that drug so that is why I say the it is going to be very difficult if you change these, if you allow the insurance companies to create their own form of pricing where their size gives them clout over the physician, the small independent physician practice, which is where most of your specialists are.

Uh, they, they won't be able to survive. And when you have a cancer patient that is getting weekly or daily treatment over a three-week course of three month course of treatment, that is going to be actually untenable for them to travel for that treatment. So I would hope that we would have be able to have a chance to discuss this with some of the physicians. I am not a physician, I'll be the first to say that. But I think it's appropriate to ask the medical community what will be the repercussions for healthcare in Alaska if this the insurance companies are given carte blanche to set what prices they which they want to set. And the you know and as was mentioned earlier that is not going to be related to what it actually cost to deliver the care, the physician practices, the community, the specialist, they are employers just as every other employee that's employer was testifying here. They have the same difficulty finding staff, but the consequences if they're not able to stay open are the the most people will choose not to receive the treatment that they need rather than travel, particularly for the amount of time that has to happen. And that's a very serious human consequence. And it's not only human consequence, it's a consequence to the employers and to the state itself or whomever is paying the bills because if diseases, whether it's cancer or some other, uh diabetes any other kind of cancer or any other other kinds of disease is not treated locally and the treatment is not obtained because the patient decides that they cannot afford it or there's no specialist, there's no doctor to see, then the other costs in the hospital were going to go up dramatically and the health status of the entire state is going to drop.

Thank you. I won't raise my hand again, I promise.

00:54:11

Alright. Thank you, Dawn, for your second testimony or your continued testimony. We do appreciate it. We're going to go back on mute at 1:57 until we see someone in the room, the

Teams room, the virtual room or on the phone that wishes to testify or someone shows up in the Atwood to testify. We'll be here. Thank you.

00:59:30

Hi we've had a few people join and I just want to reiterate, there is nobody new in the Atwood to testify, but if you are on teams, please raise your hand and we will call on you to testify. If you are on the phone, please push Star 5 and we will unmute your line here. You will then have to press star 6 to unmute yourself. So again, if anyone in the virtual room wishes to testify, please let us know by raising your hand. Thank you.

1:08:08

I believe the last four digits are 9492.

Asked to testify. It is a phone. I don't know the name, I apologize that, but the number that ends in 9492. If you can press star 6, the floor is yours. 9492 If you have, we cannot hear you. Please press star 6. I believe it was you that asked. They're leaving.

OK. We're going to go back on mute.

Again, if you were on the phone, would you and wish to testify would you please press star 5? You seem to have a little confusion here on testifying.

OK. Someone with the last four digits 3665, we are going to unmute you. If you could press star 6, you will have the floor that's 3665.

1:09:22

Thank you, Madam Chair. My name is Mike Williams. And you please let me know when you're ready for my testimony.

Sir, you have the floor anytime you want to begin.

OK. Thank you for the record. My name is Mike Williams. I currently serve as treasurer for the Pacific Health Coalition, which is a coalition of health plans that cover over 100,000 lives in the state of Alaska and over 200,000 lives in the Pacific Northwest. I've also have 20 years experience as a trustee for the ABC Local 52 Health benefits trust which covers approximately 17,000 lives in Alaska, so I have experience working with third party administrators and health plans in Alaska for a number of years. I call in support of repealing the 80th percentile. Passage of the federal No Surprises act negates much of the reason for the 80th percentile. A 2018 report published by the Institute of Social and Economic Research, or Iser, at UA found that the 80th percentile counts for between 8.6 and 24.6 of the increase in expenditures over the decade from 2004 to 2014. The legal and and economic environment have changed such that the 80th percentile has outlived its purpose, and I'm in favor of the division of insurance, repealing the regulation. In support of the that that requires payments at the 80th percentile. Appreciate this top opportunity to testify to the board and and thank you for your time.

Thank you, Mr. Williams. We appreciate you testifying.

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Alright, thank you. Goodbye.

Thank you. Bye, bye.

1:11:19

Thank you.

We're going to go back on mute. We'll check in in a little bit and if we see anyone who wants to testify, we will call upon them immediately. Thank you.

1:21:10

Just as you can, Sir. It's 2:24 and we are in the Atwood and we have a gentleman to testify. Sir, if you could introduce yourself in the floor is yours.

I'm Anurag Ambasht. Here on behalf of a small medical practice as well as for my family, because I think this is something that concerns not just the medical community but all the elastic here and I'm concerned on both ends. So I kind of have a little bit of a prepared statement, but I'm going to kind of ramble off of that.

Abolishing the 80th percentile rule will push more doctors and providers out of Alaska through retirement for relocation and bring us to near certain medical catastrophe. Forget about the cost of healthcare. Soon you won't even be able to find healthcare. Soon we will all start saving miles to use for travel, for medical care. I wonder if Alaska Airlines will run any healthcare flight sales. This may sound like a joke, but the reality is terrified.

According to the testimony provided by Director Lori Wing-Heier February 20th to the Senate Labor Commerce Committee, the 80th percentile will only applies to insurance plans held by 15 to 20% of Alaskans. So let's go with 20% and about this UAA study, which points to the 80th percentile rule being the main cause of healthcare rise in Alaska.

So according to this study, physician and clinical expenses accounted for only 30.45% of total healthcare costs in the state in 2014. There seems to be a creative narrative. Whether it's pushed by insurance companies or someone else, I don't know. But this narrative is that it's the providers that are driving up the medical costs. So according to the study, 20%, which is the amount of people who have these insurance plans that would be effective 30.45% of these medical practices, that's only 6% of total healthcare expenditure in the state is directly affected by this regulation. That's 6%. Yet my premiums have gone up by 10 to 20% each year. So my question is where is the discrepancy and if we get rid of this 80th percent regulation then what is going to happen in the next excuse?

Every time we seem to have a new reason for our insurance premiums to go up and no one seems to have any solid answer. If we want to push doctors into having fixed price contracts, we need to push insurance companies to have fixed price contracts with us.

Now that's me speaking as a insurance subscriber with a family here, and I value going to private, small practices because I want my doctors to know me, my children. And yes, there is a space for corporate medicine here, but there is also space for small private practice as well. It

allows doctors the ability to practice the way they want and without any concern of money and that is purely upon the patients for the patients benefit.

So. I think that's pretty much. I can go.

You can continue if you want.

I mean my point is that a lot of the data we have, it seems limited. And also we're working with what we know from 2014, which is 10 years ago, the effects of the Affordable Care Act really hadn't come into play yet. We would have incomplete data and I believe that this UA study doesn't take the full picture into account. We have a lot of providers that came in network since then. And this data that we have, it is total expenditure for Alaskan residents, which also includes expenditure out of state and Alaska resident goes out of state for care. It's included in these numbers. So I don't think enough has been done to factor that out and I think it's unfair to the point that directly have the 80 percentile. It gives doctors and providers and ability to negotiate with insurance companies because if this wasn't in place, small practices I believe would be wiped out because they would no longer have any negotiating power to the table. And when it gets harder for physicians to provide care in the state, they will leave. Keep in mind, most of the physicians here are not from Alaska. We don't have a medical school here. We have I think one small residency program. We don't have homegrown talent.

The lure of Alaska does not bring enough doctors here alone. We need something to have good, strong medical talent here. My dad was a gastroenterologist up here. He came, we came up through the Air Force. He was trained and he fell in love with the Alaskan people and the environment here and practiced here. And I can tell you in three words the reason for why he retired once explicit, and the other two were insurance. So. Take it from there. The amount of. Healthcare cost goes now towards administration. Because it is now harder to provide care to patients in a straightforward way. Doctor's times. More doctor times mixed with on the phone with insurance companies. This medication was approved. Doctors. It's harder for doctors to practice the way they used to. And I understand there's a place for it because it's also protecting their costs. Need to do more to protect the staff here.

Thank you. Thank you for your testimony.

We also need to protect our patients because if we we have, we have no idea, we have no way to set a reasonable customer that providers can accept for out of network claims these patients are going to absorb that cost 100% of it and this helps us providers who are not in network to get something that keeps her doors open and not balance filler patients. There is nothing to prevent us or outpatient counseling and it's only going to hurt our families.

And if I can add on top of that That with the with the No surprises act that we now know. You know, it's very easy to get a good faith estimate. Prices are transparent. No one goes around yelling at all the pizza companies. Why are your pizza prices so high? I think the premise of this argument that doctors can just raise the prices willingly. Almost smells of accusing of collusion. Which I don't think there is. I think it's very hard to prove and prices have gone up because the administration cost. I, you know, I spent hours on the phone dealing with insurance company.

And it's for pretty straightforward stuff. I think generally and as a small practice, there was maybe three or four of us. If I devote 3 hours of my time, that's time I can't spend towards helping the doctors take care of the patients.

I think there needs to be some more protection for clinics, small ones and big ones, but especially small ones because I think Alaskans here appreciate being able to go doctor they want and a Doctor Who remembers them. Seeing more bigger clinics, which is good, they have their place because they have. They provide patients with proper clock accessibility because OK, if your doctor's out of town, it's kind of a little hard to get covered. But there is a place here for both and if we squeeze out one kind, it's going to be harder. And as one clinic closes, I think we've had a couple clinics closed this past year. You end up with thousands of patients in the state that are scrambling to find doctors. There are less doctors and less ability for these clinics to absorb patients, you're ending up with more patients in the pool. We end up going to ER for the primary care and we certainly know that ER is they don't have space. they were well past capacity and it's becoming worse and worse because we are not able to stop ourselves or patients from going to get the care when they need it. They're waiting until it's an emergency and they have to go with it and then hospitalizations costs go up. And then now, if they're gonna need some special surgery, we push the skilled labor out of here. They're going to have to fly out of state. I think that's a reality we're all face.

What happens to our economy when those people no longer live here?

Alright, thank you for your testimony Sir.

Thank you for the opportunity

And it is now true for 2:33 and we will go back on silent until we see someone wishing to testify.

Thank you.

1:46:17

This is Lori Wing-Heier. I'm the director of the division of Insurance. It's 2:49 and we have Amber Larkin, who is asked to testify. Amber, if you're ready, the floor is yours. You'll need to unmute yourself and you please begin your testimony.

1:46:34

Great. Thank you, director Wing-Heier. Hello, my name is Amber Larkin, and I have worked as a benefit professional in Alaska for going on 20 years, and I currently serve as the past president for the Alaska Association of Health Underwriters. I'm testifying today in favor of repealing the 80th percentile rule.

The solution to soaring healthcare costs in Alaska cannot continue to be make the employer pay, make the health plan pay, just make the health plan pay. This rule has over time led to substantial increases in cost to Alaska employers, especially those employers operating fully insured health plans with high needs employees or family members. Most of Alaska's small and mid sized

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businesses are operating fully insured health plans and are therefore bearing a large brunt of this this provision. This includes many small and midsize Alaskan native corporations as well, which are not eligible for the federal employee Health Benefit program and pay significantly higher healthcare costs and their counterparts.

While all types of health plans in Alaska feel the impact of soaring costs, the 80th percentile rule has led to extreme disparities from what one employer pays for the same medical service over another based on participant needs and how the plan is funded.

For example, there is a very high-cost disease and treatment that can see one employer health plan paying upwards of \$1,000,000 a year while another plan may pay \$300,000 a year for the same service solely due to the 80th percentile rule. This is not an exaggeration, this is due to lack of competition in the market. We are a free-market economy and that applies to healthcare as well. When there's no competition and a rule that requires a high minimum level payment, the outcome is extreme costs.

It cannot continue to be the burden of the employer to solve the healthcare cost crisis. The approach must include providing incentives for competition, including education and tuition support, housing and childcare support, and creative ideas to bring much needed providers to Alaska, especially in our rural communities.

For many, many employers, the cost of providing benefits has become second only to payroll as the largest operations expense. And the in current environment which has seen many Alaskan employers struggling to fill open positions and recruit and retain employees, now is the time to recognize how the 80th percentile and the cost of benefits impacts employers abilities to grow and compete. With the passage of the No Surprises Act, consumers have been given protection against balance billing and the repeal of the 80th percentile rule will put all Alaskan employers in a position to better manage their costs. I strongly support the repeal of the 80th percentile rule. Thank you.

1:49:18

Thank you for your testimony, Amber.

Mr. Morris, if you're ready to testify, ohh thanks. If you want to come up so they can hear you, you don't necessarily need to be on the camera. But if you come a little bit closer we have someone in the Atwood building to testify and Amber, can you take your hand down? Unless you want to testify again. Thank you. Sit anywhere.

1:49:41

Sure, Sure. I'll be brief. My name is John Morris. I'm an anesthesiologist and I'm the president of Denali anesthesia. We're a primarily hospital based anesthesia group that serves Alaskans here in Anchorage, where they were the oldest anesthesia group in Alaska, and we take great pride in the care that we provide so forth. The 80th percentile rule is a something that I think was intended to help us with negotiating contracts with payers and things like that. Levels the playing field. It gives us a little bit of. Little bit of equity and fairness, uh, to what would be very, very asymmetrical conversations between insurance companies and us.



In my company we we take care of people whether they can pay us or not. We have no idea if a person has insurance or what kind of insurance or what their ability to pay is. When they come to the hospital, we don't even know. And then the later afterwards we we try to get paid.

When folks don't pay us, some folks we we go to collections. And before we send the patient to collections, I personally call every one of them and to find out what their circumstances are, find out if we've made some sort of mistake in our billing. And in doing that, it gives me a lot of insight into what folks are dealing with and how they're experiencing dealing with insurance companies.

Recently we used the 80th percentile for the first time. We had a couple of patients who had a the insurance company. We were one of the few companies were not contracted with. Vast majority of our insurance companies are under contract with. They they chose to pay us a very very small amount and left the patients with big bills. And I was talking to this one fellow on the phone and he explained he talked to the insurance company several times. He didn't understand why they didn't pay us but just give him a payment plan and and he he pay it and I looked at the amount and I just didn't think that was right. So I asked our billing company to call the division of insurance and protest it and say, hey insurance company, you didn't pay us the minimum by the 80th percentile rule. And because that law was there, the insurance company had to pay us something and the patient didn't. And so I think that when and I I bring that that that story up because oftentimes when I'm talking to policymakers. They say, hey, this 8th percentile. It raises costs and it means you doctors can charge whatever you want, and that simply isn't true.

Physician groups we can, we can charge, we set prices just like every other business, whether there's a percentile rule or not. The 80th percentile rule in this case allowed us to protect some of our patients and. And it creates a, a bit of a some fairness. I think the previous testifier talked about that was an open marketplace and so forth. It's afraid I must respectfully disagree. Healthcare is a highly regulated marketplace and once you start regulating things, oftentimes you have to regulate them a little more. Fix the unintended consequences of the previous regulations, 80th percentiles. Very elegant, intelligent, insightful piece of legislation that also balance those things out. Lastly, I'd say just want to toss on to the record that roughly 5 percent, 4.9% of our patients don't pay us anything at all. And if we didn't have the ability to negotiate it rates with insurance companies we wouldn't be able to afford to hire any physicians, physicians. They're working in my organization. We make approximately the same as doctors in the lower 48, despite the fact, as we all know, the McDonald's dollar menu in Alaska costs \$1.50. So everything costs a bit more up here and in recruiting does the same. I had a guy up to interview for a job this past week, great guy. He explains how much he's making at an academic place. Those aren't known for paying well and it's more than what I can offer you. So I think there's a lot of room to go if our goal is to build a self-sufficient, sustainable healthcare system in Alaska. Thanks for your time.

Thank you, Doctor Morris. We appreciate your testimony.

1:54:36

Thank you. We're going to go back on mute until we see someone else who wishes to testify. It is 2:57. We'll check back in or we'll come back when there is someone in either virtually or in the room to testify. Thank you.

2:10:51

Hi, this is Lori Wing-Heier. I'm the director of the division. It's 3:13. And Senator Jesse Bjorkman is here. And Sir, you have the floor.

OK. Well, thank you very much. Everyone online. Like to testify today to the repeal of the 8th percentile rule, and I support the repeal of that rule. I am a state senator. However, I am testifying on behalf of myself and through my experience with school district budgets as well as Borough Assembly budgets for three years that I was on that elected body, I can attest to the fact that the cost of healthcare and health insurance in Alaska has increased amazingly in the course of the last 14 years and the 80th percentile will has been a significant cost driver to that increase. What we've seen through our self insured plan on the peninsula, even though I'm not directly impacted by the 80th percentile rule, indirect effects that it has in forcing up market prices for providers who are outside of networks is is felt and it's a big deal when we consider that a cost of healthcare plan in 2009 when I came to the Peninsula Borough School District per employee per month was somewhere in the neighborhood of \$225. Currently that plan is not offered anymore, but if it was, it would be about \$1800. Those numbers are staggering. And then the cost of healthcare and in the state of Alaska, we have to put the brakes on it.

To me, when I look at the 80th percentile regulation, consider that we now are the only state in the country to have a regulation like this that really serves as an automatic price floor, which guarantees that providers are paid a minimum rate from a from an average of rates that are calculated in prices that they control every concern over that that type of control that providers have over naming their own prices and then that rate gets adjusted twice a year with an escalator. And so that's concerning to me and concerning to many folks. Certainly people who touch the the healthcare industry from patient side and are in charge of patient claims and kind of see the cost increasing they present to our regulation has been on their radar as something that is increasing the costs for many years, many of you are likely familiar with the 2018 ISER study that came out and clearly identified they percentile regulation as one that was driving the cost of healthcare up in our state. Of course we know that the price of healthcare in Alaska is the is the highest in the country and we have the most expensive healthcare in the world and we need to do whatever we can in the regulatory space to allow folks to compete when they come upon agreements with networks or other groups in a way that's fair and those prices shouldn't be inflated by regulations that are guaranteed a payment on a certain percentage of their charges. So that's kind of from my experience.

What I've seen is we need to do something, whatever we can do to reduce the cost of healthcare, health insurance, removing regulations like this one is going to be an important step in that process. Thank you for your time and consideration.

2:14:33

Thank you for your testimony, Sir.

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And we'll go back on mute until someone else, either virtually or in the room shows up to testify.

2:40:44

Hi, this is Lori Wing-Heier. I'm the director of the division of Insurance. Just checking in at 3:43, let everyone know we are here, we will be here till 5:30. At this time there's no one in the Atwood building or in the virtual room. Teams are on the phone that is asked to testify again. If you're on the phone, please press star 5 if you wish to speak. And then you will have to press star 6 when we let you into the room. If you're not on the phone but in the teams, please raise your hand and we will call on you to testify. We're going to go back on mute until we see a hand or when someone enters the Atwood building. Thank you.

3:12:37

Good afternoon. It's 4:15. This is Lori Wing-Heier the division of insurance, and I'm just checking back in to let you know that we're all here. We have not seen any testimony in the virtual room, on the phones or in the Atwood. We're going to remain on silent, muted until someone raises their hand to testify or shows up in the Atwood building. Again, for those on the phone, if you wish to testify, please press star five. We will unmute you on this end. You will then need to press \*6 to unmute your device until we see someone that wants to testify. We're going to go back on mute. We are continually monitoring the virtual room. Thank you.

3:39:09

Hi, this is Lori Wing-Heier, the director of the Division of Insurance. It's 4:42 and we have Katie from the Alaska State Chamber who's here and would like to testify. Kate floors yours.

Thank you. Good afternoon. Thank you for the opportunity to testify today. My name is Katie Kaposi and I serve as a President and CEO of the Alaska Chamber of Commerce. The Alaska chamber was founded in 1953 and was the last of the largest statewide business advocacy organization. Our mission is to promote a healthy business environment in Alaska. The Alaska Chamber has more than 700 members representing 58,000 Alaskan workers and \$4.6 billion in annual wages. Our Members come from every industry and business size across the state. Let me first say thank you to the division of insurance for allowing ample opportunity for Alaskans to weigh in on this important issue.

Each year, the full Chamber membership researches, debates and ultimately votes on what our policy positions and priorities will be moving forward. Repeal or reform of 80 percentile rule has been a policy position of the last chambers for more than six years.

The reason we took on this position so many years ago and have kept it is directly tied to the soaring cost of healthcare and economic instability caused by out of control healthcare costs have negatively impacted not only my membership, but nearly all businesses and organizations that offer or would like to offer health insurance.

The Chamber recognizes that the high cost of care in Alaska is a multifaceted issue and there is no one specific item that can be extracted from the equation to fix it. But we do believe based off research that the 80 percentile rule is a contributing factor to the high cost of care. 80 percentile rule was originally put in place for good and noble cause, which was to protect consumers from

surprise billing, but unfortunately this results in unintended consequences have been damaging to businesses and consumers.

According to a 2018 study by the Institute of Social and Economic Research commissioned by the Division of Insurance, the percentile rule accounted for anywhere between 8 to 25% of the annual increase in healthcare spending between the years of 2005 to 2014.

8 to 25% is a significant and meaningful number to my members and I think the state can do to help lower the cost of healthcare we should be doing, especially at the time when competition for workforce is fierce. Let's remove as many barriers as we can to try to compete and allow our businesses to grow and to thrive.

Before I conclude, I'd like to recognize the incredible medical providers we have throughout our state and thank them for keeping us healthy and safe. They are paramount not only to our physical health, but the health of the overall business community and has been especially driven home over the last few years. If after the repeal, tweaks must be made in order to retain our physicians and providers in the State Chamber stands ready to participate in that process. In closing, we urge repeal of the 80th percentile rule and we appreciate the opportunity to testify today.

3:42:10

Thank you, Katie. For your testimony.

4:01:44

Hi, this is Lori Wing-Heier. It is about 5 after 5 and we have two people in the Atwood building who have come in to testify. The floor is yours. Please proceed.

4:01:56

OK. Hi, my name is Luke Wells. I'm with strategic health AK and coming here to testify in favor of repealing the 80th percentile rule and looking forward to seeing it being repealed and a couple thoughts though that I've got is one of the things is to make sure that the transparency rule and the no surprise billing rule is actually going to be effective so that consumers aren't hurt in the repeal of this. That's part of what started started the move to actually implement it I believe back in 2004. And so I think that with the new pieces of legislation that have come in, I think that now is a good time to repeal it and also completely agree with the findings and the 2018 ICER study that was done. And so I think that it'll be a good thing for the state.

4:03:03

Thank you for your testimony.

You want me to say my name.

Yes please.

My name is Savannah Evans. I am the founder of strategic health. I am born and raised up here in Alaska. We are family medical clinic here and based out of Anchorage, but we serve all of

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Alaska. I'm here today to speak primarily to the patients that we see in Cordova, AK who experience a lot of financial burden because of the high cost of health. So I have a few notes here that I'll be reading from and would also like to submit written testimony. But we have a glaring massive issue with the fee for service rates being higher in Alaska to support the cost of healthcare delivery. This is leaving patients with immense burden. They lack additional support that the lower 48 has with Medicare Advantage plans. Innovation and pragmatic approaches can drive this region with lower cost and superior healthcare care management. Services should have waived copays and honestly part the Part B premiums for Alaska should be waived. Which we can explain more in written testimony. So I think for us, we're seeing it on the ground level with patients not being able to get care or having these immense burdens and dealing with a dysfunctional system. And as a young Alaska native woman who wants to stay in the state and also provide better care for people, we need to address this. And I really would like to see this repealed, so. That is the end of my testimony.

4:27:07

Hi, this is Lori Wing-Heier and it is 5:30 on Friday, February 24th, 2023. We are completing 4 1/2 hours of a public testimony on the possible repeal of the 80th percentile regulation. At this time, we're going to conclude this hearing at 5:30 again on February 24th. Our third and final hearing will be in the Juneau office. It is accessible through Teams as well. The hearing is at 1:00 o'clock on Wednesday, March 1st. I thank all those who have participated, and I look forward to discussing this matter with you further as we review the comments that have come in and the testimony. Thanks again and have a good evening.