



THE STATE  
of **ALASKA**

GOVERNOR MICHAEL J. DUNLEAVY

DEPARTMENT OF COMMERCE, COMMUNITY AND ECONOMIC DEVELOPMENT  
DIVISION OF INSURANCE

# PUBLIC HEARING FOR 3 AAC 26.110

## ALASKA'S 80<sup>TH</sup> PERCENTILE RULE

MARCH 1, 2023

Lori Wing-Heier  
Director

Sarah Bailey  
Supervisor – Health



# Housekeeping

- If you are in-person, please sign-in and indicate if you wish to testify.
- All virtual participants will be muted upon entry to the meeting.
- Please raise your hand (👏) if you wish to testify.
- You may unmute yourself when called upon to testify.
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## What is the 80<sup>th</sup> Percentile Rule?

3AAC 26.110(a) in relevant part provides “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 80<sup>th</sup> percentile of charges (based on a statistically credible profile for each geographical area) for the health care services or supplies.”



## This is not paying claims at 80%

Different health care providers may charge different amounts for the same health care service. When these different charges are listed from the lowest charge to the highest charge, the 80<sup>th</sup> percentile would be the data point where 80 percent of the number of listed charges fall below the data point and 20 percent of the number of listed charges fall above the data point.



## Who does the 80<sup>th</sup> Percentile Rule apply to?

The Rule applies to excepted health benefit plans and health benefit plans in the individual, small group, and large group markets.

The Rule does not apply to self-funded health benefit plans typically established by large employers.



## Why was it adopted?

The Alaska Division of Insurance updated the governing regulation in 2004 and added the minimum 80<sup>th</sup> percentile rule as the standard for claims reimbursement at the time.

The regulation was originally adopted to protect consumers from excessive bills.



## Why is the division considering repealing?

The rule has been criticized for influencing the cost of health care in the state; and

The consumer protection may no longer be necessary due to Congress passing the No Surprise Act in 2020.



## The No Surprise Act

Previously consumers were responsible for balance bills often referred to as surprise billing.

With the 80<sup>th</sup> Percentile Rule, Alaskans with state regulated health coverage rarely saw large surprise bills.

Now the No Surprise Act protects consumers covered under group and individual health plans from most surprise medical bills.





## NSA – Consumer Protections

Establishes new federal protections against most surprise medical bills in certain cases:

- When a patient receives out-of-network services during an emergency visit, or
- From a non-network provider at an in-network hospital without advance notice (e.g. anesthesiology, radiology, etc.), or
- Services from an out-of-network air ambulance service provider.



## NSA – Enhanced Consumer Disclosure

A provider or facility must disclose information regarding balance billing protections.

Provide a good faith estimate of the expected charges in advance of scheduled services, or upon request, to patients or their representatives.

These tools are intended to allow consumers of healthcare to make informed decisions about utilizing in- and out-of-network providers or facilities.



## Public Comment Period

The division seeks comments and recommendations from members of the public on whether to make changes to 3 AAC 26.110.

Three hearings:

- February 22<sup>nd</sup> – Atwood Building, Anchorage, AK
- February 24<sup>th</sup> – Atwood Building, Anchorage, AK
- March 1<sup>st</sup>, - State Office Building, Juneau, AK

Submit written comments to Sarah Bailey at [Sarah.Bailey@Alaska.gov](mailto:Sarah.Bailey@Alaska.gov)

Comment period closes on March 6, 2023.



Thank you

**Lori Wing-Heier**

Director

Division of Insurance

550 W. 7<sup>th</sup> Avenue, Suite 1560

Anchorage, AK 99501

907-269-7900

Lori.Wing-Heier@Alaska.gov

**Sarah Bailey**

Supervisor – Life & Health

Division of Insurance

PO Box 110805

Juneau, AK 99811-0805

907-465-2515

Sarah.Bailey@Alaska.gov



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